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CHALLENGES EXPERIENCED BY PUBLIC SECONDARY SCHOOL TEACHERS IN THE APPLICATION OF THE LEGAL FRAMEWORK FOR THEIR SAFETY

SUMMARY

The safety of teachers in public schools is important for the creation of a conducive teaching and learning environment. The application of the South African legal framework should ensure that teachers work in a safe environment. The phrase 'teacher safety' refers to the safeguarding of teachers from harm, including physical, psychological, and emotional injury. Sec. 12 of South Africa's *Constitution* (1996) ensures teachers' safety, and various local and international studies have examined their safety. The existing studies lack an exploration of the way in which the legal framework has been applied to ensure teachers' safety from violence in public schools. The investigation reported in this article pivots on the following research question: What challenges do public secondary school teachers experience in applying the legal framework for their safety? To respond to this question, qualitative research was conducted. Data were collected using semi-structured interviews. Purposive sampling was used to recruit ten experienced participants (five teachers and five principals) from five public secondary schools in the Ngaka Modiri Molema District of the North-West province of South Africa. The data were then thematically analysed. The main finding of the study is that, while there are sufficient legal measures that regulate teachers' safety, there is a lack in the application thereof to ensure teachers' safety in public secondary schools. This is one of the contributory factors to violence against teachers. The existing legal framework provisions should be applied by teachers to safeguard them against violence.

Keywords: Experiences, legal framework, secondary school, teacher safety

1. INTRODUCTION

The concern about teachers' safety has become integral to the international agenda. The safety of teachers is important in order to create a conducive learning environment.¹ Teacher safety refers to the measures

¹ Mubita 2021:76.

taken and practices applied to ensure that teachers are free from physical, emotional, and psychological harm in the school environment. Learners who are in possession of weapons such as knives, scissors, and pangas, impose a challenge to achieving teacher safety. Moreover, violence that has an impact on teachers encompasses a range of behaviours, including bullying, aggression, physical altercations, threats, and incidents involving weapons.² Although teachers bear the responsibility of delivering the national education goals, their safety from any form of violence remains a grave concern.

The *Constitution of the Republic of South Africa*, 1996 (hereafter, the *Constitution*), as the supreme law, guarantees the safety of everyone in the country. Similarly, the *Labour Relations Act* 66 of 1995, the *Occupational Health and Safety Act* 85 of 1993, the *South African Schools Act* 84 of 1996, the *Regulations for Safety Measures at Public Schools* (1996), case law and common law also ensure the safety of teachers. In addition, South African law acts in accordance with international law such as international declarations and conventions, and the African Charter. Thus, international law plays a role in ensuring that teachers are safe from violence in schools. Several studies on the safety of teachers have been conducted in South Africa.³ There is, however, a lack of studies that focus on the way in which the South African legal framework has been applied to ensure teachers' safety from violence in public secondary schools.

2. PROBLEM STATEMENT

The absence of teacher safety in public secondary schools is attributed to a multitude of individuals, including learners, parents, staff members, and members of the community. The problem of teacher safety affects teachers both nationally and internationally. This study focuses on the safety of teachers from learner-to-teacher violence. "Twenty percent of South Africa's teachers believe that schools are violent places and suspect their students and colleagues are armed."⁴ Practical incidents in South African schools have made headlines, including: "Free State police investigate the murder of a Soutpan teacher"⁵ and "Primary school pupil arrested after principal shot and wounded in Primrose".⁶ Internationally, a teacher in Virginia, United States of America (USA), was intentionally shot and wounded by a six-year-old learner.⁷ Furthermore, a nine-year-old learner at John F. Kennedy High School in the USA stabbed a teacher.⁸ These reports show the state of teacher safety in schools and how schools have turned into war zones. Therefore, an academic gap identified during the literature review is that there is a lack of studies that focus on the way in which the legal framework has been applied to ensure

2 Turanovic & Siennick 2022:i.

3 Mncube & Harber 2013:12; Mjijima 2014:198; Baruth & Mokoena 2016:48; Centre for Justice and Crime Prevention 2017:1; Quansah *et al.* 2022:1; Swart 2021:8.

4 Child 2017.

5 Nkuyane 2022.

6 Kgosana 2024.

7 Ortiz 2023.

8 Wilton & Bruemmer 2021.

the safety of teachers from learner-to-teacher violence in public secondary schools. The legal framework should play an important role in ensuring that teachers are safe from violence in public schools.

The above-mentioned problem necessitates a study on challenges experienced by public secondary school teachers in the application of the legal framework for their safety. Therefore, in this study, the research question is as follows: What challenges do public secondary school teachers experience in applying the legal framework for their safety? In the next section, the conceptual and theoretical framework that underpin this study are discussed.

3. LITERATURE REVIEW

This section of the study focuses on the following: conceptualising teacher safety; the purpose of teacher safety; the state of teacher safety in South Africa and internationally; causes of challenges to teacher safety; implications of school violence on teachers, and strategies for promoting teacher safety.

3.1 Conceptualising teacher safety

A code of conduct for learners must inform learners how to conduct themselves to ensure the safety of everyone at school, including teachers.⁹ Safety is the protection of an individual against any harmful connection (physical, health-related, and psychological) in the workplace.¹⁰ Furthermore, safety is regarded as being free from all forms of violence and the protection of a person's integrity and psychological well-being.¹¹ In addition, safety is defined as being free from injury or danger, that is, a state of not being damaged or catastrophised.¹² The term 'safety' derives from the Latin word *salvus*, meaning "uninjured" or "in good health".¹³ Safety includes various measures and practices aimed at safeguarding the lives, well-being, and physical wholeness of individuals.¹⁴ Therefore, safety is the protection from any form of harm, whether physical, emotional or psychological. For the purpose of this study, teacher safety refers to the protection of teachers from any harm that might be caused by learners.

3.2 Purpose of teacher safety

Teachers bear the burden and responsibility of educating a nation. They are at the centre of ensuring the achievement of national educational goals.¹⁵ According to Maslow's hierarchy of needs, safety is a fundamental need that must be met before considering factors such as performance and productivity.¹⁶ A secure work environment fosters confidence, enhances

9 Department of Education 1998:Item 1.4.

10 Rossouw 2010:51.

11 *Constitution of the Republic of South Africa*:sec. 12.

12 Balderson 2016:64.

13 Mubita 2021:77.

14 Mubita 2021:77.

15 Botha & Zwane 2021:2.

16 Mubita 2021:82.

motivation, and propels the attainment of the objectives and goals of a school as an institution.¹⁷ Teachers should feel safe before they can focus on achieving national educational goals. Compromised teacher safety can result in more teachers exiting the profession, thus disrupting the state of education. Therefore, teacher safety should be promoted so that teachers can work in an environment that is conducive to teaching and learning.

3.3 The state of teacher safety

The lack of teacher safety, due to learner-to-teacher violence, is a problem both nationally and internationally.

3.3.1 The state of teacher safety in South Africa

Violence in schools is becoming an increasingly disturbing phenomenon in South Africa.¹⁸ Common reports of school violence include drug dealing, stabbings, sexual harassment, intimidation, and verbal abuse. Roughly 30 per cent of teachers have reported that they no longer feel safe.¹⁹ More male learners than female learners carry weapons.²⁰ Various lethal weapons such as knives, pangas, screwdrivers, and guns are taken to school. Furthermore, in an exploratory study by De Wet,²¹ it was discovered that sixteen per cent of the 801 teachers in the Free State had been verbally attacked by learners.

3.3.2 The state of teacher safety internationally

Violence against teachers and unsafe working environments are not an exclusively South African phenomenon, but an international one.²² Based on a national survey on learner violence against teachers conducted by Chen and Astor,²³ a total of 14.022 learners reported that teachers in Taiwan experienced more non-physical violence than physical violence.

Concerning the nature of violence against teachers, a Turkish study conducted by Özdemir²⁴ determined that of 902 teachers, 24.1 per cent experienced emotional abuse, 14.7 per cent verbal abuse, 6.3 per cent physical abuse, and 4.6 per cent sexual abuse. Furthermore, Özdemir's²⁵ findings suggest that verbal abuse is more prevalent, followed by physical assault. A national survey conducted in Virginia, USA, revealed that 80 per cent of teachers reported at least one victimisation in the current or past year, with 27 per cent reporting being physically attacked and 43 per cent being

17 Eseyin *et al.* 2017:82.

18 Khumalo 2019:1.

19 Khumalo 2019:2.

20 Moore *et al.* 2014:2.

21 De Wet 2014:1

22 Coetzee 2017:17.

23 Chen & Astor 2009:568.

24 Özdemir 2012:51.

25 Özdemir 2012:59.

verbally threatened by learners.²⁶ In a recent study by the Centre for Disease Control in the USA, it was found that over five per cent of teachers had been physically attacked by learners.²⁷ This finding is prevalent and is corroborated by McMahon *et al.*²⁸ in that many teachers reported feeling unsafe in their position. It seems that learner-on-teacher violence is on the rise worldwide.²⁹

3.4 Causes of factors affecting teacher safety

The findings from the literature suggest that socio-economic and political factors are detrimental to teacher safety, both in South Africa and internationally. Teachers working in schools with low percentages of White learners and communities with prominent levels of poverty experience more aggression and violence.³⁰ Community violence can be linked to poverty and unemployment; subsequently, it has a negative bearing on the school community.³¹ Disorganised school structures, a negative schooling environment, inadequate administrative and social support, and overcrowding in the community can result in school violence targeted at teachers.³² Age also contributes to school violence, as most of the overage learners are unruly.³³ Children who lack emotional support, a sense of belonging, respect and care at home may seek these elsewhere, for instance, in gang groups, which breeds gangsterism in communities.³⁴

3.5 Implications of school violence on teachers

Teacher victimisation by learners has a negative bearing on not only teachers, as human beings, but also the education sector as a whole. Victims of violence often resort to self-harm and even suicide.³⁵ Those who have been bullied for an extended period show more adverse side effects such as trauma, anxiety disorder, and depression.³⁶ Sleeplessness and nightmares have been highlighted as negative side effects of learner-on-teacher violence, with sleepless nights being associated with psychiatric conditions that correlate with depression.³⁷ Furthermore, learner-on-teacher violence may also lead to increased social problems with interacting with one's family, friends, and people in general, due to anxiety and depression.

26 Berg & Cornell 2016:123.

27 Botha & Zwane 2021:2.

28 McMahon *et al.* 2020:1047.

29 Botha & Zwane 2021:4.

30 Maeng *et al.* 2020:2.

31 Botha & Zwane 2021:5.

32 El-Nasr 2017:42.

33 Kgosimore 2018:138.

34 Einarsson & Ljungkrantz 2022:9.

35 Wolke & Lereya 2015:879.

36 Wolke & Lereya 2015:879.

37 Gluschkoff *et al.* 2017:511.

A study by Baruth and Mokoena³⁸ revealed that teacher absenteeism and low morale result from increasing learner-on-teacher violence; subsequently, there has been an increase in teachers resigning from the profession. To quantify Baruth and Mokoena's study, Mérida-López *et al.* mention that teachers are exiting the profession at an alarming rate.³⁹ This alone signals the seriousness and extent to which learner-on-teacher violence has a negative bearing on not only teachers but also teaching as a profession.

3.6 Strategies for promoting teacher safety

Given the challenges to teacher safety, a comprehensive approach is needed to help curb the prevalence of school violence targeted at teachers. The research literature reveals that different countries use different strategies and approaches to ensure teacher safety. Among the many approaches and strategies used by different countries are safety intervention programmes, various forms of legislation, and policy documents.⁴⁰

The State and the school governing bodies should use technological tools to ensure the safety of teachers. This can be done by installing the panic buttons to be used by teachers in classrooms and camera systems to be used by the security officers and security response companies.⁴¹

Furthermore, schools should introduce psychosocial support intervention programmes to improve the mental health and well-being of learners and teachers, thereby fostering a positive schooling climate.⁴² Schools should establish and encourage a culture of teacher safety.⁴³ Community and parental involvement in schools is important, as a close relationship between parents and teachers closes the gap for learners to misbehave.⁴⁴

There should be standard testing in schools for any form of intoxication.⁴⁵ To ensure that the testing is successful, policy should be improved and applied in schools.⁴⁶ Moreover, it is important to capacitate teachers regarding legislation and policy documents to exercise their authority,⁴⁷ as the unavailability of adequate teacher training and ineffective policy application result in ungovernable school environments where teachers are victimised by learners.

The literature review section of this study focused on the experiences of teachers regarding their safety, various causes of challenges to teacher safety, the implications of school violence, and strategies for promoting teacher safety. In the next section, the legal framework of this study is discussed.

38 Baruth & Mokoena 2016:96.

39 Mérida-López *et al.* 2021:229.

40 Botha & Zwane 2021:6.

41 Mollo 2020:214.

42 Botha & Zwane 2021:9.

43 South African Council of Educators 2021:4.

44 Le Mottee & Kelly 2017:47.

45 McMahan *et al.* 2020:1040.

46 Bounds & Jenkins 2018:435.

47 Botha & Zwane 2021:6.

4. THE SOUTH AFRICAN LEGAL FRAMEWORK

The legal framework that regulates teachers' safety from learner-on-teacher violence is discussed in this section. The legal principles that teachers should use to protect themselves from violence are provided.

4.1 Legal determinants in ensuring teacher safety

The legal framework that was reviewed in the study focuses on various declarations, statutes, acts, and school policies that govern the education sector nationally and internationally. These include international declarations and conventions, the African Charter, the *Constitution* (1996), the *South African Schools Act* 84 of 1996, the *Labour Relations Act* 66 of 1995, the *Regulations for Safety Measures at Public Schools* (1996), the *Occupational Health and Safety Act* 85 of 1993, and the *South African Council for Educators Act* 31 of 2000. Original legislation is promulgated by Parliament, provincial legislature or municipal council, while subordinate legislation is issued in terms of original legislation.⁴⁸ Legislation, common law, and case law are sources of legal framework.⁴⁹

4.2 International law regulating the safety of teachers

The Universal Declaration of Human Rights (1948) states that "all human beings are born free and equal in rights and dignity".⁵⁰ Furthermore, the International Covenant on Civil and Political Rights (1966) emphasises that "fundamental rights are derived from the inherent dignity of the human person".⁵¹ In the preamble to the African Charter on Human and People's Rights, it is declared that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples".⁵²

4.3 Teacher safety as entrenched in the *Constitution of the Republic of South Africa*

The *Constitution* is the supreme law of the country.⁵³ The *Constitution* makes the provision that South Africa is a sovereign constitutional state, founded on the values of human dignity, equality, and freedom.⁵⁴ Human dignity, equality, and freedom are entrenched in the Bill of Rights to safeguard fundamental human rights such as the right to security, privacy, and protection.

48 Oosthuizen *et al.* 2015:79.

49 Oosthuizen *et al.* 2015:45.

50 United Nations 1948:art. 1.

51 United Nations 1966:art. 1.

52 Oosthuizen *et al.* 2015:52.

53 Oosthuizen *et al.* 2015:46.

54 *Constitution of the Republic of South Africa*:sec. 1.

The *Constitution*, as the supreme law of the country, has an obligation to ensure that the fundamental human rights of the citizenry are not violated. Teachers, as human beings, are entitled to have their human rights respected and protected. The constitutional values, as entrenched in the *Constitution*, are the cornerstone in ensuring the maximum protection of teachers' rights.⁵⁵

4.3.1 The right to human dignity (sec. 10)

The *Constitution* provides that "everyone has inherent dignity and the right to have their dignity respected and protected".⁵⁶ Therefore, schools have a legal obligation to use these provisions in the interest of the teacher against any form of harm, be it physical or emotional. Human dignity is a fundamental and critical right, especially in schools, because so many defenceless people are involved in this environment.⁵⁷

4.3.2 The right to freedom and security (sec. 12)

The *Constitution* states that everyone has a right to freedom and security, including the right to be physically and psychologically respected and not to be treated in a vicious, merciless or humiliating manner.⁵⁸ Nonetheless, teachers in South African schools are treated in a degrading way, and it seems that respect for teachers no longer exists.⁵⁹ According to the South African Council for Educators,⁶⁰ "teachers have a right to work in an environment where they feel valued and respected, where they are free from harm, fear, and threat". Fundamentally, teachers, like every other person, have the right to human dignity and the right to life.

4.3.3 The right to a safe environment (sec. 24)

Everyone has a right to an environment that is safe and not harmful to his or her well-being or health.⁶¹ Teachers have a right to work in safe conditions where their lives are not in danger.⁶² Moreover, they have a right to work in a clean environment, as stipulated in the *Occupational Health Safety Act* 85 of 1993. Safety at work provides confidence and equally boosts the willingness and determination of the worker, as it spurs the achievement of the objectives and goals of a school as an organisation.⁶³

55 *Constitution of the Republic of South Africa*:sec. 1.

56 *Constitution of the Republic of South Africa*:sec. 10.

57 Masitsa 2011:167; White *et al.* 2015:553.

58 *Constitution of the Republic of South Africa*:sec. 12.

59 Masitsa 2011:167; White *et al.* 2015:553.

60 South African Council for Educators 2019:5.

61 *Constitution of the Republic of South Africa*:sec. 24.

62 South African Council for Educators 2020:2.

63 Eseyin *et al.* 2017:82.

4.4 Legislation ensuring the safety of teachers in public secondary schools

The *South African Schools Act* 84 of 1996, the *Labour Relations Act* 66 of 1995, the *Regulations for Safety Measures at Public Schools* and the *Occupational Health and Safety Act* 181 of 1993 are explored to look at possible ways in which they should be used to ensure the safety of teachers from violence in public secondary schools.

4.4.1 Role of the *South African Schools Act* 84 of 1996 in promoting a safe and secure environment for teachers

School violence affects individuals, schools, families, communities, and the broader society. The school is a component of the community; therefore, community members should have an active role in issues affecting the school.⁶⁴ Oosthuizen *et al.* add that, in schools, there is community stakeholder involvement through the school governing body, which consists of parents, teachers, learners, and the Department of Education.⁶⁵ According to the *South African Schools Act* (1996), the governing body of a public school must adopt a code of conduct for the learners at the school.⁶⁶ This code of conduct regulates the behaviour of learners, putting emphasis on types of misconduct, as well as serious misconduct that should be avoided by learners. The *South African Schools Act* asserts that the school principal has the legal authority in terms of this *Act* to ensure a safe school environment. The principal should, in terms of this *Act*, search learners who enter the school premises for any dangerous weapons and illegal drugs. However, the principal or his or her delegates can only do so if a fair and reasonable suspicion has been raised.⁶⁷ Moreover, the *South African Schools Act* asserts that the school governing body is responsible for the physical infrastructure of the school relating to proper fencing, alarm systems, and burglar proofing to ensure the safety of teachers when inside the schoolyard.⁶⁸

4.4.2 *Regulations for Safety Measures at Public Schools* (2006)

The *Regulations for Safety Measures at Public Schools* (2006) provide that a police officer is allowed to search any public-school premises for dangerous weapons and illegal drugs without a warrant of search if suspicion has been raised.⁶⁹ Furthermore, according to the *Regulations for Safety Measures at Public Schools*, the head of provincial education takes overall responsibility for safety in schools.

64 South African Council for Educators 2019:10.

65 Oosthuizen *et al.* 2015:306.

66 *South African Schools Act*:sec. 20(1)(d).

67 *South African Schools Act*:sec. 8A(2).

68 *South African Schools Act*:secs. 20(g), 21(a).

69 *Regulations for Safety Measures at Public Schools*:item 3(a)(b)(c).

4.4.3 The *Labour Relations Act* 66 of 1995

Every worker has rights; along this line, all teachers are workers with fundamental human rights, as stipulated in the Bill of Rights.⁷⁰ Rossouw avers that the purpose of the *Labour Relations Act* is to protect teachers against unfair employers who abuse power.⁷¹ Teachers suffer from psychological, physical, and sexual violence from their superiors, and the *Labour Relations Act*, which is consistent with the *Constitution*,⁷² plays a pivotal role in representing employees against such violence.

The *Labour Relations Act* (1995) ensures that the employer prioritises the safety of workers in the working environment.⁷³ The employment contract between employees (teachers) and the employer explicitly outlines the duties of both parties. The employer has a statutory obligation to ensure a safe working environment for teachers; failing to do so, the employer will be held legally liable in terms of law for damages because of an unsafe working environment.⁷⁴

4.4.4 The *Occupational Health and Safety Act* 181 of 1993

This *Act* provides for the health and safety of persons at work, in this instance, teachers. Based on the general duties of employers to their employees, this *Act* stipulates that “every employer shall provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of his employees”.⁷⁵ Teachers should, therefore, be assured of safe working conditions that are conducive to planned school activities such as effective teaching and learning. Employees should report unsafe and unhealthy conditions to the employer.⁷⁶

A school must appoint a safety representative and a safety committee, which should meet on a regular basis to ensure the continuous safety of the teachers in the school.⁷⁷ Furthermore, the use of drugs is prevalent, especially among school-going youth, and the use and possession of drugs pose a threat to the safety of others.⁷⁸

4.4.5 Common law ensuring the safety of teachers

Common law in South Africa can be defined as “uncodified legal traditions derived from the Roman-Dutch and English law of the seventeenth century which were developed and adapted in accordance with the South African legal background and culture”.⁷⁹ In terms of the *Constitution*, the Constitutional

70 Oosthuizen *et al.* 2015:284.

71 Rossouw 2010:123.

72 *Constitution of the Republic of South Africa*:secs. 10, 12, 23.

73 *Labour Relations Act* 1995:sec. 84(5)(a).

74 Rossouw 2010:80.

75 *Occupational Health & Safety Act* 181/1993:sec. 8(1).

76 *Occupational Health & Safety Act* 181/1993:sec. 14.

77 Oosthuizen *et al.* 2015:101.

78 Oosthuizen *et al.* 2015:101.

79 Rossouw 2016:29.

Court, the Supreme Court of Appeal, and the High Courts have inherent powers to develop their own common law. Nonetheless, common law should be consistent with the *Constitution* as the supreme law of the country.⁸⁰ The *Constitution* is the supreme law; therefore, for common law to be valid in South Africa, it must be consistent with the *Constitution*.⁸¹ The principles of common law should be considered when drafting a contract between an employer and an employee.⁸² In terms of common law and labour law, the employer has a legal duty to ensure the well-being and safety of employees.⁸³

The employer has a statutory duty to ensure duty of care for teachers in schools. Rossouw asserts that violence and bullying in schools affect the psychological security of teachers.⁸⁴ In terms of *actio legis Aquilliae*, which means “delictual losses in cases of pecuniary losses”, the employer is legally liable for the damages caused to the teacher.⁸⁵ The employer should ensure duty of care for all employees, by ensuring a safe working environment. This principle is, however, subject to one notable exception, namely that, when damage is caused by the unlawful and negligent or intentional act of another, the legal onus is transferred to the person who unlawfully and negligently caused it.⁸⁶ Notably, there is no general duty in South African law to prevent another person from suffering damage.⁸⁷

4.4.6 Case law ensuring the safety of teachers

Case law is previous court reports and judgements. In an event where the application of legislation or common law is unclear, courts would refer to case law to get a better understanding of how the legislation or common law should be applied.⁸⁸ Case law is case reports or judgements based on the interpretation and application of legislation and common law. These case reports or judgements are used as legal precedents by judges and magistrates in the court of law.⁸⁹

Judge Chaskalson clearly stated the importance of the right to life and dignity. Two factors are stressed in the judgement of the Court:⁹⁰ first, the relationship between the rights of life and dignity, and the importance of these rights taken together; secondly, the absolute nature of these two rights taken together. These twin rights are the essential content of all rights under the *Constitution*; take them away, and all other rights cease.

80 *Constitution of the Republic South Africa*:sec. 173.

81 *Constitution of the Republic South Africa*:sec. 2.

82 Oosthuizen 2022:48.

83 Rossouw 2010:77.

84 Rossouw 2010:53.

85 Oosthuizen *et al.* 2015:281.

86 Oosthuizen *et al.* 2015:213.

87 Oosthuizen *et al.* 2015:213.

88 Oosthuizen *et al.* 2015:151.

89 Oosthuizen 2022:28.

90 *State v Makwanyane* 1995 3 SA 391 (CC).

In *Le Roux and others v Dey*, a learner manipulated photographs by placing the heads of the principal and vice principal onto pictures of the naked bodies of bodybuilders in sexually explicit positions.⁹¹ These pictures were distributed among learners by mobile phone and posted on the school notice board. The deputy brought a claim for defamation, which is one way of addressing the violation of human dignity. The Constitutional Court ruled that the deputy, Dr Dey, should be compensated for damage suffered during the incident. This action represents a gross violation of both educators' dignity in the workplace.

In *Tania Megan Jacobs v Chairman of Rhodes High School Governing Body*, Jacobs was a schoolteacher in Rhodes High School, located in the Cape Flats.⁹² The school attracted learners from Langa and Gugulethu because of its location. In Jacob's class, a boy called Bheki Kunene was constantly making death threats to Jacobs. Jacobs reported the matter to the school management more than once. On 27 September 2001, Kunene attacked Jacobs and hit her with a hammer on the head, and she suffered severe head injuries. In November 2010, the High Court of Western Cape delivered a judgement indicating that the Western Cape Department of Education and the school were negligent and failed to execute their legal duty of care. The Court ruled that the teacher had to be compensated for the injuries she sustained during the incident. It was also made clear that the principal was

accountable for the implementation of the rights enshrined in the Constitution and, more particularly, 'the right to freedom and Chapter 2: Legal determinants of professional security in education 29 safety of the person to be free from all forms of violence from either public or private sources in terms of section 12(1)(c) of the Constitution'.

Employees have a right to physical and psychological safety.⁹³ The employer has legal obligations towards employees, among other things, to ensure safe and healthy working conditions.⁹⁴

This part of the article focused on the way in which the existing legal framework can be used to ensure teacher safety in public secondary schools. The section focused on the following legal determinants: international law, the *Constitution*, the *South African Schools Act*, *Regulations for Safety Measures at Public Schools*, the *Labour Relations Act*, the *Occupational Health and Safety Act*, common law, and case law.

5. EMPIRICAL INVESTIGATION

An interpretivist world view was used in this study. Interpretivism is a world view that is more concerned with comprehending the world from a personal point of view and with personal affairs and the experiences of people.⁹⁵ This world view allowed the researcher to view the world from the challenges

91 *Le Roux and others v Dey* 2010 Case CCT 45/10.

92 *Tania Megan Jacobs v Chairman of Rhodes High School Governing Body* 2010.

93 Rossouw 2010:49.

94 Rossouw 2010:77.

95 Thanh & Thanh 2015:24.

experienced by teachers in the application of the legal framework for their safety. The study employed a qualitative research design, characterised as an approach placing the observer within the world.⁹⁶ A qualitative research approach is more concerned with solving problems related to social and human behaviour.⁹⁷ Therefore, qualitative research offered the researcher the opportunity to delve into and understand the lived experiences, behaviours, emotions, and sentiments of individuals.

A phenomenological research design was used in this study. It permitted the researcher to investigate the perceptions, perspectives, understandings, attitudes, values, and feelings of individuals who have experienced violence reported in schools. Phenomenology in qualitative research emphasises the shared or common aspects of lived experiences in a specific group or context.⁹⁸ For example, the researcher examined teachers' experiences of violence in schools. Data were collected using semi-structured interviews. Purposive sampling was used to select ten experienced participants (five teachers and five principals) from five public secondary schools in the Ngaka Modiri Molema District of the North-West province of South Africa. The data were then thematically analysed.

The schools and the participants were assured of anonymity and informed that codes would be used. The codes were used as follows: For teachers, the code 'T' was used (e.g., T1 stands for Teacher 1); for principals, the code 'P' was used (e.g., P1 stands for Principal 1). They were also informed that they had the right to withdraw from the study at their own discretion. The participants completed consent forms, agreeing to voluntarily participate in the study.⁹⁹ After receiving permission from the Ethics Committee of the North-West University, the researcher approached the Department of Basic Education and the schools, requesting permission to gather data. Permission was granted. Informed consent forms were handed to the participants, which ensured that all the participants were given adequate information about the study. The participants decided whether they still wanted to continue with the study after the sharing of information. The following section discusses the findings of this study.

6. DISCUSSION OF FINDINGS

The findings of this study pertain to the following research question: What challenges do public secondary school teachers experience in applying the legal framework for their safety? The research findings are supported by literature, the legal framework, case law, and common law. The main finding of this study is that, while there are sufficient legal provisions that regulate the safety of teachers, there is still a lack of application of the legal framework that regulates education in ensuring the safety of teachers in public schools. The following findings emerged from the responses of the participating teachers.

96 Creswell & Poth 2016:7.

97 Creswell & Poth 2016:8.

98 Cypress 2018:304.

99 Creswell & Poth 2016:55.

6.1 Prevalence of gangsterism

The findings revealed that gangsterism was prevalent in most of the communities and, by extension, it affected schools as components of the communities. Some participants indicated that some of their learners belong to gangs. One participant reported that a learner once threatened him with his gang members. T2 stated: "I had exchange of words with other learners and they threatened me with some of their gangs because our learners are members of gangs. Sometimes they even vandalise your car, they scratch it or stab your tyres with a knife." Another participant stated that, in her school, a group of boys threatened to assault the principal physically after contact time, outside the schoolyard. T5 indicated: "There was a group of boys in the school and they also recruited their friends from other schools, they wanted to attack the principal." A lack of emotional support, sense of belonging, respect, and care at home can result in a child seeking these connections elsewhere, for instance, in gang groups.¹⁰⁰ Consequently, the child could become part of the gang.

6.2 Lack of security measures

Safety and security measures are a grave concern in most of the schools. All the participants reported that they do not have security personnel in their respective schools. There is free movement of people in and out of the schools. P4 stated: "In our school the access control of the gate itself is a threat to the school because we do not have a full-time person responsible for the movement of people." Thus, the safety of teachers is compromised because anyone can access the school. The participants stated that their schools cannot afford to hire security personnel, and the Department of Basic Education is not assisting the schools in this matter. P5 mentioned: "This is a public school, quintile three, a no fee-paying school whereby we don't have enough money to pay for security." There are no surveillance cameras in the school for safety purposes. T3 stated: "In the school we do not have the CCTV cameras." Moreover, the schools lack alarm systems in case of an emergency. Only one participant indicated that their school has an alarm system in place for emergency situations. P2 indicated: "We have the alarm system, in case of danger." The findings from the above statements are that schools lack safety and security measures to ensure the safety of teachers. The State and the school governing bodies should install panic buttons in classrooms to be used by teachers and camera systems to be used by the school security guards and security response companies.¹⁰¹

100 Einarsson & Ljungkrantz 2022:9.

101 Mollo 2020:214.

6.3 Poor application of legislation and policies

One participant stated that the school does not have time to apply legislation and policies to ensure the safety of teachers. The participant stated that the school focuses more on curriculum-related matters. P1 stated: "We focus more on the curriculum." Some participants expressed a lack of trust in the legal system. They indicated that the application of legislation and policies is ineffective, because rowdy and aggressive learners are never expelled from school. The Department of Basic Education discourages the expulsion of learners from schools. P5 remarked: "Remember that we cannot expel the learner, the department does not allow that, whatever decision, or steps we take against the learner they must be corrective. Remember what the department wants is that these learners should be able to complete matric." Other participants complained about the long procedures that had to be followed to ensure teacher safety in schools. T3 responded: "The procedure is long." Furthermore, the participants pointed out that the parent component of the school governing body is not cooperative when it comes to the application of legislation and policies. Referring to the parent component of the SGB, P4 stated: "Parents do not like it when SAPS come to the school regularly." The application of policy in schools should be improved.¹⁰² According to Botha and Zwane, teachers should be capacitated through legislation and policy documents to exercise their authority.¹⁰³

6.4 Lack of success in dealing with challenges to teacher safety

Some of the participants indicated that schools cannot afford to deal with challenges that affect teachers' safety. P1 indicated: "There is nothing much we can do." P5 stated: "We are a no fee-paying school; we don't have enough money to hire a security guard. We are hoping that department can assist us in that regard." Other participants mentioned that schools call on parents to assist with safety and security matters in the school. T1 mentioned: "We do involve parents to assist us with safety issues." Community policing forums are involved in ensuring safety and security in schools. T1 stated: "We involve the community policing forum to come and assist the school with safety." The National School Safety Framework introduced a programme called Adopt-a-Cop. However, it seems that some schools have not applied this programme. The above statements reveal that most of the schools do not have safety programmes in place to ensure a safe working environment for teachers. T5 asserted: "... we don't have a solution as teachers ...". Therefore, it is important that schools establish and encourage a culture that ensures the safety of teachers.¹⁰⁴

102 McMahan *et al.* 2020:1040.

103 Botha & Zwane 2021:6.

104 South African Council of Educators 2021:4.

7. RECOMMENDATIONS FOR IMPROVING TEACHER SAFETY IN PUBLIC SECONDARY SCHOOLS

Based on the findings from the data analysis and the literature review, the following recommendations are made to ensure the safety of teachers. This study is underpinned by the legal framework based on teacher safety. Thus, teachers should be capacitated with respect to the application of the legal framework that regulates education. Workshops on teacher safety should be held for both teachers and school governing bodies. Schools should formulate school safety policies and school safety programmes and apply them. Safety intervention programmes should be initiated in schools. Parental involvement plays a vital role in the school community, and the inclusion of other stakeholders such as psychologists, social workers, police officers, and pastors is important. Constant monitoring and evaluation of schools by the Department of Basic Education is crucial.

8. CONCLUSION

This study aimed to address the pressing issue concerning the challenges experienced by teachers in the application of the legal framework for ensuring their safety from violence in public secondary schools. The findings highlighted a range of factors that should be addressed, in order to ensure that teachers are safe from violence at school. The study outcomes emphasise the immediate need for comprehensive strategies to boost the application of the legal framework that regulates education to safeguard teachers in public schools.

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