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DOI: <https://dx.doi.org/10.18820/24150517/JJS43.i2.3>

ISSN 0258-252X (Print)
ISSN 2415-0517 (Online)

*Journal for Juridical
Science*
2018:43(2):53-78

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The complexity of teacher-targeted workplace bullying: An analysis for policy

Abstract

Teachers are often the targets of bullies. Studies have indicated that South African teachers are three times more likely to experience workplace bullying than their peers in other parts of the world. In an earlier study by the authors, 90.8 per cent of educators who took part in a survey indicated that they experience some form of bullying while at work. Compared to this, similar studies found the levels to be much lower: 25.6 per cent in Lithuania and 22.4 per cent in Croatia. Workplace bullying of teachers includes being bullied by other teachers, school managers, learners and the administrative staff at the school. While the vast majority of schools have adopted an anti-bullying policy for the learners, even if only on paper, no clear guidelines exist on teacher-targeted workplace bullying. Teachers are central to any education system. Research shows that workplace bullying negatively affects the teachers and the school. Thus, policies should be put in place to protect employees and effectively deal with incidences. Policies with clear guidelines and procedures for role players should be in line with the legislative framework. We start by giving a synopsis of the current literature on teacher-targeted workplace bullying. We then discuss the South African legal framework that informs the suggested policy development. Thirdly, we draw from the literature on bullying prevention. This will serve as an information base from which national, provincial and school policies can be developed.

1. Introduction

Workplace bullying (WPB) is a phenomenon that has been studied in many different contexts, but it still seems to be rife. In the vast majority of working environments, when mention is made of WPB, what comes to mind will be line managers or peers who bully; indeed, teachers are at the receiving end of this.¹ The majority (90.8 per cent) of the 999 South African teachers who took part in a survey indicated, for instance, that they experience some form of bullying while at work.² Similar studies found the levels to

1 De Wet 2010; 2011.

2 De Wet & Jacobs 2013:454.

be much lower in other parts of the world; for instance, 25.6 per cent in Lithuania,³ 50 per cent in Turkey⁴, and 22.4 per cent in Croatia.⁵ However, in the context of schools, other role players such as learners interact with teachers on a daily basis. The education fraternity in South Africa was shocked in 2013 when a video appeared on social media and the news bulletins of a boy who attacked a male teacher. The boy eventually threw a broom at the teacher.⁶ More recently, another video was distributed on social media where boys refused to enter a female teacher's class, thus humiliating her.⁷ While it can be argued that these are once-off, extreme incidences, most of the teachers in South Africa and in many other parts of the world would disagree. Research indeed shows that learner-on-teacher bullying is a problem,⁸ while teachers are also exposed to being bullied by parents and support staff.⁹ The terms 'bullying' and 'bully' are often loosely used in everyday life, and for different people they have different meanings. It is thus important to demarcate bullying in the context of a teacher's workplace. We start with a general discussion of WPB, after which we discuss teacher-targeted workplace bullying (TTWPB) as a distinct phenomenon.

2. The phenomenon of workplace bullying

2.1 Introduction

Workplace bullying can be defined as:

... a series of negative behaviours carried out frequently and over a prolonged period of time, usually against an individual employee by his or her colleagues or supervisor.¹⁰

What constitutes "negative behaviour" is, however, open to interpretation, and the length of the "prolonged period of time" is not clear. Indeed, the conceptualisation by scholars and legal experts of workplace bullying is far from complete;¹¹ Ragusa and Groves even describe it as being "ambiguous and vague".¹² Leon-Perez *et al.* further add that bullying is a "gradual process rather than an all-or-nothing phenomenon"¹³, while

3 Malinauskienė *et al.* 2005:23.

4 Cemaloglu 2007:794.

5 Russo *et al.* 2008:545.

6 <http://news.sky.com/story/boys-broom-attack-on-teacher-caught-on-video-10433756>

7 https://m.facebook.com/story.php?story_fbid=1843061925720399&id=100000498285870

8 Campher 2015; De Wet & Jacobs 2006.

9 Kõiv 2015:129.

10 Einarsen *et al.* 2003:165.

11 Macassa 2016:200; Squelch & Guthrie 2012:10.

12 Ragusa & Groves 2015:1508.

13 Leon-Perez *et al.* 2014:1172.

Rhodes *et al.* point out that the “unethicality of bullying is usually taken for granted rather than argued or justified”.¹⁴

While we are clearly a long way still from having a widely acceptable definition of WPB, the following aspects can be listed to describe bullying behaviour in the context of the workplace:

- Unwelcomed, unreasonable, unethical, or oppressive behaviour;
- With intention;
- Directed at an employee or a group of employees;
- Mostly repetitive;
- Causing harm;
- Causing an imbalance of power or abusing power;
- Having negative consequences for the victim and the organisation, and
- The victims have difficulty defending themselves.¹⁵

One should, however, not oversimplify the matter using the above as an unqualified checklist. While Squelch and Guthrie,¹⁶ based on other authors, highlight the issue of a power differential, they point out that such power is not always based on the organisational position of the perpetrator(s). Expertise, experience, social positioning and the control of information could contribute, *inter alia*, to perceived or real power. Squelch and Guthrie¹⁷ disagree with the view that bullying is always intentional, and point out that “depending on the circumstances a once-off episode signals a warning of bullying tendencies, and the incident may well escalate into a pattern of repeated bullying”. In their definition, Malinauskienė *et al.*¹⁸ acknowledge that WPB is subjectively perceived by the victim; thus, different people perceive it differently. This said, the list could be used to measure behaviour, and we propose that, if most of the elements are present, it could be classified as WPB. While it could be argued that these acts simply constitute harassment, one thing that does stand out is that during bullying, the victim and the perpetrator(s) always know each other, as opposed to harassment where this is not always the case.¹⁹

Although authors differ concerning the definition, they all agree that WPB is harmful. It has a negative impact on the health of employees. Their self-esteem often suffers, and they become anxious and depressed. There are cases where WPB leads to victims becoming suicidal.²⁰ It

14 Rhodes *et al.* 2010:98.

15 Einarsen *et al.* 2003; Ragusa & Groves 2015:1508-1509; Rhodes *et al.* 2010:98; Squelch & Guthrie 2012:10; Malinauskienė *et al.* 2005:21.

16 Squelch & Guthrie 2012:10.

17 Squelch & Guthrie 2012:10-11. In this regard, see also Ragusa & Groves 2015:1508.

18 Malinauskienė *et al.* 2005:21.

19 De Wet 2016:30.

20 Squelch & Guthrie 2012:10-12.

can cause the victim to feel completely helpless and dysfunctional and can lead to absence from work, stress and burnout.²¹ The effects of WPB on the individual are often not easy to detect, as it is a gradual demoralising process.²² The organisation, however, will also be harmed by, for instance, higher medically certified sickness absence among staff members; staff absenteeism; staff members' intention to leave the organisation; reduced commitment to work, as well as grievance and concomitant compensation.²³

WPB can take on many forms, and often the repetitiveness of actions could include a variety of negative actions. Among other things, these could include verbal abuse; making offensive remarks; being shouted at; humiliation; interference with work; obstructing work; ridiculing the victim; intimidation and threats; unreasonable or unmanageable workloads and pressure; unreasonable and/or excessive criticism; extreme monitoring and scrutiny of work; being repeatedly reminded of errors; gossip and/or spreading malicious rumours; withholding information; manipulation; social isolation, exclusion or being ignored, as well as sexual harassment and physical abuse.²⁴

2.2 Antecedents of WPB

It is often stereotypically suggested that perpetrators are strong, power driven, domineering, violent, disliked and insensitive, whereas victims are considered to be inadequate, feeble, lacking confidence and being unassertive.²⁵ However, the matter is not as simple.

Various authors refer to a number of aspects in victims, based upon which they are targeted, and it is often because they are dissimilar to the majority. Victims could be bullied based on their gender or race,²⁶ their more serious temperament, due to their outsider position, and because they are very conscientious and are overachievers.²⁷ In other instances, victims are targeted, because they have uncompromising temperaments, whereas some are provocative and confrontational.²⁸

The bullies are also sometimes talented people who can manipulate the situation to their advantage.²⁹ Some target others because of envy,³⁰ or because the victim stands in the way of the perpetrator's agenda or

21 Leon-Perez *et al.* 2014:1156; Leyman 1996:168; Ortega *et al.* 2011:752; Squelch & Guthrie 2012:12; Malinauskienė *et al.* 2005:24.

22 Rhodes *et al.* 2010.

23 Hoel *et al.* 2011:131-141.

24 Leon-Perez *et al.* 2014:1165; Simon & Simon 2006:142; Squelch & Guthrie 2012:10-13; Zapf 1999:70.

25 Rhodes *et al.* 2010:99; Simon & Simon 2006:142.

26 Squelch & Guthrie 2012:11.

27 Zapf & Einarsen 2011:187-189.

28 Zapf & Einarsen 2011:192-193.

29 De Wet 2010:1453, 1455.

30 De Wet 2010:1453.

ambition,³¹ or to protect their self-esteem.³² WPB can occur due to a lack of emotional control on the part of the perpetrator, and a general authoritative and aggressive leadership style.³³ One must certainly be cautious about oversimplifying the matter through stereotyping.

An organisation's ethical and organisational culture can contribute to WPB, but these are also crucial in addressing WPB.³⁴ Rhodes *et al.*³⁵ point out that the organisational state of affairs, circumstances at work, and institutional practices enable and contribute to interpersonal conflict that could then lead to bullying. The authors draw from different scholars to mention that, *inter alia*, a lack of trust, excessive pressure towards performance, intolerance with diversity and leadership styles as well as insecurity within an organisation can inform and enable bullying. Furthermore, the micro politics within the organisation can necessitate coalitions, which can lead to their targeting somebody outside this cluster.³⁶

While the above generic information is relevant to the vast majority of professions, teachers are in a unique situation at work, in that the same "customers" (*i.e.* learners) are present throughout every day, unlike in other professions. Furthermore, teachers are, for most of the day, in situations where they are the only adult among children, unlike in other careers where there are mainly adults present. The performance of teachers is measured predominantly on the performance of learners and not themselves. Parents, who have a vested interest in the performance of their children and many of whom pay school fees, can be viewed as a second layer of customers. This unique organisational set-up results in the particular dynamics of bullying of teachers in the workplace.

2.3 Teacher-targeted workplace bullying

The literature reveals that teachers are indeed bullied by other teachers and members of the school management team, but also by learners, parents and the support staff at the school.³⁷ This makes teacher-targeted workplace bullying (TTWPB) more complicated than other forms of WPB. Research found that the problem is escalating.³⁸

TTWPB takes on many forms, and while some of these are similar as in other sectors, others are not. Four broad categories of TTWPB can be identified, namely behaviour that undermines the professional status of the victim; behaviour that causes the victim to be isolated; behaviour that undermines the person, and direct negative behaviour.³⁹ In a recent study,

31 Simon & Simon 2006:146.

32 Zapf & Einarsen 2011:180-182.

33 Zapf & Einarsen 2011:183.

34 De Wet 2010:1453-1454; Rhodes *et al.* 2010:97-99.

35 Rhodes *et al.* 2010:99. In this regard, see also De Wet 2010.

36 Zapf & Einarsen 2011:185.

37 Campher 2015; De Wet & Jacobs 2006; Phooko *et al.* 2017; Kõiv 2015:129.

38 Kõiv 2015:131.

39 De Wet & Jacobs 2013:455.

close to 40 per cent of the respondents indicated that they experience all four categories of TTWPB.⁴⁰

TTWPB negatively affects teachers in various parts of the world. A study conducted in Turkey reported that some teachers feel that they are ordered to do work below their level of competence; they experience negative reactions because they are working too hard; their opinions are not valued, and their efforts are devaluated.⁴¹ Teachers in South Africa experience verbal abuse, physical abuse, sexual harassment, and cyber bullying at the hands of learners.⁴² Teachers are excluded, and specifically excluded from information sharing.⁴³ Victims of TTWPB often feel excluded in the staff room, and lose trust in colleagues.⁴⁴ This, in turn, leads to colleagues withdrawing from such a teacher.⁴⁵ The message is clearly given to victims of TTWPB that they are different, and even substandard.⁴⁶

TTWPB has a detrimental effect on the teachers who are victims. They feel lonely; their self-esteem suffers; they feel depressed; they live in fear, and become paranoid and suicidal.⁴⁷ TTWPB affects teachers physically, as some have reported disturbed sleeping patterns, suffering from headaches, stomach cramps, and other problems, including regular stress-related nausea.⁴⁸ Their family's lives suffer as they may, for instance, take out their frustrations on their spouses and other family members.⁴⁹

TTWPB has an impact on the financial position of teachers. Learners sometimes damage the teachers' private property such as their vehicles.⁵⁰ Some teachers have resigned from teaching, and a few had to relocate as a result.⁵¹ Some victims resign from promotions positions, and others are reluctant to apply for promotion.⁵²

Schools where TTWPB happens may also be weakened, as TTWPB, in general, has serious consequences in terms of teachers' work; it causes victims to become detached from their work and have less drive. Specifically, when learners bully teachers, teachers seem to battle to teach, fall behind with their work, and, in some instances, stop teaching the planned lessons. TTWPB thus negatively impacts on the quality of teaching and learning that takes place, concomitantly impeding the right to education of other learners.⁵³

40 De Wet & Jacobs 2013:455.

41 Cemaloglu 2007:794.

42 Campher 2015:39; De Wet & Jacobs 2006.

43 Fahie & Devine 2014:243.

44 Fahie & Devine 2014:244.

45 Jacobs & De Wet 2015:49-50.

46 Fahie & Devine 2014:243.

47 Campher 2015:40; Fahie & Devine 2014:242; Jacobs & De Wet 2015:49.

48 Fahie & Devine 2014:241-243; Jacobs & De Wet 2015:51.

49 Campher 2015:40.

50 De Wet & Jacobs 2006:65.

51 Fahie & Devine 2014:244.

52 Fahie & Devine 2014:245.

53 Campher 2015:43; Jacobs & De Wet 2015a:51.

It appears that certain categories of teachers are more vulnerable than others, although the findings are not conclusive. Jacobs and De Wet, for instance, found that older teachers and male teachers are more vulnerable,⁵⁴ whereas Russo *et al.* found younger teachers to be more vulnerable.⁵⁵ On an organisational level, a study in South Africa indicated that teachers teaching in smaller schools, in farm schools and in townships are more vulnerable to being bullied;⁵⁶ teachers in managerial positions are also more prone to fall victim.⁵⁷ Teachers are central in any country's education system, and they clearly need protection from being bullied.

3. Problem statement

In South Africa, as in many other countries, there are no laws that specifically criminalise WPB.⁵⁸ Squelch and Guthrie,⁵⁹ for instance, explain that Australia does not have specific laws that deal with WPB, although systems of protection not explicitly focusing on WPB do exist. These are, however, reactive, "providing remedies when bullying has been proved and when an employee has been harmed".⁶⁰ There are no federal or state laws in Pennsylvania, United States of America, that protect employees against bullying.⁶¹ Ragusa and Groves discussed a case that happened in Australia and concluded that, due to the different perceptions that exist about what constitutes WPB, a lack of a clear legal demarcation of WPB and subjective accounts of what happens during instances of WPB lead to inconsistencies and even the stigmatisation of victims.⁶² Squelch and Guthrie⁶³ warn that "[t]he cost of bullying to employers and the harm caused to employees point to an unequivocal need for organisations to proactively address workplace bullying".

Perpetrators, managers and organisations can be held liable if harm comes to employees. As the literature review has shown, teachers face bullying on different levels; thus, departments of education as well as managers and governors at school level need to take the necessary steps to prevent this problem.

54 Jacobs & De Wet 2015b:62.

55 Russo *et al.* 2008:549.

56 Jacobs & De Wet 2015b:62.

57 Jacobs & De Wet 2015b:62.

58 Barnes 2017:2 compiled what she acknowledges to be an "incomplete" list of countries that have enacted WPB "provisions": Australia, Belgium, Denmark, Finland, France, Germany, Ireland, Korea, Luxembourg, Norway, The Netherlands, Poland, Serbia, Spain, Sweden, Turkey and the United Kingdom. "Provisions" does not necessarily mean that these countries have formally adopted legislation prohibiting workplace bullying and harassment.

59 Squelch & Guthrie 2012:9-10.

60 Squelch & Guthrie 2012:18.

61 Simon & Simon 2006:150.

62 Ragusa & Groves 2015:1527-1528.

63 Squelch & Guthrie 2012:13.

In South Africa, the education policy is developed at national level, and then school governing bodies are expected to, in relation to their functions, develop school policies that are in line with the *Constitution* and relevant legislation and regulations.⁶⁴ The National Department of Basic Education (DoBE) must develop a policy specifically to prevent and deal with TTWPB, so that schools can then adapt for their own contexts. Such a policy, however, needs to be based on trustworthy information. This article, therefore, aims to provide such an information base towards a TTWPB policy.

4. Analysis for policy

Policies have two distinct features, namely that they intend to encourage particular behaviours and that they are developed because of needs.⁶⁵ In the context of this article, the need is to protect teachers against TTWPB and to change the bullying behaviour by learners, staff members and others towards teachers.

Policy research centres on two main themes, namely the analysis of policy and the analysis for policy, although the distinction is not always indisputable.⁶⁶ While different authors, for example Anderson⁶⁷ and Pillay⁶⁸ describe the policy processes in different terms, Roux⁶⁹ points out that policy processes always start by identifying a problem and formulating clear objectives. Policy developers need to start by considering what ought to be achieved and what the different options are. This can only be done if an “informational base” is carefully constructed.⁷⁰ We thus draw from both the legal framework and the literature towards such an information base. This falls under the category of *analysis for policy*. We start by discussing the legal framework, after which alternative options for preventing and dealing with TTWPB will be considered.

64 Joubert 2009:235.

65 Pillay 2006:44.

66 Taylor et al. 1997:37.

67 Anderson 2015.

68 Pillay 2006:446.

69 Roux 2006:127-128.

70 See Codd 1988:235.

5. Legal framework to prevent teacher-targeted workplace bullying

There are no laws in place in South Africa that explicitly protect people from WPB. Nevertheless, we draw from the *Constitution*, legislation, common law and case law to provide a legal framework within which TTWPB can be considered.

5.1 The Constitution of the Republic of South Africa, 1996

A number of stipulations in the *Constitution of the Republic of South Africa*⁷¹ describe values and behaviours that are directly opposed to bullying. The values of justice, freedom, equality, accountability, openness and human dignity are highlighted in the Preamble to, and in the first section of the *Constitution*. It is emphasised in the *Constitution* that neither the state nor an organ of state, or an individual may unfairly discriminate against a person based on his/her race, sex, gender, ethnicity, social origin and colour, to name but a few.⁷² Like everybody else, teachers have the right to dignity and “to have their dignity respected and protected”.⁷³ The *Constitution* states that freedom and security are a basic human right and that includes freedom from all forms of violence from private or public sources and that everybody has the right not to be treated in a “cruel, inhuman or degrading way”.⁷⁴ It is moreover indicated that a person’s privacy must be protected; this includes that “the privacy of their communications” may not be infringed.⁷⁵ Furthermore, everybody has the right to just administrative action.⁷⁶ All of the above indicate how people should act towards others, including towards teachers at schools.

The *Constitution* furthermore stipulates that everybody has the right to a basic education.⁷⁷ Laas and Boezaart (2014) consider this a fundamental human right.⁷⁸ When teachers are bullied, it affects their work, thus negatively affecting the right to education for the learners in the class.

5.2 South African Schools Act, Act 84 of 1996

The *South African Schools Act* (hereafter SASA) stipulates that the School Governing Body (SGB) has to adopt a code of conduct for learners at the school, after consultation with learners, teachers and parents. They are also responsible to conduct disciplinary hearings if necessary.⁷⁹ As far as learner-on-teacher bullying is concerned, SGBs have a role to play to

71 Republic of South Africa 1996a.

72 Republic of South Africa 1996a:sec. 9(3-4).

73 Republic of South Africa 1996a:sec. 10.

74 Republic of South Africa 1996a:sec. 12.

75 Republic of South Africa 1996a:sec. 14.

76 Republic of South Africa 1996a:sec. 33.

77 Republic of South Africa 1996a:sec. 29.

78 Laas & Boezaart 2014:2677.

79 Republic of South Africa 1996b:sec. 18A.

curb TTWPB, and the codes of conduct for learners must acknowledge the problem and include this as a transgression of the code.

The functions of the SGBs mostly do not include matters pertaining to staff,⁸⁰ yet at some schools, they do employ additional teachers, in which case the SGB becomes the employee.⁸¹ Furthermore, the SGB is in a position of trust towards the school,⁸² must promote the best interests of the school⁸³ and support the principal, educators and other staff of the school in the performance of their professional functions.⁸⁴ As such, they must support efforts to curb TTWPB.

Some stipulations in regulations related to SASA also guide role players. Sec. 4.2 of the *Regulations to Prohibit Initiation Practices in Schools* state that “[t]here should be a relationship of mutual trust and respect between learners, and between learners and educators. Victimisation of the one by the other is unacceptable, and peer pressure cannot be regarded as a justification for engaging in acts of victimisation.”⁸⁵ An anti-TTWPB policy could draw from this.

5.3 Personnel Administrative Measures

The Personnel Administrative Measures (PAM), *inter alia*, deals with post provisioning and workload.⁸⁶ During the formal school day, teachers are expected to perform duties that include teaching during scheduled times; do relief teaching; do extra- and co-curricular duties and pastoral duties such as ground duties and detention; administration, supervision and management functions; other professional duties such as meetings and workshops, as well as planning, preparation and assessment. Outside formal school hours, they are expected to plan, prepare and evaluate; perform extra- and co-curricular duties; professional duties such as meetings, workshops and conferences, and take part in professional development opportunities.⁸⁷ While the above do reflect the work that teachers do during and after school hours, two important qualifiers follow. PAM states that the workload should be “equitable” to ensure that teachers “on a particular level or an individual educator [are] not over -burdened”.⁸⁸ In addition, PAM provides the benchmark: “The expectation is that every educator must be able to account for 1800 actual working hours per annum.”⁸⁹ The implication in terms of WPB is that an unequal and/or unreasonable workload (see 2.1)

80 Republic of South Africa 1996b:secs. 16, 20, 21.

81 Republic of South Africa 1996b:sec. 20.

82 Republic of South Africa 1996b:sec. 16(2).

83 Republic of South Africa 1996b:sec. 20(1)(a).

84 Republic of South Africa 1996b:sec.10(1)(e).

85 Department of Education 2002.

86 Department of Basic Education 2016.

87 Department of Basic Education 2016:sec. A.4.1.2.1.

88 Department of Basic Education 2016:sec. A.4.1.4.

89 Department of Basic Education 2016:sec. A.4.1.5.

could be in contravention of these stipulations, and thus could constitute a form of bullying by the decision makers.

5.4 Employment Equity Act, Act 55 of 1998

The *Employment Equity Act*⁹⁰ stipulates that employers must foster equal opportunities for employees⁹¹ and confirms that unfair discrimination is unlawful.⁹² It then specifically stipulates that “[h]arassment of an employee is a form of unfair discrimination”⁹³ and particularly refers to such harassment based on “race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth”. It is important to note that this list is more comprehensive than the list provided in sec. 9(3) of the *Constitution*, as “family responsibility”, “HIV status”, and “political opinion” were added.⁹⁴ Furthermore, the *Act* prohibits prejudice based on “past, present and anticipated” disclosure of information.⁹⁵ Lastly, the *Act* proscribes breach of confidentiality.⁹⁶ All of the above could inform policymakers.

5.5 Protection from Harassment Act, Act 17 of 2011

The *Protection from Harassment Act*⁹⁷ does not refer to bullying, but many of the points used to explain harassment correlate with acts of bullying, and should be incorporated in an anti-TTWPB policy:

- a. Harassment means directly or indirectly engaging in conduct that the respondent knows or ought to know-
- b. Causes harm or inspires the reasonable belief that harm may be caused to the complainant or a related person by unreasonably-
- c. Following, watching, pursuing or accosting of the complainant or a related person, or loitering outside of or near the building or place where the complainant or a related person resides, works, carries on business, studies or happens to be;
- d. Engaging in verbal, electronic or any other communication aimed at the complainant or a related person, by any means, whether or not conversation ensues; or
- e. Sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the complainant

90 Republic of South Africa 1998.

91 Republic of South Africa 1998:sec. 5

92 Republic of South Africa 1998:sec. 6(1).

93 Republic of South Africa 1998:sec. 6(3).

94 Republic of South Africa 1996a.

95 Republic of South Africa 1998:sec. 51(2).

96 Republic of South Africa 1998:sec. 59.

97 Republic of South Africa 2011.

or a related person or leaving them where they will be found by, given to or brought to the attention of, the complainant or a related person; or

f. Amounts to sexual harassment of the complainant or a related person.

It also explains the term 'harm' and indicates that it "means any mental, psychological, physical or economic harm" and specifically demarcates sexual harassment as:

- a. Unwelcome sexual attention from a person who knows or ought reasonably to know that such attention is unwelcome;
- b. Unwelcome explicit or implicit behaviour, suggestions, messages or remarks of a sexual nature that have the effect of offending, intimidating or humiliating the complainant or a related person in circumstances, which a reasonable person having regard to all the circumstances would have anticipated that the complainant or related person would be offended, humiliated or intimidated.
- c. Implied or expressed promise of reward for complying with a sexually oriented request; or
- d. Implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually oriented request;

The *Act* furthermore explains how it can be used to apply for a protection order and other steps that might be taken to protect against harassment, and can thus be used to enforce the rights of the victims of bullying.⁹⁸ Laas and Boezaart⁹⁹ argue that the *Act* may pose an immediate form of relief, by preventing a bully from engaging in any kind of abusive conduct towards the victim. The *Act* provides a civil remedy with a criminal law implication where a defendant contravenes the terms of the protection order, since an arrest warrant is issued along with the protection order for such instances where it is necessary.

5.6 Promotion of Equality and Prevention of Unfair Discrimination Act, Act 4 of 2000

The *Promotion of Equality and Prevention of Unfair Discrimination Act*¹⁰⁰ does not specifically refer to WPB, or even bullying *per se*, but in Chapter 1, it refers to harassment as

unwanted conduct which is persistent or serious and demeans, humiliates or create a hostile or intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and which is related to-

sex, gender or sexual orientation, or

98 Republic of South Africa 2011:sec. 2.

99 Laas & Boezaart 2014:2693.

100 Republic of South Africa 2000a.

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a person's membership or presumed membership of a group identified by one or more of the prohibited grounds or a characteristic associated with such a group.

Using De Wet's¹⁰¹ interpretation of the above in view of sec. 9 of the *Constitution*, this law prohibits homophobic, sexist, racist, disablist, religiously motivated and xenophobic WPB.¹⁰²

5.7 Case law

Although there has not been a court ruling on TTWPB, there are cases that shed light on the situation, and have implications for those who bully teachers. We discuss two cases.

Le Roux and Others v Dey (Freedom of Expression Institute and Restorative Justice Centre as Amici Curiae) 2011 (3) SA 274 (CC), for instance, dealt with the case of three school boys who edited and constructed an image using the head of the deputy principal (DP) and the principal on two naked men, in a sexual position. The image was shared both electronically and in hard copy, and a copy was placed on the school noticeboard. Although the school punished the learners, the deputy principal issued summons for compensation for injury to his dignity, good name and reputation.¹⁰³ The case was heard in the High Court (HC), the Supreme Court of Appeal (SCA) as well as in the Constitutional Court (CC), which ruled in favour of the defamatory claim by the DP, and that damages be paid, as he was "subjectively wounded in his feelings".¹⁰⁴

While all the implications of the court ruling will not be discussed in this instance, the following points made by Deacon *et al.*¹⁰⁵ are relevant. First, images such as cartoons, caricatures and, in this case, an obviously edited photo can be defamatory. Thus, while it was clear to a reasonable person that this was an edited image, the intention was interpreted as tarnishing the reputation and authority of the two teachers; it could, therefore, be viewed as defamatory. Secondly, although the learners claimed that it was intended as a joke, the court ruled that, even as a joke, it could be viewed as belittling, ridiculing and disrespecting the two teachers; thus, the line beyond what is acceptable was crossed. Deacon *et al.*¹⁰⁶ point out that "teachers are entitled to the protection of their dignity and reputation". Lastly, it was noted that subjective feelings of dignity should be valued and protected. Learners and colleagues who pester teachers by means of jokes and defamatory jokes, in particular, are bullying the victims, and should take note of the principles established in this case.

101 De Wet 2016:26.

102 Republic of South Africa 2000a:sec. 11.

103 Deacon *et al.* 2016:91-97.

104 Deacon *et al.* 2016:93.

105 Deacon *et al.* 2016:95-97.

106 Deacon *et al.* 2016:96.

A second case that is relevant to TTWPB and, in particular, to teachers who are physically bullied is *Jacobs v Chairman, Governing Body, Rhodes High School and Others 2011 (1) SA 160 (WCC)*. This case refers to a situation where a teacher was physically attacked by a learner, who beat the teacher with a hammer in her class in front of learners. Prior to this, there was a confrontation between the teacher and the learner, after which she reported the incident to her Head of Department (HoD). The HoD took the learner to the principal, who left the learner sitting outside his office. The learner subsequently left this space, returned to the class, and attacked the teacher. As a result, the teacher left the teaching profession. The court ruled that there was a legal duty on the part of the principal and the MEC, as well as their employees to act positively in order to ensure the safety and security of both learners and teachers. Furthermore, when evidence points to a learner probably injuring another, the school should take steps to prevent this, which the HOD did not do. Moreover, the principal was negligent, because he should have reasonably foreseen that the learner could have slipped away.¹⁰⁷ The implications of this case, in terms of TTWPB, is that schools should take reasonable steps to protect teachers and, in particular, where there is suspicion that a learner bears a grudge against a teacher. If such a learner targets a particular teacher by means of various deeds (see 2.3), it could culminate in a physical attack, as in this case. Failure to protect teachers might result in successful claims against the MEC and individuals who could be found negligent.

To summarise: It is clear that the laws discussed above are sufficiently general that they could be interpreted as a protection for a teacher being bullied by colleagues and learners. The aspects highlighted in the different discussions should feed into the policy.

6. The prevention of teacher-targeted workplace bullying

In the preceding section, we discussed the South African legal framework that may inform TTWPB policy development. Anti-bullying legislation, however, is not the sole answer to the problem, as the time between the occurrence of bullying and redress, if formal procedures such as court trials take place, could take very long.¹⁰⁸ For this reason one should rather prevent TTWPB from happening than wait until it has repercussions. While legislation should certainly be in place, schools can take other steps towards curbing and managing bullying of teachers.

6.1 Anti-workplace bullying policies and programmes

Although workplace bullying has been a topic of research interest in the Nordic countries from the late 1980s and other European countries from the

¹⁰⁷ Deacon *et al.* 2016:61-70.

¹⁰⁸ Simon & Simon 2006:150.

mid-1990s,¹⁰⁹ studies on the prevention of WPB are “extremely scarce”.¹¹⁰ In his evaluation of strategies adopted by Swedish municipalities to prevent WPB, Salin¹¹¹ found that the introduction of written anti-bullying policies is one of the most common WPB prevention measures. The key issues that should be included in such a policy are an unambiguous pledge to a bullying-free environment; an explanation of the kinds of behaviour that are regarded as bullying and those that are not, and a statement of the consequences of infringing the organisational standards. Salin¹¹² emphasises the importance of the involvement of all members of staff from all levels of the organisation, as well as union representatives in the development of the policy. Organisations should, however move, as will be emphasised in the subsequent discussion, beyond the development of a policy – this should be viewed only as the first step in the development of a comprehensive anti-workplace bullying programme for organisations, including schools or departments of education.

Escartín¹¹³ and Quinlan *et al.*¹¹⁴ studied the effectiveness of eight anti-WPB programmes, as reported in peer-reviewed journals. The two reviews used different criteria for sample selection. Two of the research articles included in their respective reviews overlapped. One of the programmes reviewed by the aforementioned reviewers was Pate and Beaumont’s¹¹⁵ evaluation of an anti-harassment and bullying programme entitled *Dignity at work*. The newly appointed CEO of the organisation, where the case study was undertaken, followed a two-pronged approach. First, to closely peruse reported incidents of WPB. This resulted in the dismissal of a number of employees, even a few senior members of staff. Secondly, to conduct compulsory training programmes for all employees. The training programme highlighted the organisation’s code of conduct, while an anti-bullying and harassment policy was also developed.¹¹⁶ The study reported “an impressive decline” in employees’ perceptions of being bullied, from 52 per cent to 22 per cent within two years after the inception of their programme.¹¹⁷

The developers and evaluators of five of the eight programmes included in Escartín’s¹¹⁸ review, including the *Dignity at work* programme, claimed that their interventions were successful. Researchers linked to four of the eight intervention programmes included in the review by Quinlan *et al.*¹¹⁹ maintained that the anti-WPB interventions were successful. Despite what may be considered rather limited success of some of the anti-WPB

109 Zapf & Einarsen 2010:370.

110 Escartín 2016:160.

111 Salin 2008:223.

112 Salin 2008:223.

113 Escartín 2016:160.

114 Quinlan *et al.* 2014:33.

115 Pate & Beaumont 2010:171-180.

116 Pate & Beaumont 2010:178.

117 Pate & Beaumont 2010:178.

118 Escartín 2016:164.

119 Quinlan *et al.* 2014:41.

programmes, the negative impact of TTWPB on the individual teachers, learners and teaching and learning necessitate that education leaders should research and adopt research-based anti-TTWPB programmes for their schools. Cognisance should be taken of the guidelines offered by the two review studies consulted. Anti-TTWPB programmes should be comprehensive, *i.e.* focus on the entire school as an organisation. Such programmes should also be integrated, adopting a systematic approach that takes into consideration that changes in one area of the school are likely to affect other areas (for example, individual teachers, the school management team, and the learners).¹²⁰ Anti-TTWPB programmes should be based on participatory principles. Members of staff from all levels of the school, as well as learners should be involved in setting the goals, the implementation and the evaluation of the school's anti-TTWPB programme.¹²¹

Studies suggest the perpetrators of TTWPB within the school context are predominantly school principals.¹²² This makes it difficult for victims to stand up against them, if there are no formal platforms available. Policies thus need to clearly identify the staff members who drive the programmes, as well as the reporting structures, in order to allow employees to report on TTWPB.¹²³ In the South African context, both the South African Council of Educators (SACE) and the unions could, for instance, play a part in establishing and facilitating the national processes and platforms, while schools could link with these structures and platforms in their anti-bullying programmes (see also 6.4).

Teachers may be bullied on one or more levels, which may include horizontal bullying such as colleague-on-colleague bullying, and vertical bullying such as learner-on-teacher, principal-on-teacher and/or a member of a school management team-on-teacher bullying, among others. Anti-WPB policies and programmes within a school context should acknowledge that teachers are multi-targeted individuals,¹²⁴ and should comprehensively address these vertical and horizontal dimensions (for example, include learners, teachers, non-teaching staff, school managers, and beyond).

The foregoing discussion highlighted the importance of an anti-TTWPB policy for schools, whether or not it forms an integral part of a school's anti-bullying programme.¹²⁵ The discussion also emphasised the need for education authorities and schools to develop comprehensive anti-TTWPB programmes. The programmes should be supported by sound research and guided by a clear anti-TTWPB policy. Ideally, the DBE and provincial departments of education as well as SACE, possibly in collaboration with researchers at higher education institutions should engage in an action research approach towards anti-TTWPB programmes. Frequent

120 Escartin 2016:165.

121 Quinlan *et al.* 2014:41.

122 Blase & Blase 2004a; 2004b; De Vos & Kristen 2015; De Wet 2010.

123 Cunniff & Mostert 2012:13.

124 De Vos & Kristen 2015:1; Kõiv 2015:126.

125 Pate & Beaumont 2010:178; Salin 2008:223.

evaluations of the programmes by means of surveys would identify successes, failures, and the need for new approaches. All programmes or policies should be continually scrutinised and revised accordingly.

6.2 Restorative practices

Attempts to counter WPB should make use of both proactive and reactive strategies. The limited success of proactive strategies such as the introduction of anti-WPB programmes forces us to consider reactive strategies in order to curb this scourge. One such approach is restorative justice. There has been an upsurge of interest in restorative justice since the turn of the century in Australia, New Zealand, Canada, the United States of America, the United Kingdom, and Europe.¹²⁶ The South African Department of Justice and Constitutional Development¹²⁷ define restorative justice as follows:

Restorative Justice is an approach to justice that aims to involve the parties to a dispute and others affected by the harm (victims, offenders, families concerned and community members) in collectively identifying harms, needs and obligations through accepting responsibilities, making restitution, and taking measures to prevent a recurrence of the incident and promoting reconciliation.

A central theme of restorative justice philosophy is the need to rebuild social relationships and draw attention away from blame and punishment towards repairing harm.¹²⁸ Braithwaite's¹²⁹ proposed framework for restorative justice includes constraining standards that specify precise rights such as non-domination; empowerment; honouring legally specific upper limits on sanctions; respectful listening; equal concern for all stakeholders; accountability, and respect for fundamental human rights. This proposed framework also lists what the author calls maximising standards. These include the restoration of, *inter alia*, human dignity, property loss, safety/injury/health, freedom, compassion or caring, and peace. Both the constraining and maximising standards should be considered when TTWPB occurs.

In a study on the use of restorative approaches to WPB among nurses, Hutchinson¹³⁰ suggests two methods to bring about restorative justice, namely restorative circles and restorative conferencing. Restorative circles are concerned with creating a space where individuals, in the context of a support network, are made accountable and responsible for their actions and the harm caused. In a more formal restorative conference convened in response to bullying, the victim and his/her supporters meet with the perpetrator and his/her supporters to engage in discussion facilitated by a conference co-

126 McCluskey *et al.* 2008:199.

127 Department of Justice and Constitutional Development 2017:1.

128 Hutchinson 2009:150.

129 Braithwaite 2002:569.

130 Hutchinson 2009:150.

ordinator. Even though Hutchinson writes that there is evidence that the aforementioned restorative approaches are effective in responding to bullying, she mentions that it is challenging to implement restorative processes in bureaucratic organisations characterised by hierarchical accountability and control.¹³¹ This is especially relevant when following a restorative justice approach to address TTWPB in South African schools. The South African education system is characterised by power levels, legislative acts, regulations and policies that enforce certain hierarchical and bureaucratic management processes.¹³² This would make it difficult for teachers to become part of a restorative process, especially considering that research has found that the bullies are more often than not members of the school management team.¹³³ Furthermore, it will be difficult to drive a restorative approach from the national or provincial departments of education. The only way this might work is if the schools themselves adopt this approach, possibly with the help of outside restorative justice experts.

6.3 Union support

Teachers' unions should offer support to teachers who are being bullied in the workplace, whether by colleagues or learners. However, union representatives at schools themselves could be bullies. For trade unions to offer support for teachers who are victims of TTWPB, there should be clearly spelt-out grievance procedures, training programmes for all employees, explicit training for schools' union representatives possibly during joint labour-management meetings.¹³⁴ A reading of policy documents placed on the Internet by the three large teacher trade unions in South Africa revealed that only the South African Democratic Teachers Union (SADTU) has a Code of Conduct that specifically refers to the relationship between colleagues. The Code of Conduct¹³⁵ states, *inter alia*, that teachers

should not denigrate their colleagues in the presence of other parties nor should a teacher adversely criticize a colleague in the presence of others, save in the context of appropriate procedure [and should not] undermine the confidence of other teachers.

The Code also states that a teacher should “not take, because of animosity or personal advantage, any steps to secure dismissal of another teacher”,¹³⁶ All of the aforementioned negative acts, if repetitive, constitute TTWPB.¹³⁷ The Code of Conduct¹³⁸ gives the following rather unclear recourse to be taken if there is discord among colleagues: “The teacher submits to the

131 Hutchinson 2009:152.

132 Grobler *et al.* 2015:165.

133 De Vos & Kristen 2015:1.

134 Bradshaw & Figiel 2012:21.

135 South African Democratic Teachers' Union 2016:2.

136 South African Democratic Teachers' Union 2016:2.

137 De Wet 2010:1451.

138 South African Democratic Teachers' Union 2016:3.

disputes arising from professional relationships with other teachers which cannot be resolved by personal discussion”.

Neither the South African Teachers Union (SAOU)¹³⁹ nor the National Professional Teachers’ Union of South Africa (NAPTOSA)¹⁴⁰ make any mention of discord among colleagues in their stated aims and principles. Both unions state only that their members should strive towards a high level of professionalism. Thus, it appears, at least on paper, that two of the three leading education unions do not explicitly consider the possibility of teachers bullying one another. This is supported by international research findings, namely that education leadership, including union leadership, is mostly uninformed on TTWPB.¹⁴¹

All three of the above-mentioned trade unions do provide legal advice, empowerment, training and representation to their members with regard to labour relations.¹⁴² Owing to trade union members’ lack of knowledge about TTWPB and trade unions’ silence about this plague, trade unions seldom act as a deterrent for TTWPB in South African schools.¹⁴³ Victims of TTWPB in schools, especially when the bully is the principal, seldom report the occurrences to their union representative. This may partly be due to the influence some bullying principals have in the union or the fact that the school’s union representative may be a friend of the bully. Victims of TTWPB, therefore, seldom contact their union representative to act as mediator between the bully and the victim.¹⁴⁴

6.4 Code of Professional Ethics

The development of a register for teachers and the creation of a code of conduct are often associated with the provision of high-quality, relevant knowledge and skills, as well as the protection of the physical and emotional wellbeing of learners, teachers and parents.¹⁴⁵ It is, therefore, understandable that all three major South African trade unions have expressed their support for the establishment of a professional body and the maintenance of a code of conduct. SACE, a statutory council for the teaching profession, was established in terms of the *South African Council for Educators Act*, 31 of 2000.¹⁴⁶ The Council has to promote, develop and maintain the professional image of the teaching profession.¹⁴⁷ SACE’s Code of Professional Ethics lays down rules regarding acceptable relations between teachers and each of learners, colleagues, parents and SACE. Sec.

139 South African Teachers’ Union 2015:1.

140 National Professional Teachers’ Union of South Africa 2014:1.

141 Bradshaw & Figiel 2012:21.

142 National Professional Teachers’ Union of South Africa 2014:1; South African Democratic Teachers’ Union 2016:1; South African Teachers’ Union 2015:1.

143 De Wet 2010:1453.

144 De Wet 2010:1453.

145 Forster 2012:4.

146 Republic of South Africa 2000b.

147 Republic of South Africa 2000b:sec. 5(a).

6 focuses on the relationship between the teacher and his/her colleagues: a teacher should refrain from undermining the status and authority of his/her colleagues; refrain from sexual harassment; use “appropriate language and behaviour in his/her interactions with colleagues, and avoid any form of humiliation and refrain from any form of abuse (physical or otherwise) towards colleagues”.¹⁴⁸ The Code clearly explains the procedures for addressing issues of professional misbehaviour: lodging complaints through formal channels in the school and DBE, or through SACE.¹⁴⁹ According to SACE,¹⁵⁰ adherence to the code of ethics is not optional and “any educator who breaches the Code is ... subject to the disciplinary powers and procedures” of the Council. SACE’s 2015/2016 Annual Report mentions their investigation of “assaults of colleagues within the school environment”.¹⁵¹ Although the report does not use the word ‘bullying’, victims of TTWPB can expect support from SACE. SACE is, in particular, a viable option of support for teachers who are bullied by their principals instead of the provincial departments of education, because all communication to these departments must go through the principal’s office. Research has found that rather than provoking their bully further, victims refrain from confronting their bully through formal channels.¹⁵²

7. Summary

The *Constitution* of the country compels the state to protect its citizens¹⁵³ and should thus also protect teachers at schools. In order to do this, nationally, a clear policy to prevent and manage TTWPB is needed. Such a policy should clearly demarcate the phenomenon, and provide clarity on the different dimensions of TTWPB. It should be in line with the legislative framework (*inter alia*, informed by the *Constitution*, legislation, common law and case law). Clear guidelines and procedures for role players, including teachers, unions, school management, SACE, among others, should be included, taking into account that those in positions of authority could be the perpetrators or the victims. The suggested policy should draw from research on anti-WPB programmes, and it must be developed through collaboration with stakeholders.

Policies are not static documents, but involve “negotiation, contestation or struggle between different groups who may lie outside the formal machinery of official policy making”.¹⁵⁴ Ozga¹⁵⁵ explains that, when people at all levels engage with issues pertaining to policy, it promotes democracy and awareness among citizens. Our advocacy for a TTWPB policy will, it is hoped, lead to a greater awareness of the problem of TTWPB, greater protection of

148 South African Council of Educators 2002:133-151.

149 South African Council of Educators 2002:148.

150 South African Council of Educators 2002:151.

151 South African Council of Educators 2016:28, 58.

152 De Wet 2010:1453.

153 Laas & Boezaart 2014:2683; Republic of South Africa 1996a:sec. 7(2).

154 Ozga 2000:2.

155 Ozga 2000:2.

the rights of teachers and motivate different stakeholders to engage with the issue towards such a policy. While a national policy should be developed under leadership of the DBE, at all levels, TTWPB policies should form an integral part of encompassing anti-bullying programmes. Proactive strategies such as the introduction of anti-workplace bullying programmes are, however, not a panacea for TTWPB. Reactive strategies such as restorative justice and the involvement of trade unions and professional organisations such as SACE are crucial in the fight against TTWPB.

8. Future research

Although there is an abundance of research on WPB, in general, TTWPB needs to be further explored within the South African context. As far as we could establish, no study has, for instance, been done on the role of Teacher Unions in either curbing or escalating the problem of TTWPB. Comparative follow-up studies should be done to determine what the trends are. When a policy has been designed and enacted, its effect should be closely monitored.

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