



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

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# Social Change

Classic Theories

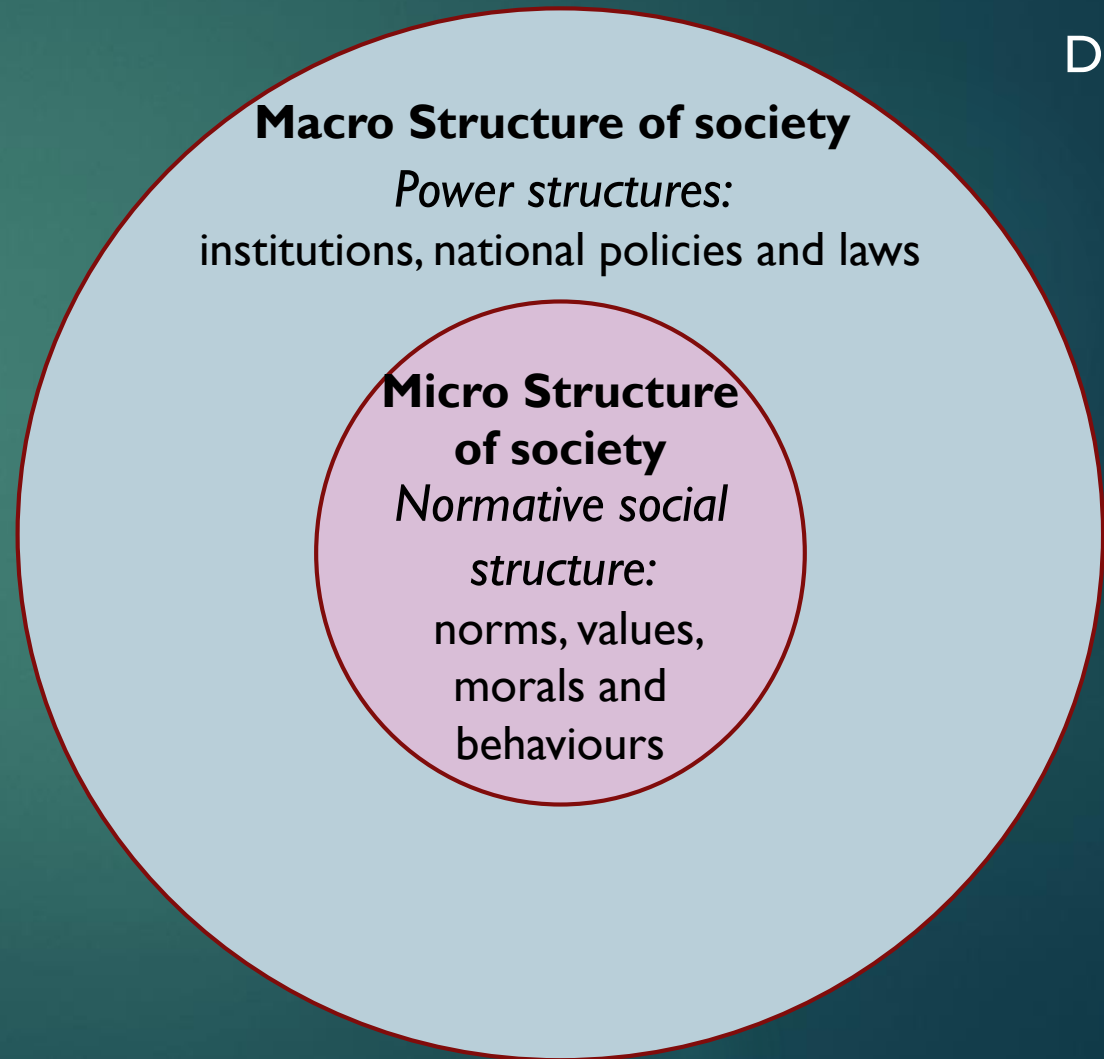


**Traditional Society**  
Community norms rule thinking/behaviour

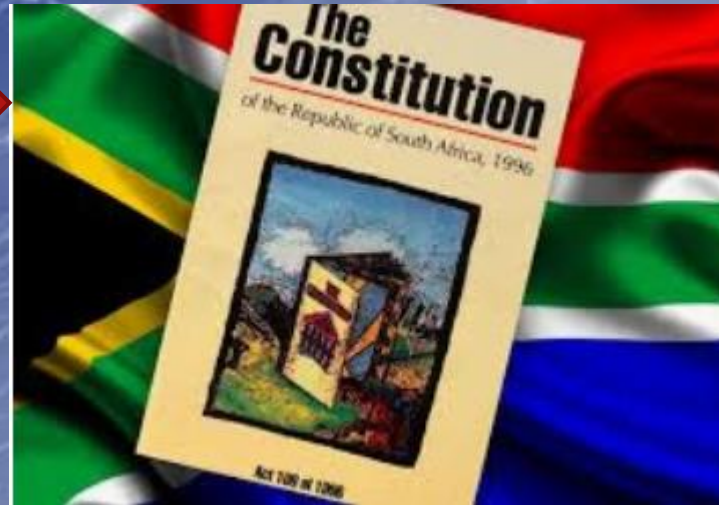
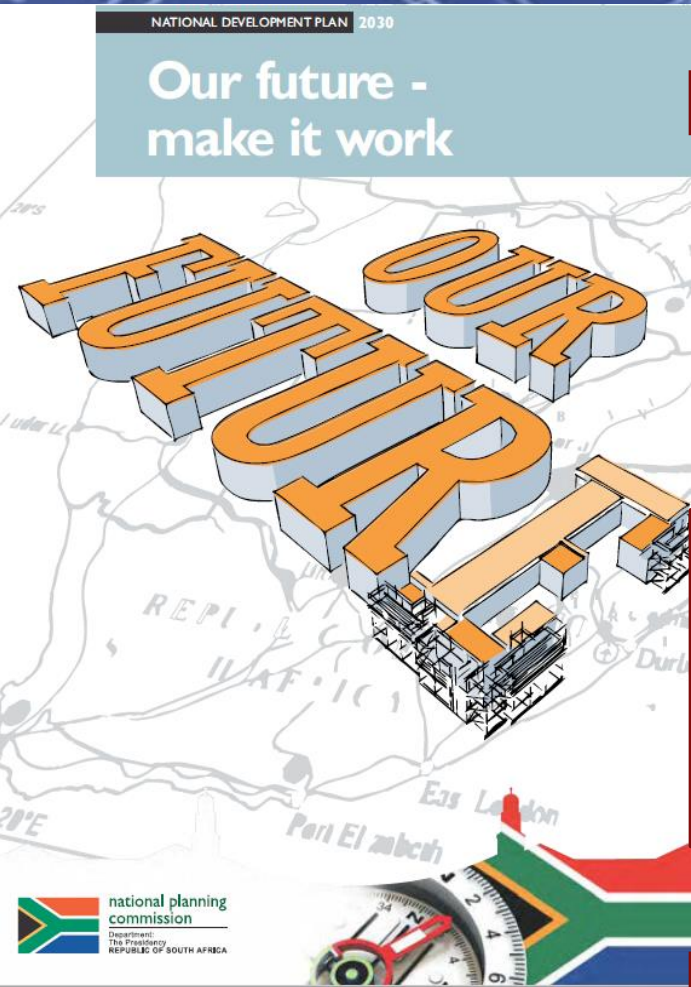


**Modern Society**  
Legal norms rule thinking/behaviour

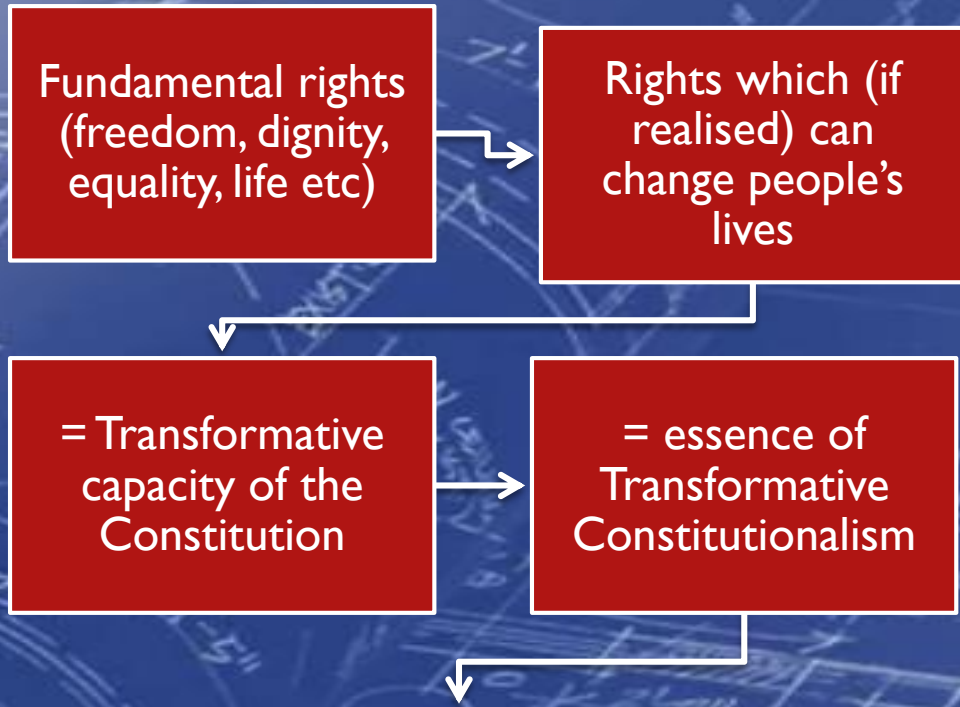
Classic Definitions



# How do we use law to influence society's values



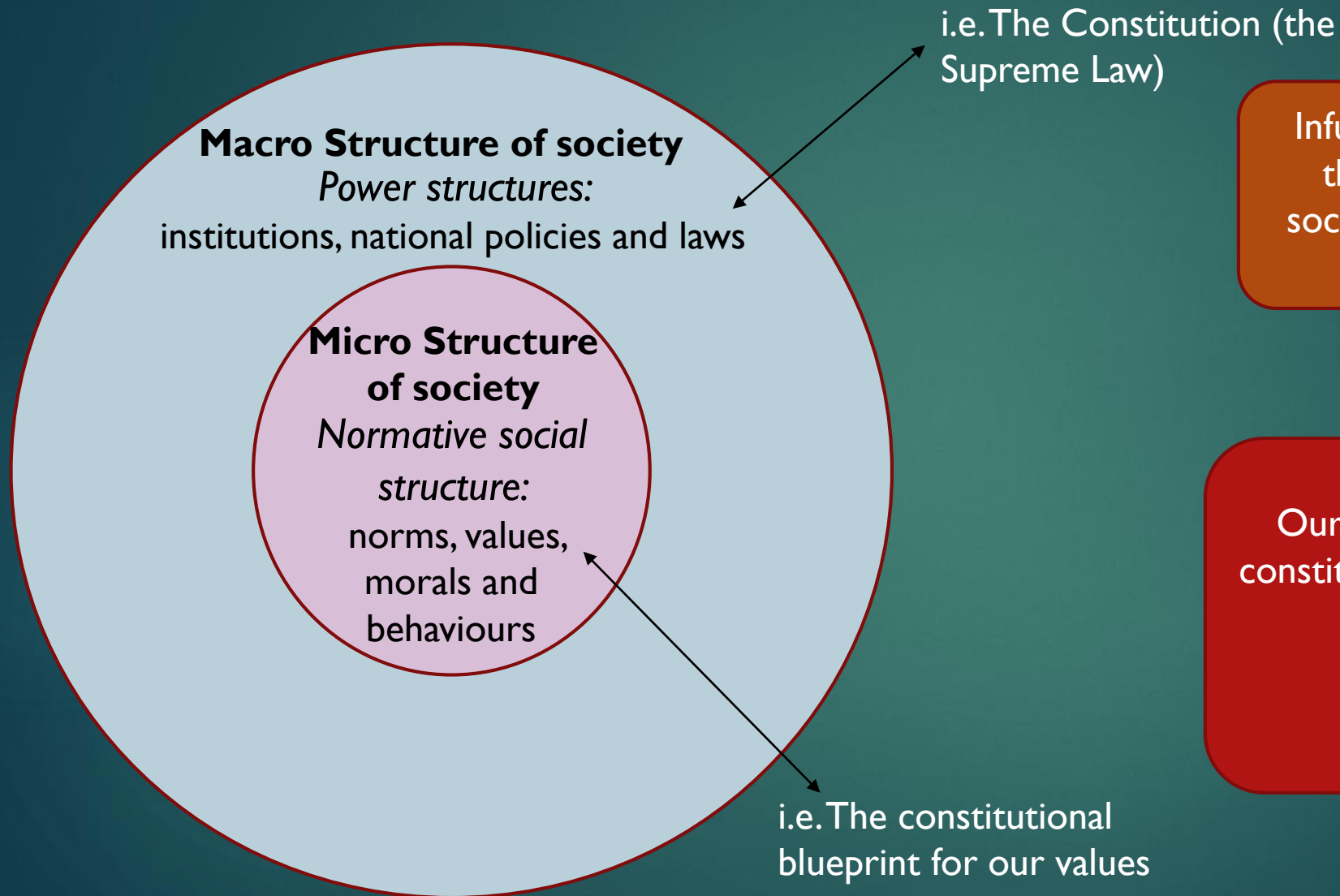
- National compact
- Containing our common values
- Vision and blueprint for ideal SA society



“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)

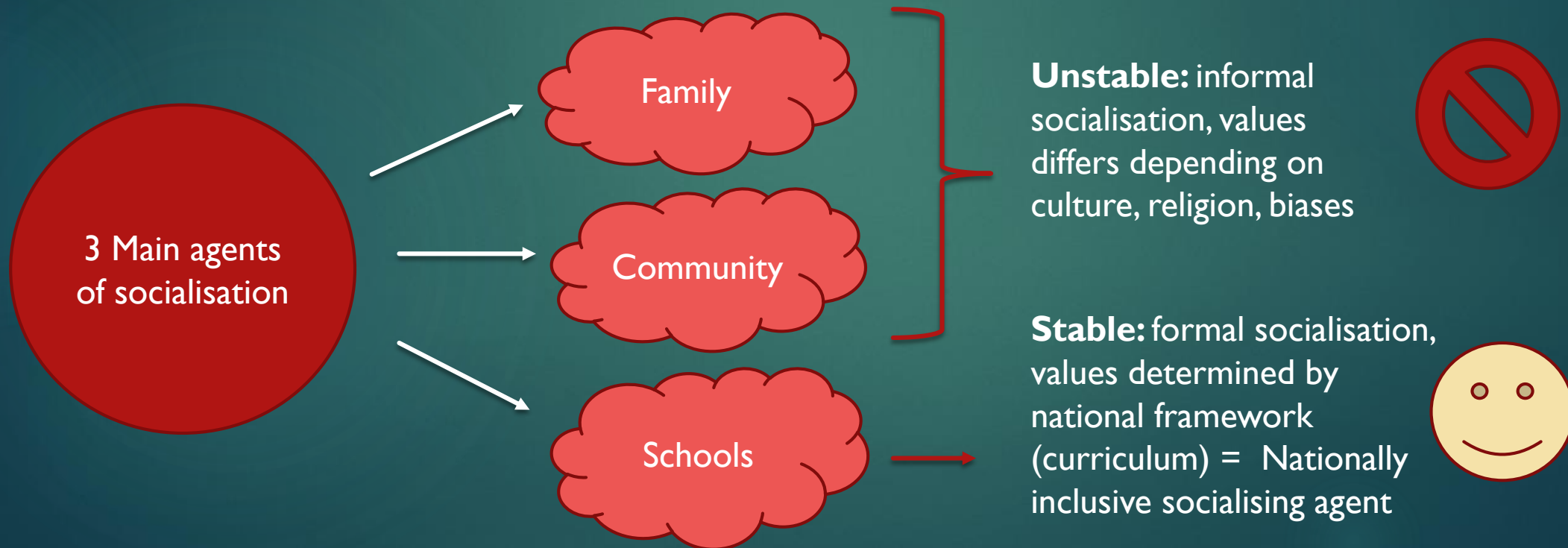


The Public still prefers purely traditional moral values



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**

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



**Dror's Lag in social  
change:**  
Constitutional values = Just  
understood  
Social behaviour/normative  
structure won't change



Law =  
Internalised

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

Law =  
Institutionalised

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

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

**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

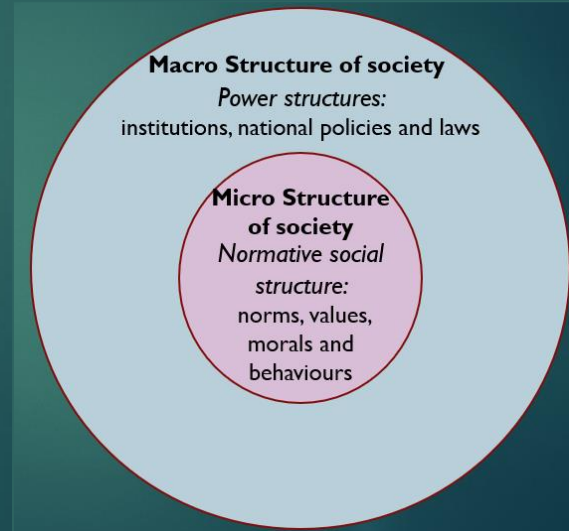
## Constitutional values literacy

Basic knowledge and understanding of the values, rights and obligations

Know about the existence or recognition of a particular right

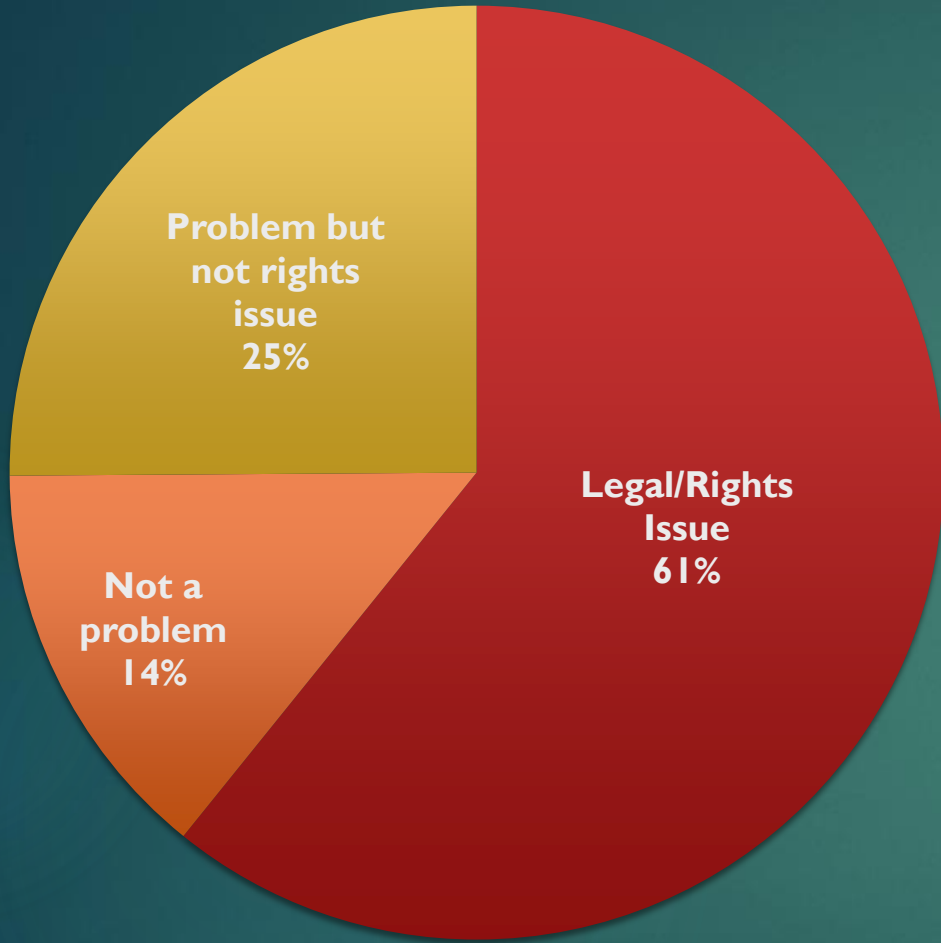
People will have developed not only a literacy but a critical consciousness about constitutional values

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

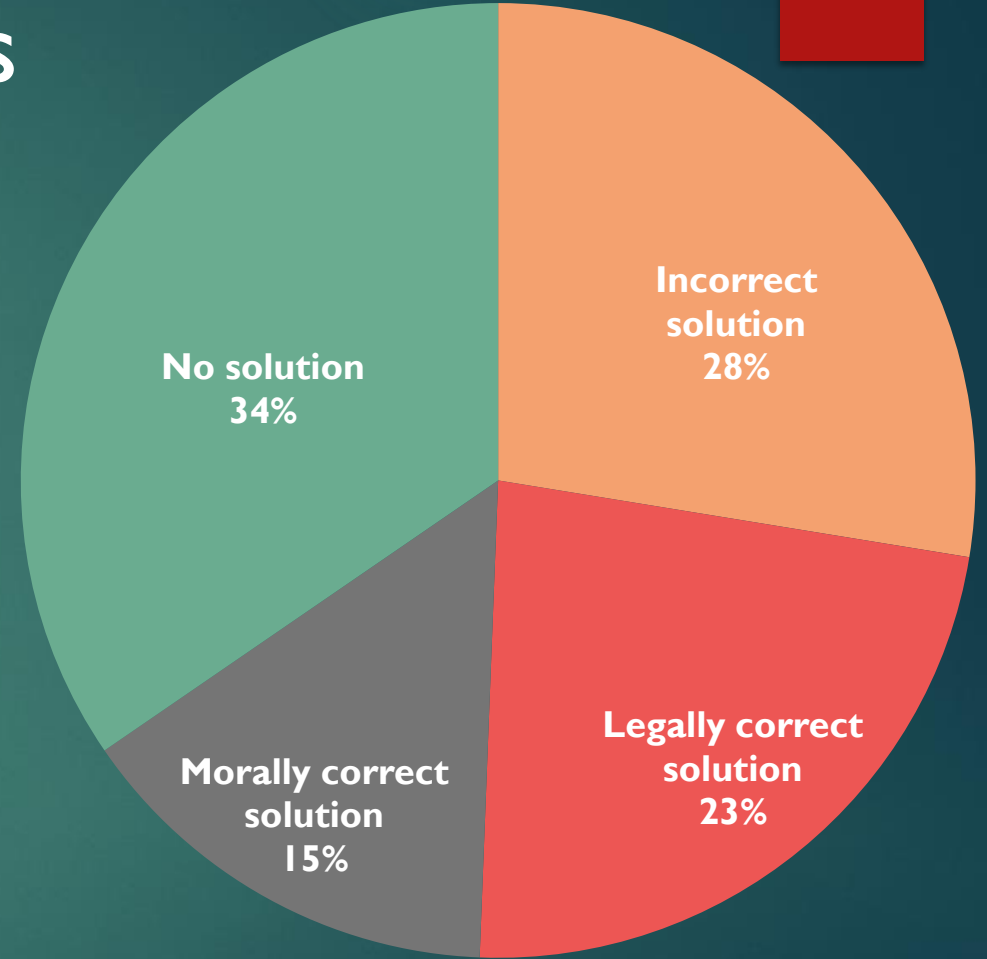


Please read the scenarios below and react to it in the columns on the right.	a) This is not an issue	b) It is wrong but not against the law	c) It is against the law/ against someone's rights	Why do you say that? (why is it not an issue or wrong or against the law)	If you chose Response b) or Response 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><b>Legally orientated response:</b> Report Domestic Abuse</p> <p><b>Morally/communal ideology orientated response:</b> 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





