

Chapter Twelve: Contextual Intelligence and Educational Policy: Evaluating the Influence of the Basic Education Laws Amendment Act on South African Schools

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Introduction and background

South Africa's education system continues to bear the hallmark of structural inequalities inherited from the apartheid era. Although landmark reforms such as the South African Schools Act 84 of 1996 (hereafter referred to the Schools Act) signified a critical move toward inclusivity and democratic school governance, enduring challenges around equitable access, language policy and governance structures persist (Kruger et al. 2024). These challenges often surface in disputes between school governing bodies (SGBs) and provincial education departments, particularly in relation to learner admissions and the application of language policies. The persistent tension between decentralised autonomy and the drive for centralised policy coherence has led to significant reforms, most notably the Basic Education Laws Amendment Act (hereafter referred to the BELA Act), which aims to strengthen governance while promoting greater educational equity.

Initially introduced to the National Assembly on 10 January 2022 as the Basic Education Laws Amendment Bill (BELAB), the BELA Act was signed into law by President Cyril Ramaphosa on 13 September 2024 as Act No. 32 of 2024 (Republic of South Africa [RSA], 2024). This legislation introduces substantial amendments to the Schools Act and the Employment of Educators Act 76 of 1998 (EEA), aligning policy with the evolving educational demands of a democratic South Africa (Kruger et al. 2024; Mbinqo-Gigaba 2023). Although the BELA Act affirms

constitutional values such as equity, access and inclusivity, some of its most debated clauses pertain to the centralisation of authority over public school language and admissions policies, previously the domain of SGBs.

Following a three-month suspension period to allow for public consultation, the President Ramaphosa approved the full implementation of the BELA Act, including its controversial provisions on language and admissions policies, in December 2024, without any amendments (Juta 2024). These provisions, now enacted as law, grant provincial Heads of Department (HODs) overriding authority in determining school language and admissions decisions, significantly shifting decision-making power away from local school communities. While this centralisation aims to ensure standardised practices and eliminate discriminatory barriers, it has also raised concerns about policy responsiveness to school-specific needs (Kruger et al. 2024).

This shift in governance prompts a critical inquiry: Can centralised decision-making structures accommodate the complex and varied realities of individual schools across South Africa? This question is particularly urgent when viewed through the lens of contextual intelligence, which emphasises the importance of tailoring decisions to the socio-economic, cultural and political environments in which they are applied (Marishane 2020). The BELA Act, by consolidating authority in provincial bureaucracies, raises important questions about whether decision-makers are sufficiently equipped, both institutionally and intellectually, to engage with localised and individual school contexts.

This chapter investigates the implications of the BELA Act through the lens of contextual intelligence, drawing on theoretical models of discretion, school autonomy and multi-level governance. It explores whether the BELA Act's centralisation of power enhances or impedes effective school leadership and governance, particularly considering the diverse demographic and geographic contexts in which schools operate. By focusing on the language and admissions policies now governed by the BELA Act, this chapter contributes to the discourse on how educational policy should navigate the balance between national equity goals and local responsiveness, with the aim of achieving sustainable, inclusive education reform in South Africa.

Methodology

This chapter adopts a conceptual and document-based research approach to explore how the BELA Act affects South African schools, using the lens of Contextual Intelligence Theory. Instead of collecting new empirical data, the chapter relies on a structured analysis and interpretation of secondary sources such as legislation, policy frameworks, literature and relevant court decisions.

The approach aligns with what Cohen et al. (2018) describe as a non-empirical, legal-analytical method, one that critiques and evaluates policy changes by interpreting current legal texts and situating them within theoretical models. Specifically, the chapter draws on Sternberg's (2005) Triarchic Theory of Contextual Intelligence and Marishane's (2016) model of contextual intelligence to assess how local realities influence the implementation of education reforms. Central to this inquiry is a critical examination of legislative instruments such as the Schools Act and the BELA Act, alongside pivotal Constitutional Court cases like *Hoërskool Ermelo* (2010) and *Rivonia Primary* (2013). The chapter synthesises literature on school autonomy, centralisation and governance to explore how national policy interacts with the varied contexts of public schools, particularly in relation to language and admissions. By applying these techniques, this chapter contributes to a deeper understanding of educational policy implementation in South Africa. It does so without engaging human participants, making it both theoretically robust and ethically non-intrusive.

Historical contextualisation of South African Schools Act and governance tensions

Since the late twentieth century, decentralisation has gained global traction as a reform strategy across sectors, including education. According to Dyer and Rose (2005), decentralisation is often framed as a key component of modernisation, and Karlsen (2000) argued that it enables more flexible, locally responsive governance. In post-apartheid South Africa, the democratic transition aligned strongly with this global trend. Educational

reforms placed significant emphasis on community participation, local accountability and the devolution of decision-making power to school level (Du Plessis 2020).

The Schools Act institutionalised this vision of participatory democracy in education. The Schools Act was founded on the principle of shared responsibility between the state and the public (RSA 1996c). Its preamble explicitly calls for a system in which citizens accept responsibility for the organisation, governance and funding of schools in partnership with the State. This vision was reinforced by Section 4(m) of the National Education Policy Act 27 of 1996, which promotes broad public participation in policymaking and stakeholder representation in governance structures across the education system (RSA 1996b).

Together, these Acts established a governance framework based on decentralised authority, most notably through the creation of SGBs. SGBs were granted significant powers over language policy, admissions and general management (RSA 1996c). The intent was to foster context-sensitive decision-making, ensure democratic responsiveness to local needs and build community ownership over schools.

However, as education governance evolved, tensions began to surface. Despite the legislative commitment to decentralisation, provincial and national education departments have increasingly exerted control over areas originally entrusted to SGBs. Du Plessis (2020: 167) describes this paradoxical shift as ‘decentralised-centralism’, a hybrid governance model where decentralisation exists in law, but is frequently overridden by bureaucratic and policy control. This dynamic has become especially evident in contentious areas such as language policy reform, school closures and curriculum mandates (Du Plessis 2020).

Although the Constitution promotes co-operative governance and discourages unnecessary legal disputes between levels of government, courts have frequently been called upon to adjudicate conflicts between SGBs and education departments. These legal interventions reflect Weiler’s (1990) insight that decentralisation challenges a state’s capacity to maintain coherent policy implementation and institutional legitimacy. Beckmann and Prinsloo (2009) further argue that successive policy amendments have subtly, but systematically eroded SGB autonomy. While the rhetoric

of community participation remains, practice increasingly reflects a shift towards recentralisation.

These developments suggest that South Africa's original decentralisation vision, enshrined in the post-apartheid educational reforms, is now under increasing pressure. The centralising trajectory embedded in both policy and practice has amplified tensions around school autonomy, particularly in areas such as language rights, admissions and professional discretion. Understanding this historical arc is essential for assessing the implications of the BELA Act and the extent to which it advances or undermines the participatory and context-responsive principles that originally guided the Schools Act of 1996.

The objectives of the BELA Act

The BELA Act aims to enhance South Africa's educational legislation by updating the Schools Act and the EEA to reflect the evolving needs of the education sector. Central to its objectives is the alignment of educational policies and structures with the Constitution, particularly Section 29(1)(a) and Section 7(2), which mandate the right to basic education and the duty of the state to promote and fulfil this right (RSA 1996a). In doing so, the BELA Act reinforces democratic values, social justice and equality, in line with Section 1 of the Constitution (RSA 2024).

This constitutional alignment ensures that all schools adopt inclusive practices, such as resource allocation for underprivileged schools and diversity programmes aimed at historically marginalised communities. A key contribution of the BELA Act lies in its effort to resolve longstanding ambiguities within Schools Act and the Employment of Educators Act, as emphasised in the BELA Act's preamble (RSA 2024). These ambiguities have historically contributed to tensions between SGBs and provincial education departments, especially in the context of language and admissions policies in dual-medium schools.

The *MEC for Education in Gauteng Province v Rivonia Primary School* (2013) case exemplifies these tensions. In this case, the Constitutional Court ruled that while SGBs have the authority to determine admission policies, their decisions are subject to review by provincial education

authorities (Du Plessis 2019). Importantly, the Court stressed that such a review must be exercised reasonably and in the best interests of the learners, highlighting the delicate balance between local autonomy and provincial accountability. This judgement underscored the need for more explicit statutory guidance, an area where the BELA Act seeks to provide clarity through strengthened legal provisions (Kruger et al. 2024). By modernising outdated legal frameworks, clarifying the roles and responsibilities of educational stakeholders, and strengthening alignment with constitutional values, the BELA Act positions itself as a key legislative tool for promoting a more inclusive, equitable and effective education system in South Africa (RSA 2024). While the BELA Act presents a progressive legislative vision, its success will depend on how effectively its provisions are applied within South Africa's diverse and complex educational contexts. The issue at hand is analysed from the perspective of contextual intelligence in the next section.

The role of contextual intelligence in evaluating the BELA Act's impact on school policy

Applying contextual intelligence theory to the BELA Act reveals how its implementation could reshape public school language and admissions policy across diverse school contexts. To address the challenges of centralisation, provincial education departments should establish advisory councils composed of local stakeholders to provide context-specific insights into policy decisions. Contextual intelligence refers to the ability to identify contextual factors in each situation and to adapt one's discretion to influence or act in a way that serves the best interests of learners (Kutz 2008a). This framework is especially pertinent in assessing the implications of the BELA Act, which introduces revisions to public school admissions (Section 5 of the Schools Act) and language policy (Section 6 of the Schools Act) (RSA 1996c). One of the more contentious elements of the BELA Act is its move to centralise authority within provincial education departments (Kruger et al. 2024). Although the goal is to establish fair and consistent standards across all schools, this approach to uniformity can unintentionally disregard the diverse and complex contexts unique to individual school environments.

For example, according to Madiba and Mabiletja (2008), a rural school

in Limpopo faced challenges in implementing a new admissions policy that did not account for the community's linguistic diversity, highlighting the importance of localised decision-making. This underscores the need for admissions policies that are responsive to local linguistic and cultural dynamics. Furthermore, Madiba and Mabiletja (2008) contend that in recent years, the Department of Education has tended to respond to language policy challenges in a reactive manner, rather than through strategic, forward-looking planning. For example, in the Polokwane Circuit in Limpopo, a school principal was suspended after facing strong community opposition, which led to learner absenteeism and ultimately contributed to the phasing out of African languages (Madiba and Mabiletja 2008).

Comparable difficulties in implementing centralised language policies are also apparent beyond the educational sphere. A recent case study of the Limpopo Provincial Legislature demonstrates that, despite constitutional commitments to multilingualism, English continues to dominate official communication and documentation (Madima et al. 2024). Madima et al. (2024) argue that although indigenous languages are formally recognised, they remain sidelined due to insufficient political commitment, inadequate interpreting infrastructure and weak implementation strategies (Madima et al. 2024). This top-down approach, lacking meaningful localisation, raises concerns within a contextual intelligence framework, particularly regarding the HOD's ability to accurately interpret and respond to local school contexts (Madima et al. 2024). It mirrors the concerns raised by the BELA Act, where provincial authority may fail to accommodate the unique socio-linguistic contexts of individual school communities (RSA 2024). The case highlights the broader necessity for decentralised, context-responsive language policy frameworks at all levels of governance (Madima et al. 2024).

Localised factors such as community demographics, cultural diversity and socio-economic conditions play a critical role in shaping effective admissions and language policies (Du Plessis 2019). By reducing the autonomy of individual schools, the centralised approach may fail to address these unique local contexts, ultimately undermining both the application of contextual intelligence and the pursuit of effective, locally

responsive governance (Du Plessis 2019). These recommendations align with Marishane's (2020) contextual intelligence framework, emphasising the integration of past experiences and future needs to adapt policies effectively. Ultimately, unless contextual intelligence is embedded into BELA Act's application, especially at the HOD level, the Act's progressive intentions risk being undermined by local contexts it fails to recognise.

Controversy surrounding the role of contextual intelligence in policy implementation

The BELA Act has sparked significant controversy due to its centralisation of authority over school admissions and language policies, granting HODs the power to make critical decisions in these areas, a shift criticised by the Democratic Alliance (2022) as undermining local governance structures. While the intention of such centralisation is to ensure uniformity and equity, this shift raises significant concerns regarding the implementation of these policies at school level. Critics such as Kruger et al. (2024) question whether HODs, operating at a provincial level, possess the capacity to fully understand and respond to the unique socio-economic, cultural and contextual realities of individual schools, which are integral to effective policy execution. This disconnect between provincial decision-makers and local school contexts risks creating a gap between the policy's intended goals and its actual impact.

Furthermore, the BELA Act has been cited as an example of the government's broader centralisation tendencies, which seemingly erode the powers traditionally held by SGBs and principals (Kruger et al. 2024). These local entities are often better positioned to ensure the practical and context-specific implementation of admissions and language policies. By reducing their authority, the BELA Act not only risks undermining the role of contextual intelligence, it also creates potential barriers to the smooth translation of policy into practice. The centralisation of decision-making may lead to policies, that while theoretically sound, fail to address the operational realities and challenges faced by schools, particularly in under resourced or rural areas (Kruger et al. 2024). As a result, the BELA Act highlights a critical tension in educational governance: balancing the need

for standardisation with the flexibility required for effective and inclusive policy implementation.

BELA Act: Amendments to school policies

The BELA Act introduces significant changes to the Schools Act, particularly through amendments to Section 5, which governs school admissions policies, and Section 6, which pertains to language policies (RSA 2024). These amendments reflect the Department of Basic Education's (DBE) broader aim to standardise practices across schools and promote inclusivity. However, these legislative changes have sparked considerable debate, with critics questioning their implications for school autonomy and their alignment with the principles of contextual intelligence. This section explores the amendments to Sections 5 and 6 in detail, along with the DBE's justifications for these changes, highlighting their potential impact on the governance and functionality of schools (RSA 2024).

Amendment of Section 5: Admission policy

The amended Section 5 of the Schools Act, as enacted through the BELA Act, grants the HOD of a provincial education department the authority to instruct a public school to admit a learner (RSA 2024). Additionally, the SGB is required to submit its admission policy, along with any proposed amendments, to the HOD for endorsement prior to implementation. According to the explanatory memorandum accompanying the original BELA Bill, the HOD must consider specific factors when reviewing such policies. If the policy is not endorsed, the HOD is obliged to provide feedback outlining which aspects require revision (DBE 2022: Section 2.4.3, Memorandum on the Objects of the Basic Education Laws Amendment Bill).

However, without the application of contextual intelligence, that is, an understanding of the unique socio-economic, cultural and educational realities of individual schools, this centralised authority may risk undermining the best interests of learners and their communities. The amendment shifts decision-making power away from local governance

structures, potentially weakening the SGB's ability to design admission policies that reflect school-specific needs.

The DBE's justification for the admissions policy amendment

The BELA Act formally amends Sections 5(5) and 5(7) of the Schools Act to clarify the allocation of authority in school admissions. Section 5(5) confirms that School SGBs remain responsible for developing admission policies within the framework of the Act and relevant provincial legislation (RSA 1996c). However, under the BELA Act, the final authority to decide on admission applications resides with the provincial HOD, who is tasked with ensuring compliance with learners' constitutional right to education (RSA 1996a, Section 29(1)).

This shift addresses persistent ambiguities about the relationship between school-level policies and provincial oversight. The HOD is no longer merely reviewing for alignment but is empowered to instruct a school to admit a learner, even when it conflicts with the existing SGB policy (DBE 2022, Section 2.4.3). Importantly, the Act now requires all SGB admission policies to be submitted to the HOD for approval. Policies that fail to align with provincial frameworks or that undermine equitable access may be rejected, provided that written justification is given, and revisions are requested (Kruger et al. 2024).

The DBE justifies these amendments as necessary to prevent discriminatory or exclusionary practices and to harmonise school governance with broader provincial equity objectives. In doing so, the BELA Act seeks to formalise a more consistent, centralised process for admission decisions while still recognising the role of SGBs in drafting policies, although under enhanced provincial scrutiny. This balance aims to ensure that school-level governance does not obstruct learners' access to public education, in accordance with constitutional and policy obligations.

Amendment of Section 6: Language policy

Language policy in public schools is central to education in South Africa, shaping learners' access to quality education and supporting their

development. To address this, the BELA Act introduces significant changes to the processes for establishing and revising school language policies. Under Section 5(a) of the BELA Act (RSA 2024), SGBs must submit their language policies and any amendments to the HOD for approval. The HOD may either endorse these policies or return them with recommendations for revision. Additionally, the HOD has the authority to instruct schools to adopt an additional language of instruction, provided such decisions follow prescribed procedures and consider specific factors (DBE 2022, Section 2.5.2).

The procedural requirements include notifying the SGB of the intent and rationale for proposed changes, providing the SGB an opportunity to respond and holding public hearings to gather community input. The SGB must also provide feedback on the contributions received (DBE 2022, Section 2.5.8). Furthermore, the HOD must prioritise the learner's best interests, as outlined in Section 28(2) of the Constitution (RSA 1996a). These amendments aim to align language policies with constitutional principles while addressing South Africa's linguistic diversity.

However, the BELA Act's implications in a linguistically diverse country raise concerns. A hierarchical language structure persists in South African schools, with English dominating as the Language of Teaching and Learning (LoTL), followed by Afrikaans, with African languages ranked lowest. Despite constitutional mandates and policy reforms, this hierarchy continues to shape LoTL choices, even though research highlights the benefits of using learners' home languages as LoTL (Kruger et al. 2024; Van Staden et al. 2020).

Critics argue that centralising authority in the HOD risks undermining an understanding of individual school contexts. Kruger et al. (2024) caution that HODs, without sufficient community engagement, may make decisions that fail to respect learners' language rights under Section 29(2) of the Constitution. Limitations on these rights, according to Section 36(1), must be reasonable and justifiable (RSA 1996a). Effective implementation of these changes requires HODs to conduct thorough contextual analyses and apply contextual intelligence. Only through a contextually intelligent approach, grounded in school-specific needs and community realities, can language policies uphold constitutional rights and foster genuine inclusivity in South African education.

The DBE's justification for the proposed language policy amendment

The DBE justifies its language policy amendments, now formally enacted through the BELA Act, as aligning with constitutional principles and established judicial precedent (RSA 1996c; RSA 2024). Central to this justification is the Constitutional Court judgement in *Head of Department, Mpumalanga Department of Education v Hoërskool Ermelo* (2010), which emphasised the importance of constitutionally compliant language policies that prioritise the rights and interests of learners. The DBE maintains that the amendments to Section 6 of the Schools Act provide a legal mechanism for advancing inclusivity and fairness, balancing learner needs with constitutional imperatives (RSA 1996c).

The *Ermelo* case involved an Afrikaans-medium school that denied admission to English-speaking learners based on its SGB-drafted language policy. The Court ruled this exclusion unconstitutional, citing violations of the rights to equality (Section 9) and education (Section 29) of the Constitution (RSA 1996a). While acknowledging the significant role of SGBs, the judgement clarified that their decisions may be subject to review by provincial HODs (Kruger et al. 2024). This ruling affirmed that learners' best interests must guide all policy decisions, a principle that underpins the BELA Act's new provisions.

In addition, the *Ermelo* and *Rivonia* judgements affirm the constitutional principle articulated in Section 28(2): that a child's best interests are paramount (RSA 1996a). These rulings support the argument that professional discretion, whether by SGBs or HODs, must be exercised in ways that are both constitutionally compliant and contextually informed. Constitutional adherence does not negate the value of local knowledge; rather, it necessitates decisions that integrate normative standards with lived school realities. This underscores that while SGBs retain a recognised legal role in governance, their discretion is not absolute. The BELA Act, by centralising certain powers, especially over admissions and language, codifies a framework that shifts the final authority to provincial HODs, particularly in cases where learner rights might be compromised.

In *MEC for Education, Gauteng Province v Rivonia Primary School* (2013), the Constitutional Court reinforced this role of oversight, confirming that

provincial departments may intervene where SGB decisions risk infringing on access to education. These cases highlight the persistent tension between decentralised school governance and provincial authority, a dynamic the BELA Act now formalises in law (Kruger et al. 2024).

While these legal precedents aim to protect learner rights and foster inclusion, the BELA Act's expansion of HOD power raises implementation concerns. Specifically, how provincial officials will interpret and respond to diverse linguistic and cultural school contexts remains a key concern. From the lens of contextual intelligence, effective oversight requires sensitivity to each school's demographic realities, community background and language needs (Marishane 2020).

Drawing from the principles established in these judgements, the DBE's proposed amendments aim to bridge the gap between current practice and constitutional mandates. By limiting exclusive SGB control and reinforcing the state's duty to protect learner rights under Section 29(2) of the Constitution (RSA 1996a), the policy changes are intended to cultivate a more equitable and inclusive educational environment. However, evaluating whether this legal shift leads to equitable outcomes necessitates a framework that accounts for the variation across local school context. The following section outlines the principles of contextual intelligence and differentiated school autonomy.

Interrogating the role of HODs through contextual intelligence

Although the BELA Act assigns HODs a central role in overseeing the implementation of language and admissions policies (RSA 2024), this concentration of authority introduces both constitutional and practical concerns. Considering South Africa's complex and varied educational contexts, it is essential to critically assess whether HODs can exercise their discretion in ways that are responsive to the specific needs of individual schools. Anchored in the concepts of contextual intelligence and professional discretion, this section examines the extent to which HODs, embedded within provincial bureaucracies, are institutionally and practically prepared to engage meaningfully with the everyday realities

faced by schools across the country.

Although existing literature predominantly frames school principals as the primary agents of contextual intelligence, these insights are equally relevant to HODs, who, under the BELA Act, are now expected to exercise complex discretionary authority across diverse educational settings. Yet, a crucial distinction must be acknowledged, unlike principals, HODs are typically geographically and institutionally distanced from the specific school communities impacted by their decisions. This presents a significant dilemma: how can HODs exercise professional discretion grounded in contextual intelligence without direct exposure to a school's unique cultural, linguistic and socio-economic realities? When doing so, HODs must act in accordance with constitutional obligations, particularly Section 28(2), which states that a child's best interests are of paramount importance, and Section 29(1), which guarantees every learner the right to basic education (RSA 1996a). These constitutional provisions provide the normative foundation upon which contextually intelligent discretion should be applied (Beyers 2023). In contrast, principals operate within their local environments and therefore possess a more intimate understanding of contextual dynamics. Without deliberate strategies to bridge this contextual divide, there is a real danger that HOD-level decision-making, despite good intentions, could inadvertently promote centralised uniformity, undermining the very responsiveness and inclusivity that educational policy reforms aim to achieve. This structural distance raises feasibility concerns about the extent to which HODs can authentically interpret, contextualise and apply policy with the level of nuance that school-level actors possess.

To lead effectively in diverse school settings, principals must develop contextual intelligence, which encompasses the ability to adapt decisions to dynamic and context-specific variables (Kutz, 2008b). According to Sternberg (2005), this involves three interrelated abilities: analytical; creative and practical. Analytical ability includes evaluating and comparing information (Marishane 2020), while creative ability refers to innovation and generating novel ideas. Practical ability, crucial for school leadership, involves applying knowledge to solve everyday problems by adapting, shaping, or selecting situations (Marishane, 2020). Kutz (2008b) outlines

three overlapping competencies of contextual intelligence: understanding past events; being aware of present factors and envisioning a preferred future. Principals must apply intuition, using past experiences to guide present decisions (Dane and Pratt 2007), especially when time is limited or contexts are complex. Effective professional discretion stems from this intuitive competence (Benner, 2001; Molander et al. 2012).

In South Africa, the Principal Standards Policy (RSA 2016) recognises the increasing complexity of school contexts, calling for context-sensitive leadership. Boote (2006) and Du Plessis (2019) emphasise that discretion must align with each school's unique needs. Thus, school improvement depends on principals' ability to make informed, contextually responsive decisions (Marishane and Mampane 2019). According to Kutz (2013) and Marishane (2020), two critical elements of Contextual Intelligence Theory impact school leadership today, namely influence and context. Kutz (2013) identifies influence as the essence of leadership, while Marishane (2020) explains it involves the leader's choice to adapt to or shape the environment. A contextually intelligent principal draws on past experience, present insight and future imagination to guide such decisions. Additionally, the theory acknowledges the complexity of socio-cultural contexts in which leadership is enacted. In South Africa's diverse education landscape, success depends on a principal's ability to navigate cultural, economic and geographical differences (Marishane and Mampane 2019). Effective leadership requires alignment between purpose, context and agency (Leithwood and Riehl 2003), reinforcing the dynamic nature of contextually intelligent decision-making.

Contextual intelligence enables school principals to apply professional discretion appropriately within their unique environments (Kutz 2008b; Marishane 2016). Beyers (2023) argues that principals must assess and adapt their professional discretion based on a deep understanding of dynamic, context-specific factors. Participating school principals in the study by Beyers (2023: 324), consistently highlighted that a 'one-size-fits-all' approach is ineffective, as each school operates within a unique context shaped by cultural, socio-economic, linguistic and geographical factors, necessitating carefully tailored and context-sensitive decision-making. Principals argued the importance of evaluating both policy and contextual

factors before making decisions. They noted that rigid policy frameworks often limit their discretion, especially in diverse South African schools. The principle of *audi alteram partem* (hear the other side) was also deemed essential in guiding fair decisions (Oosthuizen and De Wet 2021).

Contextual demands, ranging from accountability pressures and media influence to COVID-19 and diversity in school demographics, shape how discretion is applied (Braun et al. 2011). Emotional intelligence was widely recognised by participants as integral to contextual intelligence and sound leadership (Marishane 2020). Moreover, fostering a positive school culture and climate was seen as vital for enabling thoughtful and responsive leadership. Ultimately, affirm that professional discretion, grounded in contextual and emotional intelligence, is critical for effective school leadership (Beyers 2023). This theoretical lens affirms that the success of the BELA Act's implementation depends not just on legal authority, but on the ability of decision-makers to act with contextual sensitivity and constitutional fidelity. The following section explores how contextual intelligence can be embedded in education policymaking frameworks.

Contextual intelligence as a framework for educational policymaking

The theory of contextual intelligence, rooted in Sternberg's Triarchic Theory of Human Intelligence (1985), highlights the capacity to adapt decisions and leadership behaviours to dynamic, context-specific factors. Kutz (2008a) frames this as an intuitive skillset that enables actors to identify contextual variables, interpret situational dynamics and adjust responses in ways that exert appropriate and effective influence. Marishane (2020) extends this to educational leadership, emphasising that effective decision-making requires synthesising past experiences, present realities and future possibilities to inform adaptive, community-responsive strategies. This understanding is particularly relevant in a country as socio-culturally diverse as South Africa (Leithwood and Riehl 2003; Marishane and Mampane 2019).

Applied to education governance, contextual intelligence provides a valuable lens for evaluating the implementation challenges and equity

implications introduced by the BELA Act, particularly in relation to language and admissions policy reforms. However, as Du Plessis (2020) and Kruger et al. (2024) caution, such centralisation may create disconnects between provincial decisions and school-specific realities. Without structured mechanisms for local engagement, HODs may lack the nuanced understanding required to make equitable and legally sound decisions in alignment with Section 28(2) of the Constitution (RSA 1996a), which foregrounds the best interests of the child. Contextual intelligence addresses this by prioritising community-specific factors such as linguistic composition, socio-economic diversity, historical marginalisation and cultural norms (Madima et al. 2024; Madiba and Mabilejja, 2008). For example, Beyers (2023) found that school principals frequently rejected one-size-fits-all directives, citing the importance of adapting decisions to the socio-cultural and linguistic make-up of their communities. Principals argued that professional discretion must be exercised through a dual awareness of legal mandates and local dynamics, supported by values such as fairness and procedural justice (Oosthuizen and De Wet 2021).

SGBs, by virtue of their embeddedness in local contexts, play a key role in tailoring language and admission policies to school needs. However, the BELA Act risks weakening SGB discretion, as noted at the SAELA conference (Beyers-Prinsloo 2024), raising concerns about whether top-down policy can meaningfully reflect local complexity. Marishane (2020) argues that policies can only achieve inclusivity if local actors have the agency to interpret and implement them contextually. Ultimately, contextual intelligence offers a bridge between legal authority and lived reality. As Van der Merwe (2013) points out, leadership functions cannot be divorced from local knowledge, especially when school principals and SGBs are expected to comply with increasingly centralised mandates. Differentiated implementation strategies, such as regional advisory panels, contextual audits or participatory forums, could empower HODs to make better-informed decisions while ensuring constitutional compliance. Embedding contextual intelligence into BELA's governance framework could promote a more equitable, responsive and sustainable model of educational governance, one that honours both policy consistency and community voice.

Contextual intelligence and Du Plessis's differentiated levels of school autonomy

Considering the BELA Act's move toward standardised, centralised governance, Du Plessis's model offers a compelling alternative that preserves the adaptability and responsiveness essential to equitable school policy implementation. To address this concern, Du Plessis (2019) presents a model for differentiated levels of autonomy, emphasising the importance of tailoring responses to the specific needs of different settings and times. Contextually intelligent school leadership is underscored as a critical factor for achieving sustainable progress in schools. This model focuses on capacity building at the local level by considering various contextual factors, such as the political environment and cultural diversity (Du Plessis and Küng 2019). It advocates for a contextually intelligent approach to the formulation and implementation of legal provisions and amendments, ensuring that policies are relevant and effective within diverse school contexts (Du Plessis and Küng 2019). The model also acknowledges that individuals operate within multiple contexts simultaneously, necessitating unique skills for effective management and leadership (Kruger et al. 2024). The model promotes adaptive legal implementation by recognising that individuals operate within multiple overlapping environments, requiring leadership that is both responsive and nuanced. By promoting an understanding of contextual diversity, this approach encourages contextually intelligent strategies for capacity building and overall school improvement (Du Plessis and Küng 2019). In doing so, Du Plessis's framework offers a pathway to implement BELA's aims more equitably by embedding flexibility and local insight into otherwise standardised procedures.

Centralised approach versus local autonomy

The BELA Act promotes a more centralised approach to school governance, particularly in language and admissions policies. While this standardisation intends to ensure equity and consistency (Kruger et al. 2024), it risks being too rigid and disconnected from the lived realities of individual schools and communities. Without meaningful consideration of contextual factors,

such centralisation may hinder responsive and inclusive educational reform. A reassessment of the balance between provincial oversight and local autonomy is therefore essential. Empowering SGBs and school leaders through contextual intelligence enables more flexible and community-sensitive decision-making (Du Plessis 2019; Du Plessis and Küng 2019). Such an approach ensures that policies reflect the socio-cultural, economic and logistical conditions of the communities they are intended to serve. Ultimately, promoting differentiated local autonomy, informed by context and guided by the Constitution's emphasis on the best interests of the child (Section 28(2)) provides a pathway to more equitable, effective and sustainable policy implementation in South African education (RSA 1996a).

Challenges of a 'One Size Fits All' approach

In South Africa, diverse socio-cultural backgrounds, socio-economic conditions, historical inequalities and geographical factors (rural and urban) present complex challenges for school governance. Marishane and Mampane (2019) highlight that the ability of principals to navigate these complex contexts often determines their success. Schools operate in varied environments, and rigid centralised policies, such as those enacted through the BELA Act, may overlook the specific challenges and opportunities inherent in these settings (Kruger et al. 2024).

Beyers (2023: 324) offers empirical support for this critique, with participating principals consistently emphasising that a 'one-size-fits-all' governance approach is ineffective in South Africa's diverse education system. The principals argued that policies must be both procedurally fair and contextually grounded, considering cultural, linguistic, socio-economic and geographic differences. Beyers (2023) further argues that rigid frameworks often constrain school principals' ability to exercise professional discretion, which is essential for ensuring the best interests of learners in each specific context. Therefore, tailored, context-sensitive governance strategies are essential to ensure that educational policies not only comply with national standards, but they also meet the nuanced needs of individual school communities. Embedding contextual intelligence into

policy implementation, particularly through empowering local decision-makers such as principals and SGBs, enhances equity, effectiveness and the sustainability of educational transformation.

Contribution to educational policy discourse

The discourse on educational policy underscores the importance of contextually intelligent policymaking, which requires educational leaders and policymakers to understand and navigate the unique cultural, social and political landscapes in which schools operate (Marishane 2020). In the context of the BELA Act's increased centralisation of authority, these insights affirm the necessity of grounding legislative implementation in localised realities and stakeholder engagement (Du Plessis 2019; Marishane 2020). This approach emphasises the integration of insights from various education stakeholders and the careful consideration of specific challenges and opportunities within local contexts. By fostering a nuanced understanding of these factors, policymakers can implement strategies that are responsive to the needs of communities, leading to more effective governance and leadership. Tailoring educational strategies in this way enhances the overall quality of education, ensuring that policies are equitable, inclusive and aligned with the diverse realities of school environments.

Shifting dynamics of power

The shifting dynamics of power in educational governance, as enacted through the BELA Act, reflect a significant transfer of authority from SGBs to the state. This shift could reduce the autonomy and decision-making capabilities of SGBs, resulting in more uniform policies that may fail to effectively address local needs and contexts. Centralisation risks diminishing the role of contextual intelligence, which is critical for effective governance as it enables responses tailored to the unique cultural, social and political landscapes of each school. The loss of SGB autonomy may undermine the responsiveness and effectiveness of school-level governance, leading to less adaptive policies that fail to reflect the diverse realities of

school communities (Kruger et al. 2024).

The Federation of Governing Bodies of South African Schools (FEDSAS) has raised concerns about the proposed amendments, which grant provincial heads of education the authority to determine schools' admission and language policies (Oosthuizen 2023). This shift contradicts the principle of collaborative governance, which ensures decisions are made inclusively and in alignment with the specific needs of local communities (Oosthuizen 2023). Dr Deacon, Chief Executive Officer of FEDSAS, further critiques the amendments, arguing that they undermine the intentions of the two White Papers on education, potentially steering the system towards a totalitarian model where parental involvement is diminished, and improvements in education are unlikely to materialise (Oosthuizen 2023). These critiques highlight the risks of centralisation in eroding local governance structures and limiting the adaptability of educational policies. Taken together, these critiques underscore the need for a more balanced approach, one that recognises the importance of national standards while empowering schools through contextually grounded decision-making. Such a shift not only disrupts collaborative governance, it risks marginalising school-level contextual intelligence, the very foundation for responsive, inclusive and constitutionally aligned policymaking.

Conclusion

The BELA Act centralises decision-making at the state level, significantly reducing the autonomy of SGBs. This centralisation raises important concerns about the erosion of local governance capacity and risks undermining contextually intelligent policymaking, a cornerstone of effective and responsive leadership in South Africa's diverse school environments. The amendments may lead to rigid, one-size-fits-all policies that fail to reflect the unique socio-cultural, economic and geographic realities of individual schools. FEDSAS has voiced strong objections to these changes, arguing that they contradict the principles of collaborative governance and diminish the meaningful role of parents in shaping school policy. According to Deacon, the amendments risk steering the system toward a more authoritarian model, which may hinder, rather than advance,

genuine improvements in education (Deacon, as cited in Oosthuizen 2023). While the DBE justifies the amendments as necessary to ensure equitable access, critics caution that this logic may fall short if implementation fails to consider school-level diversity and stakeholder engagement. Reassessing the balance between national oversight and school-based discretion is, therefore, crucial. Localised decision-making, grounded in contextual intelligence, offers a compelling framework to navigate this complexity. It ensures that education policies are not only constitutionally sound, but also practically effective, tailored to community realities and capable of driving inclusive, sustainable change. Without this balance, the BELA Act risks becoming contextually ignorant, limiting its potential to transform education meaningfully.

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