



The role of law in nudging parents towards dancing accountably with education partners

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I used to have a problem
with accountability



Then, I realised —
it wasn't my fault

A WARNING BY DEVENISH

Best interests + children's rights



Mainly inspired by western cultures
versus
African traditions

AIMS OF PRESENTATION

- Presenting concepts
- Investigating parental accountability: international law; constitutional pointers; statutory and subordinate indicators
- Examining and reviewing case law to gauge the position of courts

"Law"

- ✓ Encapsulates rules and provisions regulating human interaction
- ✓ Supreme Constitution
- ✓ Cannot live out legislative provisions



! People must take responsibility themselves

"Parental accountability"

- ✓ *In re XN* - s 231(2) Children's Act
- ✓ *J v J* - to have children with them; to regulate their lives
- ✓ *PD v MD* - jointly by parents in best interests of children

! Requires constant attention



Background...

- ✓ 41 years ago
- ✓ *S v CKM and Others* - parental neglect of 14-year old boy
- ✓ *J v J* - parents show some reasonableness in their dealings
- ✓ *Swanepoel v Fourie en 'n Ander* - s 30 Children's Act



Background...

- ✓ Singh, Mbokodi and Msila: socio-economics
- ✓ *Donald, Lazarus and Lolwana: directly involved*
- ✓ *Grootboom case - s 28 uneasy triangular relationship between parents, State and child*
- ✓ *S v M - children are not extensions*



LEGAL FRAMEWORK

😊 International law's role

📖 *African Charter*

📖 *United Nations Convention*

...bound by section 39(1)(b)...



LEGAL FRAMEWORK



Constitutional pointers



s 1(d)



s 3(2)(b) + s 28(1)(b): *S v M*



s 28(1)(b): *S v M*



...no parenting from a distance...

LEGAL FRAMEWORK

😊 South African Schools Act
(84 of 1996)

...parents accept accountability
"parents the most immediate moral
exemplars" (Judge Sachs)



LEGAL FRAMEWORK

Policy on Learner Attendance

Parents support children's regular school attendance



LEGAL FRAMEWORK

😊 White Paper for Social Welfare

Capacity of families to function effectively



LEGAL FRAMEWORK

National Education Policy Act

 *Healthy parental and school environments*

 *Psychological well-being of learners*



LEGAL FRAMEWORK

😊 Children's Act and case law indicators

M and Another v Minister of Police -

💣 *Madzodzo V Minister of Basic Education*

💣 *Section 27 and Others v Minister of Education*

💣 *Rivonia*

💣 *PD v MD*



Conclusion



Case law: no right to have children

Factors that hamper full realization of legislative provisions:

- * Reciprocal blame
- * Lack of cooperation
- * Socio-economic factors
- * Illiteracy
- * Cultural aspects



Summation of findings

-  Take heed: steer clear of reciprocal tendency to blame others
-  Exemplary citizenship hinges on parental accountability towards education

Are we making a collaborative effort?

RECOMMENDATION 1

All parents must become proud of being primary caregivers



RECOMMENDATION 2

Parents must be empowered for their roles as partners in education



RECOMMENDATION 3

**Mutual respect between education partners
must become evident**



RECOMMENDATION 4

Parents must be encouraged to acknowledge responsibility in helping children accept accountability for own behaviour



RECOMMENDATION 5

Parents must be made aware of the impact of parental example





Thank you!

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