



Using education as socialising agent for social change through transformative constitutionalism in South Africa

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Social Change

Classic Theories

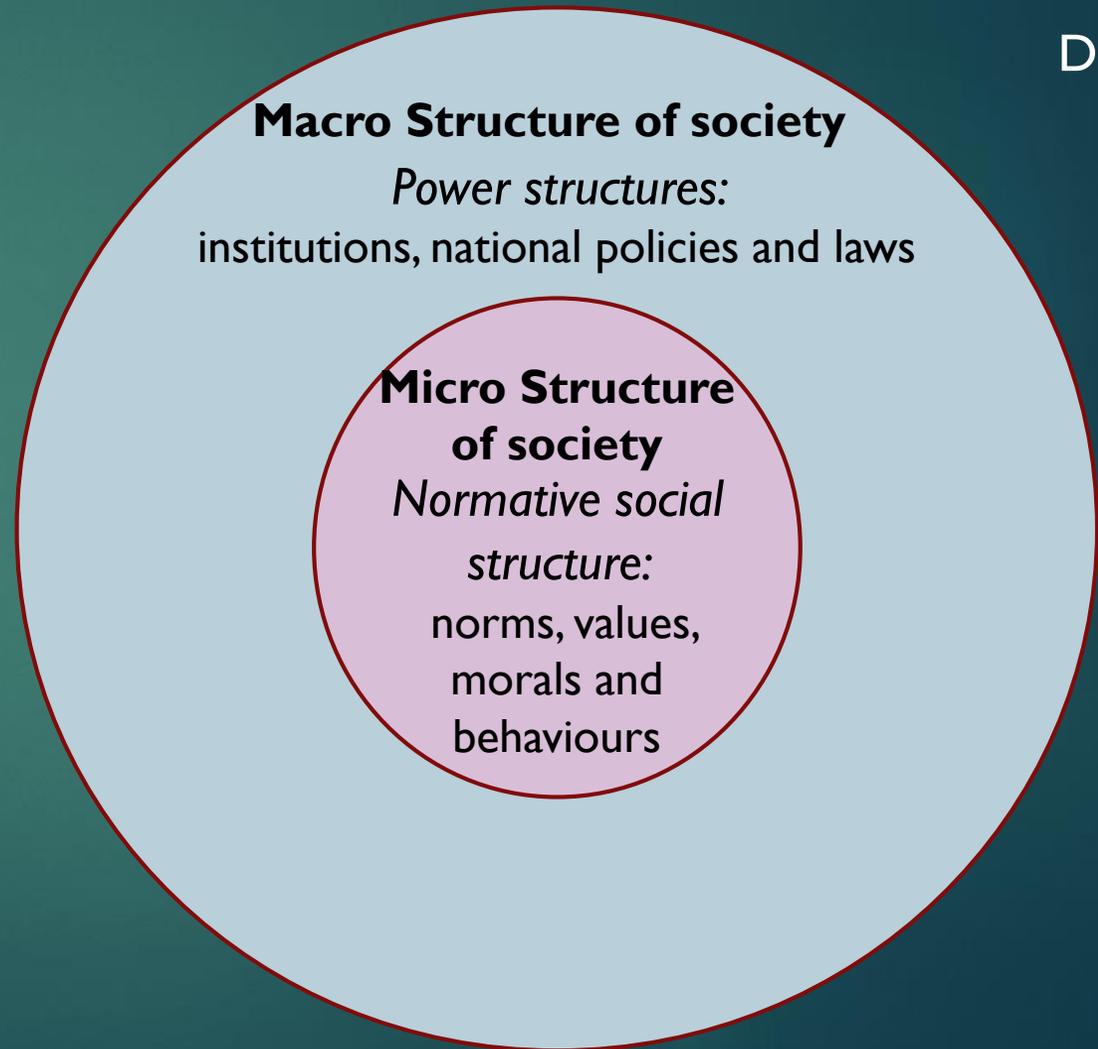


Traditional Society
Community norms rule
thinking/behaviour

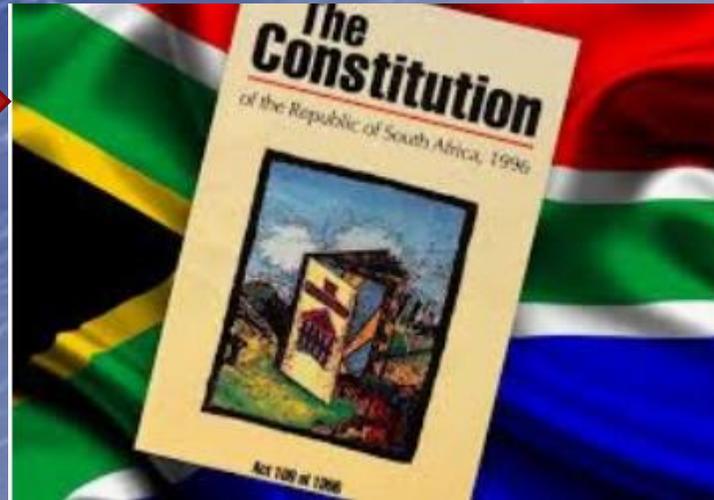
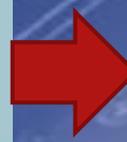
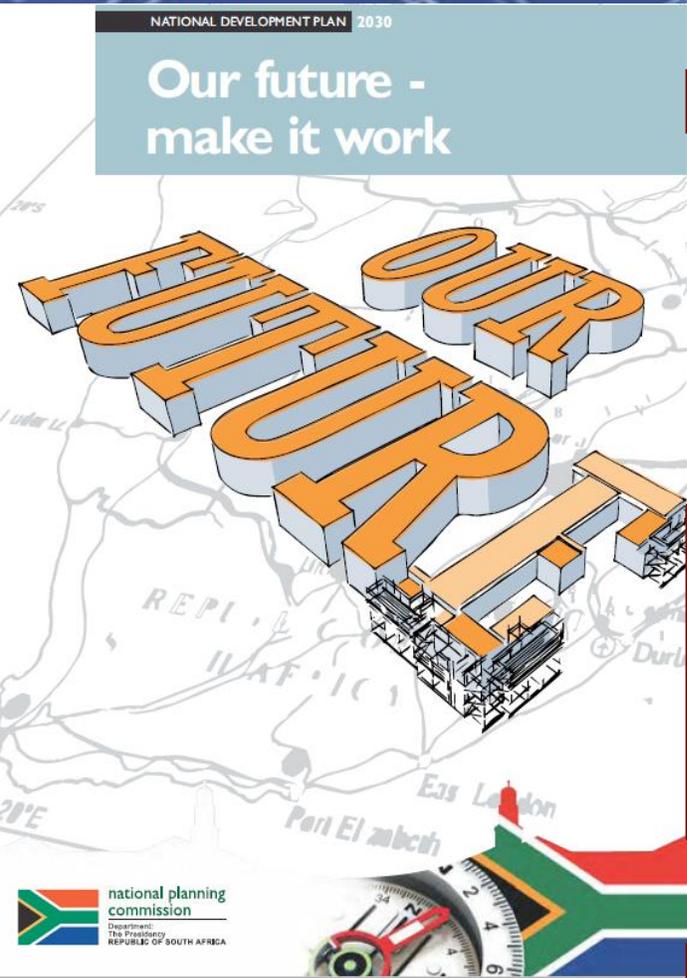


Modern Society
Legal norms rule
thinking/behaviour

Classic Definitions



How do we use law to influence society's values



- National compact
- Containing our common values
- Vision and blueprint for ideal SA society

Fundamental rights (freedom, dignity, equality, life etc)

Rights which (if realised) can change people's lives

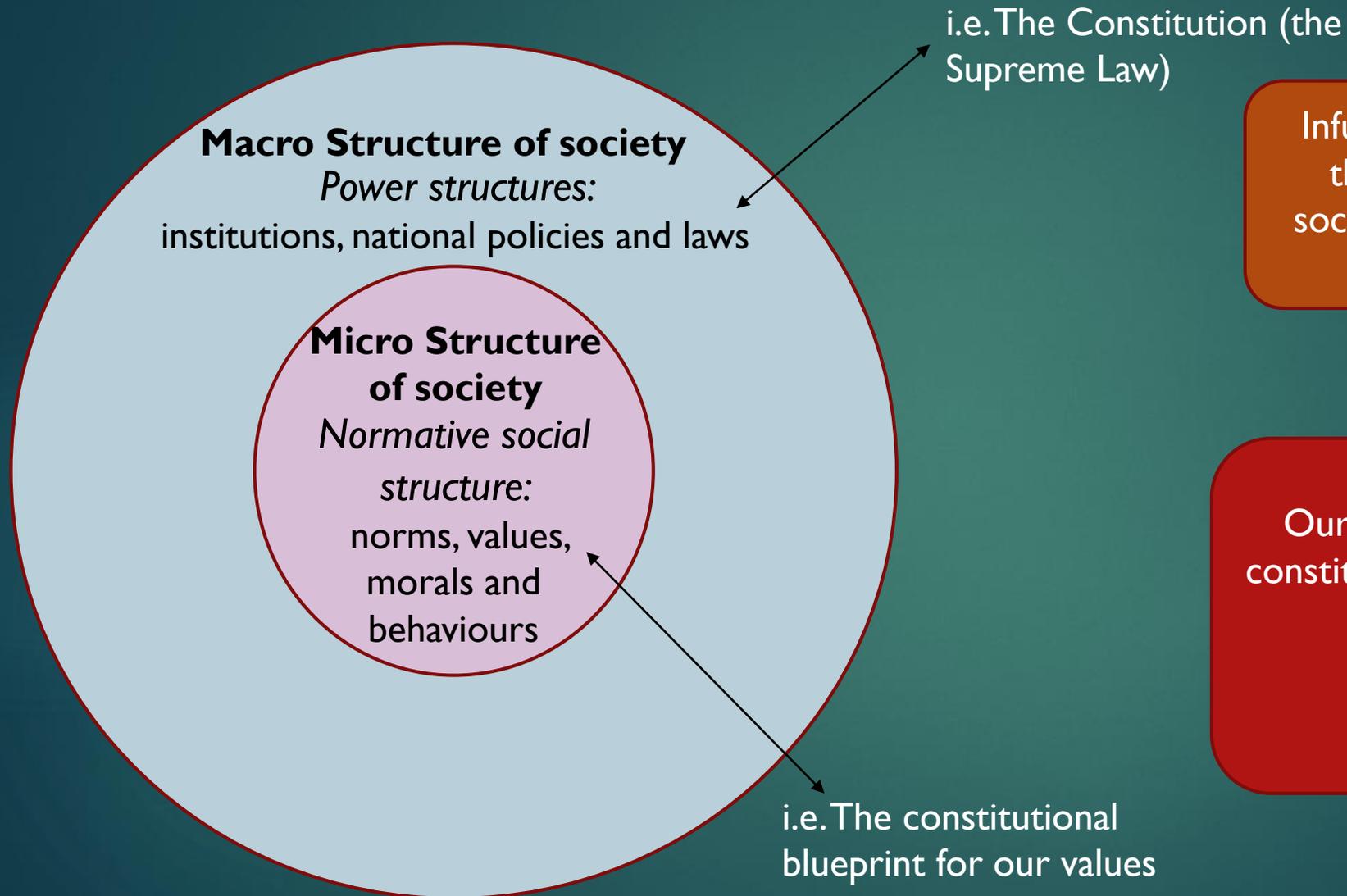
= Transformative capacity of the Constitution

= essence of Transformative Constitutionalism

“a long term project of constitutional enactment, interpretation&enforcement committed to transforming a country's political&social institutions and power relationships in a democratic, participatory&egalitarian way”

– Karel Klare

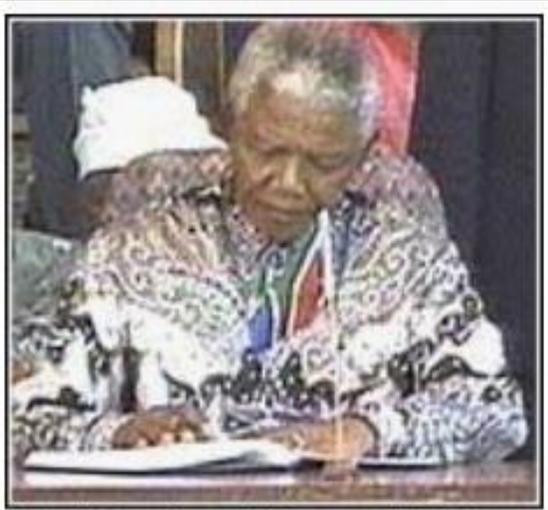
Transformative Constitutionalism



Infusing the transformative character of the constitutional values /rights into society's social and normative structures through law

Our Constitution, through transformative constitutionalism = potentially ultimate source of social change because it =

- a power structure but also
- a normative structure



Mandela signed the constitution
in Sharpeville Tuesday (wtn)

“If we want the **values** behind a Bill of Rights to become part of the culture of our people, it is important to recognise that the authority of these **values** is not ultimately vested in the Constitution as such, nor in the power of the State, but rather in the people who at a certain time in history committed themselves to a process under the Rule of Law and according to a certain set of principles”

2014 South African Social Attitudes Survey

(plus writings of Prof Anton Kok)

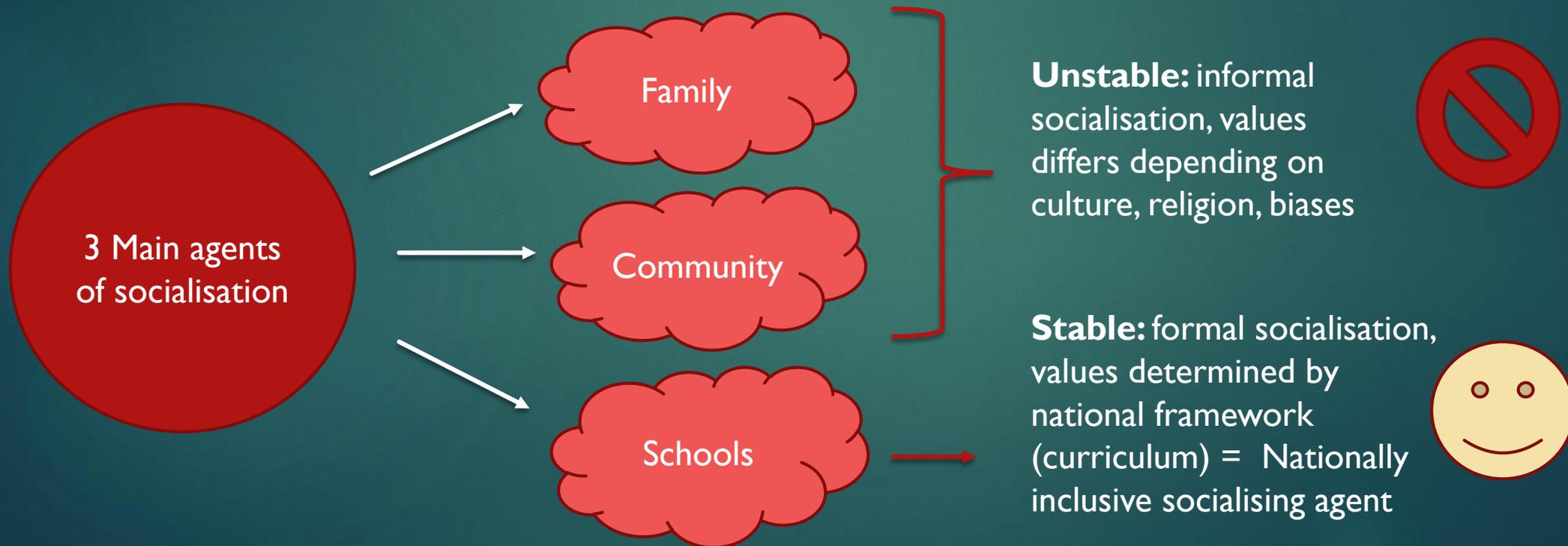


The Public still prefers purely traditional moral values



The Public's attitude regarding issues like the death penalty versus progressive values like an inalienable right to life is not in sync with the Constitution or government policies

Socialisation and socialising agents



Gemeinschaft/ Traditional society

Less economically advantaged or developed

Small-scale rural communities low levels of literacy&formal schooling

Interdependent

Priority = traditional collectivist/ communal values & gender roles

Reluctant to adapt to social changes; individualist concepts like personal rights.

Less DIVERSITY (people who are the same tend to stick together)

Social change direction

Economics&Infrastructure

Population&Literacy

Normative Structure

General Profile

Gesellschaft/ modern society

Good infrastructure, high levels of economic activity&development

Large urban populations, high levels of literacy&formal schooling

Independent

Priority = modern individualist values like equality and individual rights.

More receptive&welcoming to social change; rights-based thinking

More DIVERSITY (different groups of different cultures, religions etc all together)

Schools = Transitional Community



Literacy versus Internalisation: Law

GOAL

- New law produces social change
- People are no longer suffer from legal impotence
- Constitutional literacy exists

Step 2

Internalisation into
normative
structures

Step 1

Institutionalisation
into power
structures

Legal impotence/Constitutional illiteracy



People who do not understand their country's constitution and embrace its values

- Don't feel at home in their society, become alienated from it = a host of societal problems
- Won't be active citizens and participate meaningfully in democracy

Literacy v Internalisation: Law v Values

Values internalisation

A moderation of mind

Values begin to characterise the individual's thought processes and behaviours

Values literacy

An **understanding**

Can ID the existence of a value in a situation

An understanding but not yet internalised

Constitutional literacy

Law = Internalised

An **understanding**

Can ID existence of a law in a situation

Law = Institutionalised



Dror's Lag in social change:

Constitutional values = Just understood
Social behaviour/normative structure won't change



How do we climb the final step from literacy to internalisation?

Paulo Freire:

Via early development of a **Critical Consciousness**
(dialogue + reflection + praxis/action)

A moderation of mind
Values begin to characterise the individual's thought processes and behaviours



Law = Internalised

An **understanding**
Can ID existence of a law in a situation

Law = Institutionalised

DIALOGUE + REFLECTION =
introspection into how values affect their social reality/how to apply those values in social reality

Taking **ACTION**
in society based on those values

How does Constitutional values internalisation look?

Constitutional values internalisation

Constitutional values moderate & characterise thoughts & actions in society

People will not just understand rights but know:

- resolution possibilities
- remedies for infringement

empowered to act on their rights/values
steer actions

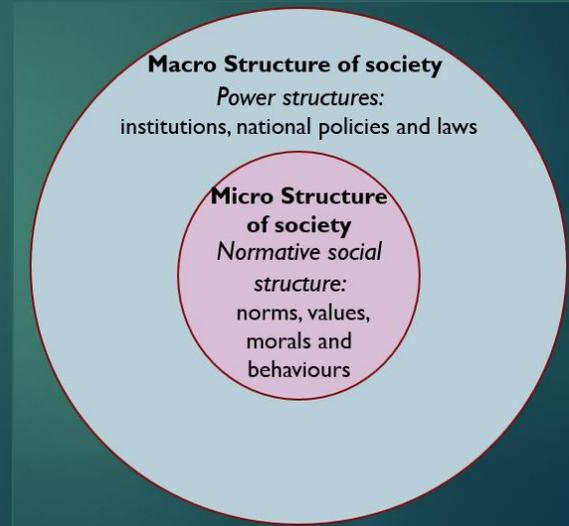
Constitutional values literacy

Basic knowledge and understanding of the values, rights and obligations

Know about the existence or recognition of a particular right

People will have developed not only a literacy but a critical consciousness about constitutional values

Constitution can then cause social change: It has been successfully infused into **power structures** via institutionalisation and **normative structures** via internalisation



Please read the scenarios below and react to it in the columns on the right.	a) This is not an issue	b) It is wrong but not against the law	c) It is against the law/ against someone's rights	Why do you say that? (why is it not an issue or wrong or against the law)	If you chose Response b) or Response c), Can something be done about it? (what can you or someone else do about it?)
You go to a restaurant with your female Muslim friend and they ask her to remove her headscarf because it doesn't suit their dress code					
John is in a wheelchair. His school can't afford to build a ramp to enable his wheelchair to get into class so John has to sit outside in front of the door of the class to listen to the lesson.					
Thandi and her boyfriend are having an argument while walking home. Her boyfriend gets angry and hits her			X		<p>Legally orientated response: Report Domestic Abuse</p> <p>Morally/communal ideology orientated response: Thandi must speak to her family about it and they must sit her boyfriend down and talk to him/community must intervene</p>

Survey Findings

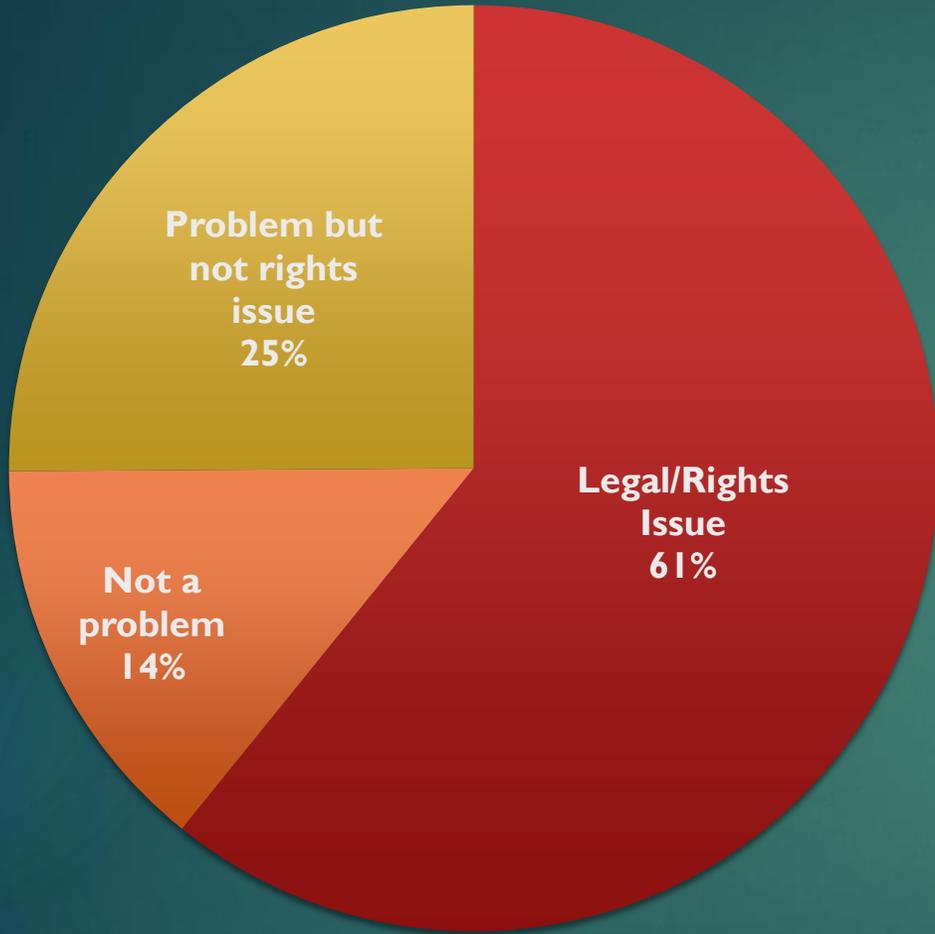


Figure A: Overall answers

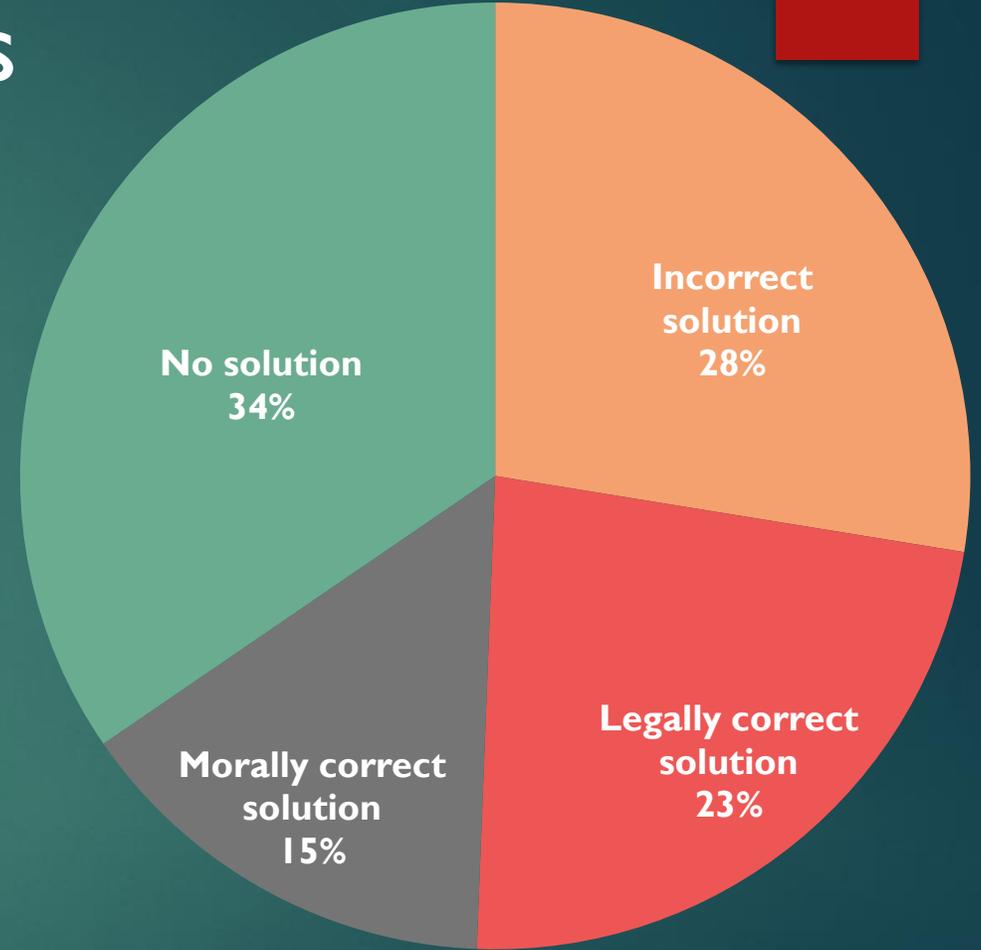


Figure B: Solutions demonstrating identification of obligations and remedies

Conclusions

Constitutional values internalisation



62% Inability to ID solutions/correct solutions = **Critical consciousness** and **internalisation**/ change of thought processes and behaviours might not yet effectively occur

Constitutional values moderate & characterise thoughts & actions in society

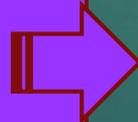
People will not just understand rights but know:

- resolution possibilities
 - remedies for infringement
- empowered to act on their rights

Constitutional values literacy

Basic knowledge and understanding of the values, rights and obligations

Know about the existence or recognition of a particular right



61%/ majority able to recognise when a legal or rights infringement is taking place

Constitutional values literacy



Generally lower ID of purely moral solutions to problems compared to legal solutions: **schools** are potentially successfully being used as **Transitional communities**



Schools = Transitional Community



If we are experiencing a lag in social change, using law to make a difference/change us into the society our transformative Constitution envisages..

It could be because we have Constitutional Values Literacy but not yet critical consciousness/an internalisation of the Constitutional values and subsequent change of normative structure might not yet effectively occur in using schools as socialising agents to produce social change in SA



