

## AUTHORS:

Nicholus Tumelo Mollo<sup>1</sup> 

## AFFILIATION:

<sup>1</sup>North-West University,  
South AfricaDOI: <https://doi.org/10.38140/pie.v42i1.7219>

e-ISSN 2519-593X

Perspectives in Education

2024 42(1): 177-197

## PUBLISHED:

29 March 2024

## RECEIVED:

8 August 2023

## ACCEPTED:

22 March 2024

# Functionaries' 'duty to act': Ensuring teachers' right to safety from violence in public schools

## Abstract

*The safety of teachers has been researched in South Africa, but less is known about education law that regulates functionaries' duty to act to ensure teachers' right to safety from violence in public schools. Section 12(1)(c) of the Constitution of 1996 provides that "(1) [e]veryone has the right to freedom and security of the person, which includes the right ... (c) to be free from all forms of violence from either public or private sources" (RSA, 1996a). This study focused on teachers' right to safety from violence when they are on duty in public schools. The study aimed to identify and discuss various South African laws that regulate the duty to act to protect teachers' right to safety from violence in public schools and to investigate how these laws are applied in practice by asking three research questions. The study employed a qualitative research approach grounded in an interpretive paradigm, underpinned by a theory of social safety that recognises the importance of teachers feeling secure in their interactions with others. Qualitative data were collected employing document analysis of education law and previous empirical studies (secondary data from 2013 to 2023). The findings revealed that there is sufficient provision of education law in South Africa that regulates functionaries' duty to act to protect teachers' right to safety from violence in public schools. However, the challenge lies in the insufficient understanding and implementation of the provisions outlined in education laws. It is recommended that functionaries be trained on the duty to act to protect teachers' right to safety from violence. The attainment of teachers' safety from violence hinges on the understanding and application of the existing provisions within education law that governs the duty to act.*

**Keywords:** *duty to act, education law, functionary, protection, public school, right to safety, violence*



Published by the UFS  
<http://journals.ufs.ac.za/index.php/pie>

© Creative Commons  
With Attribution (CC-BY)



## 1. Introduction and background

School safety encompasses a variety of issues and crises that a school community deals with to safeguard the well-being of its members, including teachers (Mubita, 2021).

Functionaries have a duty to act to ensure that teachers at public schools are safe from violent incidents that target them. These violent incidents include, but are not limited to bullying, harassment and physical attacks. According to the Oxford University Press (OUP, 1999), a functionary can be

defined as an individual who holds an official position, or someone entrusted with a specific power or responsibility. The concept of *duty to act* refers to the moral and legal obligation of an individual to intervene when someone is faced with imminent harm or loss, or when failure to act would cause significant harm to others (Rudolf, 1965). This means that functionaries have an obligation to ensure school safety.

Numerous studies conducted in South Africa regarding safety in schools highlight a challenge to ensure the safety of teachers. Moreroa (2022) found that teachers from all three schools studied experienced instances of violence from learners and their experiences of violence are often disregarded. She argued that despite government initiatives aimed at addressing the impact of school violence on learners, teachers as victims have been neglected (Moreroa, 2022).

Venketsamy, Baxen and Hu (2023) conducted a study in Tshwane South District schools to assess the impact of learner violence on teachers' well-being. They found that teachers suffered social, emotional and psychological trauma causing them to struggle to fulfil their duties effectively (Venketsamy *et al.*, 2023). In addition, Mangena and Matlala's study on teachers' experiences of workplace violence and harassment at selected high schools in Limpopo Province identified instances of physical, verbal, and non-verbal violence and harassment from learners (Mangena & Matlala, 2023). They found that learner-on-teacher workplace violence and harassment have an emotional impact on teachers, consequently affecting the quality of teaching and learning in schools as well as their health and psychophysical well-being (Mangena & Matlala, 2023). They also note that learners who witness their teachers being targets of violence suffer the same results (Mangena & Matlala, 2023).

Ensuring the safety of teachers is also a global issue of concern. According to a study by Jackson *et al.* (2023), bullying emerged as the primary safety worry among teachers in American schools. Additionally, Human Rights Watch conducted research in Nigeria focusing on violence within schools, revealing that attacks by an extremist Islamic sect in Nigeria, Boko Haram, not only had an impact on learners, but also affected teachers (Human Rights Watch, 2016). Researchers contend that these assaults on learners, teachers and schools, along with the military's utilisation of schools, systematically erode the right to education (Human Rights Watch, 2016). Consequently, there is a pressing need for the international community to enhance the safety measures for teachers in schools.

Section 12(1)(c) of the South African Constitution of 1996 (RSA, 1996a) (the Constitution) provides that "(1) [e]veryone has the right to freedom and security of the person, which includes the right ... (c) to be free from all forms of violence from either public or private sources". Thus, section 12 of the Constitution includes the safety of teachers.

The experiences of South African teachers regarding their safety have been researched, but few studies focus on the legal provisions and the duty to act to protect teachers' right to safety from violence in public schools. Hence, the focus of this study was limited to state functionaries' duty to act to protect teachers' right to safety from violence at school. The term *functionaries* in this study refers to officials at two levels of authority. On the provincial level, it is the members responsible for education on provincial executive councils (MECs) and the provincial heads of department of an education department (HoDs). At school level the responsibility lies with the school principal (section 58B of the South African Schools Act, RSA, 1996b). The MEC for Education is also liable for any damage suffered by teachers (section 60(3) of the Schools Act, RSA, 1996b).

Functionaries' duty to act is reinforced in *Jacobs v Chairman, Governing Body of Rhodes High School* (informally known as the 'Jacobs case') (2010). In 2001, a learner, Bheki Kunene, assaulted Tania Jacobs, his teacher, by striking her with a hammer in the classroom at Rhodes High School, while other learners looked on (Kassiem, 2010). According to the judge in this case,

*[I]t is therefore clear, given the range of powers and duties that fall in the hands of the principal, and the fact that management is vested in the principal, it is he or she who carries the primary responsibility in ensuring the safety of the members of the school community (Jacobs v Chairman, Governing Body of Rhodes High School, 2010).*

In light of these comments, this study focused on the safety of teachers when they are on duty during official school activities of public schools. The aim was to identify and discuss various South African legal provisions that regulate the duty to act to protect teachers' right to safety from violence in public schools and to investigate how these provisions are applied in practice.

## 2. Problem statement

The prevalence of violence against teachers within school settings poses a significant threat to their safety and well-being as reiterated by the *Jacobs case*. Yet, most studies focus on the safety of teachers and learners' experience of safety in schools leaving a knowledge gap regarding education law that regulates the duty of functionaries to act to protect teachers' right to safety from violence. This study intended to rectify this by posing the following three research questions: (a) How does South African education law regulate the duty to act to protect teachers' right to safety from violence in public schools? (b) What are the achievements regarding the implementation of education law that regulate the duty to act to protect teachers' right to safety from violence in public schools? (c) What challenges are experienced regarding the implementation of education law that regulates the duty to act to protect teachers' right to safety from violence in public schools?

The rationale for this study was to examine the duty to act of functionaries to intervene to the urgent problem of violence against teachers in South African schools, as demonstrated by the *Jacobs case*, which highlights the serious threats to teachers' safety and welfare in a dramatic fashion.

## 3. Literature review

This section explores the legal concept of the *duty to act*, its meaning and the underlying purpose of this legal obligation, as well as identifying functionaries who are bound by this duty. Additionally, it examines the specific circumstances in which these functionaries are required to fulfil their duty to act.

### 3.1 Conceptualising the 'duty to act'

The legal term *duty to act* is derived from two principles: "duty" and "act". Duty denotes "a moral or legal obligation", while act means "to do something" (OUP, 1999: 10 & 362). Legal Match (2018: paragraph 1) defines a duty to act as a function that a party should perform to protect another person. In paragraph 20 of the court case of *Minister of Safety v. Van Duivenboden* (2002), the judge stated that the presence of the duty to act signifies accountability. Additionally, the judge supported the latter statement by stating that section

41(1)(a-c) of the Constitution of 1996 provides that “all spheres of government and all organs of state within such sphere must provide governance that is not only effective, transparent, and coherent, but also governance that is accountable” (RSA, 1996a). For this study, the term *duty to act*, denotes the legal obligation of functionaries towards teachers as far as their safety from violence is concerned.

### 3.2 The purpose of the duty to act

A duty to act is imperative to ensure the safety of teachers in public schools. Its purpose is to prevent damage. In the law, damages refer to harm or loss resulting from injury to property, an individual or reputation (GoLegal, 2022). In this case, prevention is better than cure. Acting after damage has occurred does not promote an environment conducive to teaching and learning. Ahmed (2021: 1) states that “the standard of the reasonable person or its equivalent, in general, is used in many jurisdictions to determine fault in the form of negligence”. This means that the reasonable person test is used by courts to determine whether functionaries acted as a reasonable person. According to Smit and Oosthuizen (2020: 189), the court poses the following questions to determine what the law expects:

*How would a reasonable person have acted in the wrongdoer's circumstance? From this question, two further questions follow: Would a reasonable person foresee the damage as a possible consequence of his or her conduct? [and] Would a reasonable person, having foreseen the likelihood of harm, have taken reasonable steps to prevent such (foreseeable) harm from occurring?*

The above quote implies that school principals should be able to foresee a likelihood of harm to teachers and take reasonable steps to prevent such harm from taking place. For instance, if a teacher reports that a learner has promised to shoot them, the principal should take action to prevent harm. Some teachers have faced inadequate support from the education department regarding their safety (Grobler, 2018). Therefore, functionaries should provide enough support to teachers regarding their safety in public schools.

### 3.3 Functionaries who have a duty to act to ensure the safety of teachers

Functionaries as defined by the OUP (1999), should ensure that teachers in public schools are safe. A functionary is defined as “any person upon whom a power is conferred, or a duty is imposed” (section 1 of the Public Service Act 103 of 1994 [PSA], RSA, 1994). In education, according to the legislation and case law, there exists an array of functionaries responsible for ensuring that teachers are safe in public schools such as the principal of a school, heads of department (HoDs) and the members of executive councils (MECs). These functionaries may delegate the duty to act to other functionaries in their institution; however, they remain accountable in terms of law. This is reiterated in paragraph 22 of the Jacobs case, where the judge stated that “management is vested in the [school] principal. It is he or she who carries the primary responsibility in ensuring the safety of the members of the school community”.

At the provincial level, according to section 58B of the South African Schools Act, the HoD of Education has a legal duty to ensure that teachers and learners are safe in schools (RSA, 1996b) while the MEC for Education is liable for damage done to teachers in such cases (section 60(3) of the Schools Act, RSA, 1996b).

### 3.4 Circumstances where functionaries have a legal duty to act

Smit and Oosthuizen (2020) list four circumstances that necessitate action to be taken by a teacher to ensure learners' safety: "where an educator has a statutory duty to act"; "where an educator creates a source of danger"; "where an educator is in control of dangerous object"; and "where there is a special relationship between the parties concerned" such as between employer and employee.

The same applies to the safety of teachers. In the first case, functionaries have a statutory duty to act: as law and policy require of them to ensure the safety of teachers when they are on duty (Smit & Oosthuizen, 2020); including when a functionary disregards the relevant law and policy. This is considered a breach of a legal duty to act, one which presents a challenge to principals (Masitsa, 2011).

Secondly, in the case where a functionary creates a source of danger, he or she has a duty to act to prevent harm. For example, if a principal instructs a teacher to search learners who are violent and in possession of dangerous weapons, the life of the teacher may be put in danger (Smit & Oosthuizen, 2020). In this case, the principal should foresee that a possibility exists that such learners might harm the teacher. Rather than jeopardising the teacher's safety, section 8A of the Schools Act determines that it is the principal's duty to request the police to come to school and search for weapons. Paragraph 30 of the Jacobs case states that the functionary was unable to anticipate the potential harm caused by Kunene's actions to the teacher. This case emphasises the necessity for functionaries to anticipate potential dangers in schools and respond by taking preventive action.

Thirdly, in the case of dangerous teaching equipment present such as in sports facilities, technical workshops and laboratories, the principal's failure to ensure that teachers using such equipment are well trained, would be regarded as a breach of legal duty to act (Smit & Oosthuizen, 2020). This means that the principal should ensure that teachers are properly trained to perform their duties and report the violent incidents. A challenge arises from the fact that some teachers lack proper training to ensure their safety within schools and fail to report the violent incidents that affect them (Govender, 2015), indicating a necessity for such training.

Fourthly, the special relationship between functionary as representative of the employer and the teacher as employee, places a duty to act on the employer to ensure that teachers are safe (Smit & Oosthuizen, 2020; paragraphs 23 & 24 of the Jacobs case). For example, in the Jacobs case, the judge stated that the employment relationships between Tania Jacobs and the State "was sufficiently close to give rise to a duty of care on the part of the employer (State) towards the teacher (Tania Jacobs)" (paragraph 23 of the Jacobs case).

Twenty percent (20%) of teachers feel that schools are not safe (SACE, 2021). The relationship between the State and teachers who work in public schools requires of the employer to ensure that teachers are safe (paragraph 23 of the Jacobs case).

## 4. Methodology

This study is grounded in the interpretive paradigm, employing a qualitative research approach. The reason for employing the interpretive paradigm stems from the analysis and interpretation of information obtained from sources. The study is underpinned by a theory of social safety that recognises the importance of teachers feeling secure in their interactions with others (school community) (Jamieson, 2016). The theory of social safety provides that if social safety is maximised and social threats are minimised, people become motivated (Slavish, 2020). The same applies to a school: When teachers and learners feel safe, they are motivated to do their work. Hence, this theory has been found to be relevant to this study because functionaries are required to perform their duty to act to ensure the safety of teachers so that they are motivated to perform their duties.

The data collection method that was used was document analysis. The rationale behind employing document analysis as a data collection method lies in its suitability for conducting law and policy research (Dalglish, Khalid & McMahon, 2020). To address the first research question, data were gathered from sources related to education law. Education law sources included international law, the Constitution of 1996 (RSA, 1996a), national legislation, common law, and case law.

The second and third research questions were answered through data collected from past empirical studies (secondary data from 2013 to 2023). The selected empirical studies were those conducted on the application or implementation of education laws and policies by functionaries and teachers to ensure the safety of teachers. The above-mentioned type of data collection falls under the category of document analysis, which involves systematically examining and interpreting documents to extract meaningful information for research purposes (Bowen, 2009).

To ensure credibility, only sources from credible institutions, which include elements of teachers' safety and/or duty to act (or related concepts), were selected and analysed. The study carried no risk since it did not involve any human participants. The analysed documents utilised are readily accessible in the public domain and did not necessitate confidentiality or anonymity of sources, as they are cited in the reference list. Data were analysed utilising content analysis methods. Content analysis was selected because it assisted in organising and eliciting meaning from the collected data. Analysing documents encompassed the practices of quickly scanning, thoroughly reading and then interpreting the content (Bowen, 2009).

## 5. Duty to act: Analysing education law that safeguards teachers' right to safety

This section responds to the research question: How does South African education law regulate the duty to act to protect teachers' right to safety from violence in public schools?

### 5.1 Legislative and policy framework for managing school safety

The right to safety of teachers is guaranteed in various sources of education law. Mollo (2022) defines education law as "the norms and rules that have been passed by a legislative body that has the power to regulate the actions of people who are involved in the process of educating or being educated". Sources of education law that regulate the management of

school safety include international law, the Constitution of 1996 (RSA, 1996a), South African legislation, case law, and common law. International law such as the Universal Declaration of Human Rights (UDHR, 1948) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, UN, 1997) provide that people who perform duties to serve other people and communities should promote respect for rights.

### 5.1.1 *International law that regulates the safety of teachers*

South Africa is a signatory to the relevant United Nations treaties. In terms of section 39 of the Constitution of 1996, organs of state must consider international law (RSA, 1996a). Therefore, provisions that regulate safety that are found in international law provide for the safety of everyone, including teachers. Article 3 of the UDHR states that "everyone has a right to life, liberty and security of a person" (UN, 1948). This article highlights functionaries' duty to act to protect teachers from any violent act that may affect their life, liberty, and security in schools. Furthermore, article 7(b) of the ICESCR provides that everyone should work in a safe environment (UN, 1997). This implies that teachers should work in a safe environment, and their conditions of work should not threaten their safety and life. The safe school environment should be created by functionaries.

### 5.1.2 *Constitutional provisions that regulate the safety of teachers*

Section 11 of the Constitution of 1996 forbids any action that may lead to the death of a person (RSA, 1996a). Teachers should not work in schools where their lives are threatened. Furthermore, section 12 of the Constitution guarantees everyone the right to freedom and security of the person (RSA, 1996a). The safety of teachers should be ensured while at work. To achieve the goal of safeguarding teachers in public schools, section 7(2) of the Constitution expects the State and organs of state "to respect, protect, promote and fulfil the rights in the Bill of Rights" (RSA, 1996a). Rights that ensure the safety of teachers from school violence should be promoted. Section 239 of the Constitution defines an organ of state as follows:

- (a) any department of state or administration in the national, provincial, or local sphere of government; or
- (b) any other functionary or institution—
  - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
  - (ii) exercising a public power or performing a public function in terms of any legislation but does not include a court or a judicial officer (RSA, 1996a).

This study focused on functionaries such as MECs and HoDs that operate within the provincial education department and principals who operate within public schools. Therefore, the provincial education departments and public schools are organs of state.

### 5.1.3 *Legislation that regulates the duty to act to ensure the safety of teachers*

The duty to act to ensure the safety of teachers in schools is regulated by education legislation and general legislation. Education legislation refers to "legislation promulgated specifically for education", whereas general legislation refers to legislation that is not promulgated specifically for education (Oosthuizen & De Wet, 2019).

### 5.1.3.1 Education legislation and policy that regulates the duty to act to ensure the safety of teachers in South Africa

There are various legislation and policies that regulate and guide the duty to act to ensure the safety of teachers in South Africa.

#### (a) Employment of Educators Act 78 of 1998 (EEA)

Section 18(1)(a) of the Employment of Educators Act 78 of 1998 (EEA) (RSA, 1998) provides that teachers and education officials should not contravene the existing legislation, regulation or legal obligation relating to education. This means that teachers and functionaries should implement the existing law to ensure the safety of teachers.

Furthermore, section 18(1)(e) of the EEA (RSA, 1998) states that employees should be charged with misconduct if it is found that they have endangered their own lives and the lives of others by disregarding safety rules and regulations while on duty. Moreover, paragraph 6(2) of schedule 1 of the EEA states:

*the employer may suspend an educator in accordance with the procedure contemplated in subitem (1) or transfer the educator to another post if the employer believes that the presence of the educator may jeopardise any investigation into the alleged misconduct or endanger the well-being or safety of any person at the workplace (RSA, 1998).*

Therefore, the principal should ensure that teachers are not involved in any activity on the school premises that may put their lives or the lives of others in danger. Should a teacher be found to be involved in any risky activity, the functionary (employer) has a duty to act by charging the teacher with misconduct and even by suspending the teacher as stated above.

#### (b) South African Schools Act 84 of 1996 (Schools Act)

A school that puts learners and staff members at risk is regarded as an underperforming school. In terms of section 58B of the Schools Act (RSA, 1996b), the HoD has a duty to act. Section 58B(2)(c) of the Schools Act (RSA, 1996b) provides that the HoD must give a written warning to the school if he or she is convinced that the safety of learners and staff members is at risk (threatened) (RSA, 1996b). Furthermore, section 58B(3)(a) states that the notice that is given to the school must state that the school should respond within 14 days by sending a plan to the HoD, indicating how the situation will be corrected (RSA, 1996b). According to section 58B(4) of the Schools Act, in his or her action, the HoD should not just demand a safety plan for the school, but should also support the school by ensuring that learners and staff members are safe (RSA, 1996b). If there is no improvement in terms of creating a safe teaching and learning environment after the principal and the school governing body (SGB) have been given a chance to improve, the HoD must take further steps. Section 58B(5) of the Schools Act (RSA, 1996b) provides:

the Head of Department must consider:

- (a) implementing the incapacity code and procedures for poor work performance referred to in section 16 of the Employment of Educators Act, 1998 (Act No. 76 of 1998);
- (b) withdrawing the functions of the governing body in terms of section 22; or
- (c) appointing persons in terms of section 25 to perform the functions or specified functions of the governing body (RSA, 1996b).



Section 58B(6) of the Schools Act empowers the HoD to provide counselling to the principal who has been declared an underperformer in terms of ensuring school safety (RSA, 1996b). Moreover, this section provides that the HoD may appoint an academic mentor who will take over for a period determined by the HoD and ensure that a safe environment for teaching and learning is created at the identified school. Based on the above provisions of the Schools Act (RSA, 1996b), the HoD has a duty to act to ensure the safety of learners, teachers, and non-teaching staff in schools.

In case of any damage to a teacher who is employed by the State during a school activity because of any violent act, the State will be held liable for not preventing damage to the teacher. Section 60(1)(a) of the Schools Act provides that "the State is liable for any delictual, or contractual damage or loss caused as a result of any act or omission in connection with any school activity conducted by a public school" (RSA, 1996b). This means that a teacher who is employed by an independent school would not be able to institute claims for State liability if the damage took place during school activities. Furthermore, section 60(3) of the Schools Act states that the claim for damage should be instituted against the MEC concerned (RSA, 1996b). This implies that the province is responsible for any damage caused to a teacher while they are on duty at a public school.

### **(c) Regulations for safety measures at public schools (2006)**

Teachers are protected by law against violence. Paragraph 4(2) of the Regulations for Safety Measures at Public Schools (2006) (RSMPS) (DBE, 2006) states that no person is allowed to cause any form of violence that disturbs school activities. Paragraph 1 of the RSMPS (DBE, 2006) defines a school activity "as any educational, cultural, sporting or social activity of the school within or outside the premises". This suggests that teachers' safety must be guaranteed not just within the school premises, but also during activities conducted outside the school premises.

### **(d) Policy on the South African standard for principals 2016**

The principal is required to have an awareness and understanding of education law and policies. Section 5.1.2. of the Policy on the South African Standard for Principals (PSASP) (DBE, 2016) stipulates that principals must be knowledgeable about South African educational legislation and policy. Furthermore, section 5.1.3 of the PSASP (DBE, 2016) emphasises that principals should be familiar with legal and regulatory frameworks pertinent to school management in South Africa. In addition, section 5.1.1.5 of the PSASP (DBE, 2016) states that principals have a responsibility to ensure that the school environment is safe, secure and disciplined by adhering to relevant safety regulations. Moreover, section 5.1.1.2 of the PSASP (DBE, 2016) mandates principals to establish a trusting environment. The lack of training of principals on the PSASP (DBE, 2016) could result in a low level of understanding and a lack of readiness to implement it (Nkuna, 2020: 169). Therefore, it is important to train principals to implement this policy.

### 5.1.3.2 *General legislation that regulates the duty to act to ensure the safety of teachers*

This section discusses general legislation that regulates the safety of teachers in South Africa.

#### **(a) Occupational Health and Safety Act 85 of 1993 (OHSA)**

Section 8(1) of the Occupational Health and Safety Act (OHSA) 85 of 1993 (RSA, 1993) states that all employers should ensure that, as far as reasonably practicable, their employees work in a safe environment. Furthermore, section 14(d) of the OHSA (RSA, 1993) provides that “every employer shall at work if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable report such situation to his [or her] employer ...”. This means that teachers should report to the principal if they feel unsafe. In addition, section 8(2)(b) of the OHSA (RSA, 1993) states that if any report is received from an employee about an unsafe situation in their work environment, the employer should take steps to mitigate the situation to ensure that the employee is not at risk (RSA, 1993). Should a teacher report that they are feeling unsafe, the principal has an obligation to act to ensure that any possible harm to the teacher is prevented.

#### **(b) Protection from Harassment Act 17 of 2011**

Teachers who are victims of harassment are protected by law. The preamble of the Protection from Harassment Act (PHA) 17 of 2011 (RSA, 2011) provides that the PHA affords the victims of harassment with a remedy to deal with any harassment that affects them. According to section 2(1) of the PHA (RSA, 2011), the remedy is that the victims of harassment may “apply to the court for the protection order against harassment”. This means that teachers who are victims of harassment may apply for a protection order.

Schools are obliged to safeguard teachers. The preamble of the PHA (RSA, 2011) stipulates that state organs should utilise this legislation (PHA) to safeguard victims of harassment. Section 2(3)(a) of the PHA specifies that an application for a protection order can be initiated on behalf of the complainant by another individual with a vested interest in the well-being of the complainant or a related person (RSA, 2011). This suggests that a functionary is permitted to file for a protection order on behalf of the employee (teachers).

### 5.1.3.3 *Case law on the duty to act to protect teachers' right to safety in public schools*

The court case of Carmichele v Safety and Security and Another (Centre for Applied Legal Studies Intervening) (2001) implies that in terms of the Constitution of 1996, violence against teachers violates their fundamental rights, such as the right to life (section 11 of the Constitution of 1996), the right to dignity (section 10 of the Constitution of 1996), and the right to freedom and security of the person (section 12 of the Constitution of 1996) (RSA, 1996a). The Carmichele case implies that functionaries in education have a duty to act to ensure the safety of teachers in public schools. It also confirmed the duty of courts to develop the common law where necessary.

In the Jacobs case discussed earlier, the court held the Western Cape education department and the principal jointly responsible for the damages Jacobs had suffered. During the delivery of judgement, the judge stated the following:

*A public authority or a public functionary has a positive constitutional duty to act in the protection of the constitutional rights that are enshrined in the Constitution. This duty is in line with the principle that Government and State actors must be accountable for their conduct (Paragraph 15, Jacobs case).*

The Jacobs case highlights the responsibility of teachers to ensure the safety of both themselves and that of their learners (paragraph 15). Furthermore, we learn that the HoD and the principal have a duty act if a teacher who is employed by the education department is at risk, because there is a written contract between the teacher, the principal, and the education department (paragraph 20 of the Jacobs case). Furthermore, in paragraph 22 of the Jacobs case, the judge emphasised that the State is liable for damage to a public-school teacher who gets injured during a school activity.

The State should ensure the safety of teachers in public schools, regardless of whether those teachers are employed by the education department or by the SGB. In the court case of MEC for Education, Western Cape Province v Strauss (2008), a teacher working for the SGB of Paarl Girls' High School sought compensation for injuries incurred during discus training. Strauss argued that the school's negligence, evident in the absence of safety nets, led to her injuries, highlighting the failure to ensure a safe environment. The court held that when a teacher who is employed by the SGB is harmed due to negligence on the part of the school, the State should be held liable.

Moreover, the Strauss case implies that public schools have a duty to act by taking reasonable steps to prevent anything that may harm teachers while they are on duty. Schools should take action to protect their teachers so that they can work without fear. This includes taking action to prevent violent acts from learners, parents, staff members and the community (school community). In paragraph 6 of the Strauss case, the judge explicitly articulated:

*[P]ublic education is the responsibility of the State. Hence, the legislature intended the State to be liable for damage or loss caused by an act or omission resulting from an educational activity for which the school would otherwise have been liable.*

The Strauss case emphasises the necessity for functionaries to possess evidence of their actions in safeguarding teachers at their schools. This means that functionaries are required to maintain evidence demonstrating their fulfilment of duties to ensure the safety rights of teachers. It emphasises the importance of documentation as a means of accountability in the protection of teachers' safety.

The cases imply a legal obligation for education authorities to ensure teachers' safety in public schools, enforcing accountability and proactive measures to prevent harm.

## 6. Significance of the study: Contribution to the creation of safe school environments for teachers in public schools

Section 12 of the Constitution of 1996 (RSA, 1996a) provides that a safe school environment should be created. This study contributes to the body of knowledge in education law by providing findings and recommendations regarding functionaries' duty to act to protect teachers from violence in public schools. These findings and recommendations may be used

by functionaries who have a duty to act to ensure that teachers are safe from violence in public schools. These functionaries include the education department officials and principals of public schools, to mention a few.

## 6.1 Findings and discussions

This section presents three main research findings to answer the three research questions. Furthermore, findings are discussed.

### 6.1.1 *The duty to act to protect teachers' safety is regulated by education law*

Findings in this section respond to the following research question: How does South African education law regulate the duty to act to protect teachers' right to safety from violence in public schools?

The first main finding is that there are education law provisions that regulate functionaries' duty to act to protect teachers from violence in South African public schools. This finding highlights the legal obligations guiding policymakers to enact and enforce measures ensuring the safety of teachers in South African public schools. These obligations draw from various sources of education law, including international law, the Constitution of 1996 (RSA, 1996a), legislation, common law and case law. To be more specific:

- The safety of teachers is protected internationally. Article 3 of the UDHR (UN, 1948) and article 7(b) of the ICESCR (UN, 1997) stipulate that everyone, including teachers, should work in a safe environment.
- The Constitution of 1996 (RSA, 1996a) and South African legislation provide for the safety of everyone, including teachers. Sections 11, 12 and 239 of the Constitution of 1996 (RSA, 1996a) provide for the safety of teachers. Furthermore, provisions in South African legislation provide for the safety of everyone, including teachers as in section 18(1)(e) of the EEA (RSA, 1998); paragraph 6(2) of Schedule 1 of the EEA (RSA, 1998); paragraph 4(2) of the RSMPS (DBE, 2006); section 58B and 60 of the Schools Act (RSA, 1996b); section 8 and 14 of the OHSA (RSA, 1993); the preamble, section 2(1) and 2(3)(a) of the PHA (RSA, 2011) and sections 5.1.1.2, 5.1.1.5, 5.1.2, 5.1.3 of the PSASP (DBE, 2016). These provisions provide functionaries with a duty to act to ensure the safety of teachers in public schools.
- In terms of paragraph 13 of the Jacobs case, the duty to act is a common law principle. This means that functionaries should be guided by this common law principle when they perform their duty of protecting teachers in public schools.
- Case law highlights that functionaries such as the education department officials and principals of public schools have a duty to act to protect teachers. This is confirmed by the court cases of Jacobs, Carmichele, and Strauss.

The above provisions place an obligation on functionaries to safeguard teachers when they are on duty.

### 6.1.2 *Achievements related to the implementation of legislative and policy measures*

Findings in this section respond to the following research question: What are the achievements regarding the implementation of education law that regulates the duty to act to protect teachers' right to safety from violence in public schools?

Increased awareness among teachers and functionaries regarding education law and policies signifies a significant advancement in our schools, facilitating their effective implementation. Among the various aspects covered by education law, ensuring the safety of teachers has particular importance.

#### *6.1.2.1 Awareness of education law and policy through practical experience and formal training*

Functionaries carry the responsibility of possessing a thorough awareness and understanding of relevant laws and policies to uphold safety standards within schools. According to Pillay's study (2014), it was discovered that teachers, including principals, demonstrate a reasonable comprehension of education laws and policies governing South African education, even without formal training in education law. Pillay (2014) states, "Many participants demonstrated a sound awareness of the names of various policies and legislation that regulate education." This understanding appears to stem more from practical experience rather than from formal education law training. While simply knowing the names of various policies and legislation may not be adequate, it can help employers in avoiding starting training for teachers and functionaries on education law and policies from scratch.

Participants who underwent formal education law modules at the University of Pretoria reported an enhancement in their performance as they received additional training in this area (Pillay, 2014: 145). The findings reveal that some of the principals possess both experiential knowledge and formal education in education law. These findings support what is stated in sections 5.1.2 and 5.1.3 of PSASP (DBE, 2016), which emphasise that principals must be knowledgeable about South African educational legislation and policy. This finding highlights the importance of aligning policy directives with educational background and experience of teachers and principals, ensuring compliance with sections 5.1.2 and 5.1.3 of the PSASP (DBE, 2016) regarding their knowledge of educational legislation and policy in South Africa.

#### *6.1.2.2 Some teachers report violent incidents to functionaries*

Reporting incidents of learner-on-teacher bullying to the school management team (SMT) and an effective response by the SMT to such reports are crucial. This may help to prevent learner-on-teacher bullying. Chatty conducted a study about the management of learner-to-teacher bullying in public secondary schools (Chatty, 2020). The study found that most teachers at these schools reported learner-on-teacher bullying incidents to heads of departments, principals and grade tutors (Chatty, 2020). Furthermore, Chatty (2020) found that based on the reports from teachers, SMTs used school rules and policies as a strategy to manage learner-on-teacher bullying. Aligning with section 8(2)(b) of the OHS Act (RSA, 1993), prompt response to teachers' reports mitigates risks, while principals' adherence to section 5.1.1.5 and 5.1.3 of the PSASP (DBE, 2016) ensures compliance with safety regulations for teachers' safety. Even though education laws and policies are implemented by some teachers who report violent incidents and some principals who respond to such reports, this finding highlights the necessity for policy directives promoting swift and comprehensive responses to teachers' reports, in line with OHS Act's risk mitigation mandate (RSA, 1993). It reinforces the crucial role of principals in upholding safety regulations outlined in PSASP (DBE, 2016) to protect teachers' well-being.

### 6.1.2.3 *Some functionaries advocate teachers' right to safety*

In their 2021 research, Thajane and Masitsa investigated policy implementation among primary school principals in the Free State Province (Thajane & Masitsa, 2021). The study involved a sample of 60 principals (Thajane & Masitsa, 2021). The findings indicated that of the 59 principals who completed the questionnaires, 38 principals, representing 64,4% of the total respondents, acknowledged a prevailing sense of safety and security at their schools (Thajane & Masitsa, 2021). This suggests that the majority of the principals who participated in the study demonstrated effective implementation of safety policies. This finding demonstrates that some principals adhere to the promotion of section 12 of the Constitution of 1996, which advocates teachers' safety. The effective implementation of safety measures by principals supports the provisions of sections 5.1.1.5 and 5.1.3 of the PSASP (DBE, 2016). These sections state that principals have a responsibility to ensure that the school environment is safe, secure and disciplined. This finding underscores the need for policy directives ensuring principals prioritise teachers' safety in alignment with constitutional principles. Additionally, it highlights the importance of enforcing effective safety measures as outlined in PSASP (DBE, 2016) to maintain a secure school environment.

### 6.1.3 *Challenges related to the implementation of legislative and policy measures*

Functionaries have an obligation to be knowledgeable about law and policies to ensure school safety. Findings in this section respond to the following research question: What challenges are experienced regarding the implementation of education law that regulates the duty to act to protect teachers' right to safety from violence in public schools?

#### 6.1.3.1 *Lack of in-depth knowledge of education law and policy among teachers and functionaries*

While Pillay found that most participants (teachers and principals) with no formal training in education law and policy were familiar with the names of education legislation and policies, it is evident that they lacked a comprehensive understanding of the functionality and application of the legislation and policies (Pillay, 2014: 150). Furthermore, Nkuna (2020) found that the lack of training of principals on the PSASP (DBE, 2016) could result in a low level of understanding and a lack of readiness to implement it. In addition, Xaba (2014: 497) states that one of the principals claimed that teachers were not protected, as the law "seemed to mind the rights of misbehaving learners, over the rights of the rest of the school". This finding shows that some of the principals do not seem to understand that it is their duty to protect teachers. They seem to blame the law rather than implementing it and taking a responsibility. Sections 5.1.2 and 5.1.3 of the PSASP (DBE, 2016) indicate that principals should be familiar and knowledgeable with legal and regulatory frameworks pertinent to school management in South Africa. Moreover, section 5.1.1.5 of the PSASP (DBE, 2016) states that principals have a responsibility to ensure that the school environment is safe, secure and disciplined by adhering to relevant safety regulations. The finding in this section implies that there is a pressing necessity for policy reforms, mandating training for functionaries and teachers in education law and policies. Such measures will enable them to grasp the legal principles concerning teacher safety and their effective implementation.

### 6.1.3.2 *Contradiction of policy intentions*

At some schools, principals implement laws and policies as they see fit. Bayeni and Bhengu conducted a study on the lived experiences of the three school principals regarding their role in policy implementation (Bayeni & Bhengu, 2018). They found that “all three principals, irrespective of their statements about policy implementation, implemented policies in their own way, which in some instances contradicted policy intentions” (Bayeni & Bhengu, 2018: 9). This is against section 18(1)(a) of the EEA (RSA, 1998), which provides that teachers and education officials should not contravene the existing legislation, regulation or legal obligation relating to education. This finding emphasises the importance of policy consistency and effective implementation oversight, urging for clearer guidelines to ensure alignment with policy intentions and minimise discrepancies in practice.

### 6.1.3.3 *Inadequate support for teacher safety*

Teachers expect their functionaries to fulfil their duty of protecting them from violence at schools. In a study conducted by Nhambura (2020), participants (teachers) stated that they were not coping with violence and that they did not receive much assistance in curbing learners' violent behaviour. Participants stated that support from the education department was needed to ensure the safety of teachers. This finding indicates that functionaries do not implement laws and policies, including section 8(1) of the OHSA (RSA, 1993), which states that all functionaries should ensure that, as far as reasonably practicable, their employees work in a safe environment. It emphasises the urgency for policy reforms and enforcement measures to ensure compliance with section 8(1) of the OHSA (RSA, 1993), emphasising the critical need for functionaries to prioritise the creation of safe work environments for employees.

### 6.1.3.4 *Teachers' hesitancy in reporting incidents of violence*

Some of the teachers are hesitant to report violence that affects their safety to their principals. One of the teacher participants in Sitoyi's (2020) study stated that sometimes it did not help to report learners who had violated their right to safety to principals because there were no consequences for the learners' conduct. Lack of implementing law and policies by principals makes teachers to feel that law and policies do not work. This finding demonstrates that the implementation of section 5.1.1.2 of the PSASP (DBE, 2016), which mandates principals to establish a trusting environment, remains a challenge for some principals. It highlights the imperative for policy enforcement mechanisms to ensure compliance with section 8(1) of the OHSA (RSA, 1993), stressing the need for functionaries to actively prioritise employee safety within their work environments.

### 6.1.3.5 *Lack of awareness regarding specific safety policies*

While Pillay found that the majority of participants (teachers and principals) lacking formal training in education law and policy were acquainted with the names of education legislation and policies (Pillay, 2014: 150), some principals lacked awareness of specific safety policies concerning teacher safety at schools. Hanaya, McDonald and Balie conducted research to examine the impact of education policy on teacher agency regarding school safety in South Africa (Hanaya, McDonald & Balie, 2020). The study revealed that one of the principals involved was unaware of the National School Safety Framework and its implementation in 2015 (Hanaya *et al.*, 2020: 12). Section 5.1.2 of the PSASP (DBE, 2016) states that the school principal “needs to have knowledge of South African educational law and policy”. The fact that principals could be unaware of the National School Safety Framework is detrimental

to school safety. This finding underscores the necessity for improved dissemination and awareness of policy frameworks like the National School Safety Framework among school leaders, highlighting the importance of comprehensive training and support for effective implementation.

#### *6.1.3.6 Variability in functionaries' awareness of teacher safety concerns*

Some principals know that teachers are not safe at schools, while others are uncertain about the state of safety of teachers at schools. According to Thajane and Masitsa (2021), a total of eight principals disagreed, and 13 principals expressed uncertainty regarding the safety and security at their schools. This raises concerns, as education, including teachers, necessitates a safe and secure environment. The discovery that teachers still feel unsafe in schools indicates that a functionary is still grappling with the promotion of section 12 of the Constitution of 1996, which guarantees the safety of teachers. This finding stresses the urgency for policymakers to address the ongoing safety concerns of teachers. It emphasises enhancing the implementation and enforcement of constitutional provisions safeguarding their well-being within school environments.

## 6.2 Recommendations

The following are recommendations to improve functionaries' duty to act to ensure the safety of teachers at public schools.

### *6.2.1 Training of teachers and functionaries*

All teachers should undergo formal training in education law before entering the teaching profession. No individual should be appointed to a functionary position without receiving specific training in education law and policy for functionaries. Functionaries should receive comprehensive training on their duty to ensure teacher safety in public schools to mitigate potential litigation against the State, as seen in the Jacobs case. The education department and other relevant stakeholders with expertise in teacher safety should provide training and required resources for developing policies and guidelines. Effectiveness of training will support a dynamic and responsive approach to enhancing teacher safety. Training strategies can include attending workshops and enrolling in courses. The training should cover education law and policies regulating and guiding teacher safety, along with their practical application. It should emphasise understanding the duty to act, prompt response to teacher reports, ensuring accountability, minimising implementation discrepancies and effective application of the duty to act. These topics should also be considered during the formulation of safety policies and guidelines. The implementation of knowledge gained during training should be monitored and evaluated. Furthermore, regular assessment of functionaries' understanding and implementation of the duty to act should be done. Various stakeholders such as school principals, teachers' unions and community organisations should be involved.

### *6.2.2 Strengthening policymakers' awareness of teacher safety in South African schools*

Policymakers need to enhance their awareness and enforcement of legal obligations to ensure the safety of teachers in South African public schools. This includes integrating comprehensive education law provisions into policy development and implementation processes. This will assist policymakers to address safety concerns proactively and foster a conducive environment for teaching and learning in South African public schools.



### 6.2.3 *Aligning functionaries' qualifications and experience with policy directives*

Functionaries' educational qualifications and experience should align with legal and policy prescriptions. This alignment will improve their knowledge and application of education law and policy, enabling them to effectively address instances of violence in schools.

### 6.2.4 *Enhancing safety compliance through prompt teacher report responses*

Functionaries should develop and enforce policies that prioritise prompt and thorough responses to teachers who report violent incidents. This will ensure that when teachers report violent incidents, functionaries can foster a safer and more supportive environment, ultimately improving overall school safety and well-being.

### 6.2.5 *Enhancing functionary accountability for teacher safety in school policies*

Policies should be revised to emphasise functionaries' responsibility in prioritising teachers' safety according to constitutional principles. This will ensure the effective enforcement of safety measures outlined in education laws and policies, thereby maintaining a consistently secure school environment.

### 6.2.6 *Enhancing policy implementation with clear oversight*

Enhanced oversight mechanisms and clearer guidelines are necessary to ensure consistent policy implementation and alignment with intended goals. This will minimise discrepancies in practice.

Existing policies and safety programmes incorporating the aforementioned aspects should not be discarded; instead, they should be reinforced and improved.

### 6.2.7 *Recommendations for further study*

It is also recommended that an empirical study be conducted on functionaries' duty to act to ensure the safety of teachers. Such a study would provide more information on how the duty to act is understood and implemented by functionaries to ensure the safety of teachers in public schools.

## 7. Conclusion

The safety of teachers in public schools hinges on the comprehension and application of education law by functionaries tasked with regulatory duties. It is imperative that all relevant functionaries possess a deep understanding of the education law pertaining to their duty to act and are proficient in its application. While the findings reveal an ample provision of education law in South Africa governing the duty to act, the primary obstacle lies in the lack of awareness and implementation of these provisions. Therefore, it is strongly recommended that functionaries undergo comprehensive training on their duty to ensure the safety of teachers. By equipping functionaries with the knowledge and skills to apply existing education law, the realisation of teachers' safety from violence can be achieved, fostering a reduction in fear and a restoration of trust in teachers' safety. This study contributes significantly to the field of education law by shedding light on functionaries' obligations to protect teachers' right to safety from violence in public schools. It also emphasises the crucial need for informed action to safeguard the well-being of teachers.

## References

- Ahmed, R. 2021. The standard of the reasonable person in determining negligence—comparative conclusions. *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad*, 24(1): 1-55. <https://doi.org/10.17159/1727-3781/2021/v24i0a8631>
- Bayeni, S.D. & Bhengu, T.T. 2018. Complexities and contradictions in policy implementation: Lived experiences of three school principals in South Africa. *Sage Open*, 8(3): 1-12. <https://doi.org/10.1177/2158244018792037>
- Bowen, G.A. 2009. Document analysis as a qualitative research method. *Qualitative Research Journal*, 9(2): 27-40. <https://doi.org/10.3316/QRJ0902027>
- Carmichele v. Safety and Security and Another (Centre for Applied Legal Studies Intervening) 2001(4) SA 938 (CC) 957A-958C. Available at <https://lawlibrary.org.za/akn/za/judgment/zacc/2001/22/eng@2001-08-16> [Accessed 21 July 2023].
- Chatty, P. 2020. The management of learner-to-teacher bullying in public secondary schools. PhD Thesis. Pretoria: University of Pretoria. Available at [https://www.repository.up.ac.za/bitstream/handle/2263/79511/Chatty\\_Management\\_2020.pdf](https://www.repository.up.ac.za/bitstream/handle/2263/79511/Chatty_Management_2020.pdf) [Accessed 26 July 2023].
- Dalglish, S.L., Khalid, H. & McMahon, S.A. 2020. Document analysis in health policy research: the READ approach. *Health Policy and Planning*, 35(10): 1424-1431. <https://doi.org/10.1093/heapol/czaa064>
- Department of Basic Education [DBE]. 2006. *Regulations for Safety Measures at Public Schools (RSMPS)*. Pretoria: Government Printers. Available at [https://www.gov.za/sites/default/files/gcis\\_document/201409/29376.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/29376.pdf) [Accessed 26 July 2023].
- Department of Basic Education [DBE]. 2016. Policy on the South African Standard for Principals. (PSASP). Pretoria: Government Printers. Available at <https://www.gov.za/documents/national-education-policy-act-policy-south-african-standard-principals-18-mar-2016-0000> [Accessed 24 July 2023].
- GoLegal. 2022. Personal injury law: General damages compensation in South Africa: What you can (and can't) claim. Available at <https://www.golegal.co.za/general-damages-claim/> [Accessed 26 July 2023].
- Govender, K. 2015. Primary school teachers' experiences of violence towards them perpetrated by learners. MEd Dissertation, Edgewood: University of KwaZulu-Natal. Available at <https://researchspace.ukzn.ac.za/server/api/core/bitstreams/53ef625b-9d86-47cb-a9c2-c97e4172a3e9/content> [Accessed 22 July 2023].
- Grobler, G.W. 2018. Narratives of teachers' experiences of school violence and ethics of care. MEd Dissertation, Stellenbosch: Stellenbosch University. Available at <http://hdl.handle.net/10019.1/103429> [Accessed 27 July 2023].
- Hanaya, A., McDonald, Z. & Balie, L. 2020. Teacher agency in South African education policy related to school safety. *Africa Education Review*, 17(1): 1-17. <https://doi.org/10.1080/18146627.2018.1467734>
- Human Rights Watch. 2016. "They Set the Classroom on Fire": Attacks on Education in Northeast Nigeria. Johannesburg: Human Rights Watch. Available at [https://hrw.org/sites/default/files/report\\_pdf/nigeria0416web.pdf](https://hrw.org/sites/default/files/report_pdf/nigeria0416web.pdf) [Accessed 27 July 2023].

Jackson, B.A., Dilibert, M.K., Moore, P. & Schwartz, H.L. 2023. Teachers' views on school safety. Rand Corporation. Available at [www.rand.org/t/RRA2641-1](http://www.rand.org/t/RRA2641-1) [Accessed 7 March 2024].

Jacobs v. Chairman of the Governing Body of Rhodes High School and Others (Jacobs case) (7953/2004) [2010] ZAWCHC 213; 2011(1) SA 160 (WCC) (4 November 2010). Available at <https://www.saflii.org/za/cases/ZAWCHC/2010/213.html> [Accessed 27 July 2023].

Jamieson, A. 2016: SWIS trauma-informed practices: 4 Safety's. Canada: University of British Columbia. Available at <https://www.amssa.org/trauma-training-for-swis-workers-qa-session/> [Accessed 21 July 2023].

Kassiem, A. 2010. Hammer attack teacher awarded R1m, *IOL* 5 Nov 2010. Available at <https://www.iol.co.za/news/hammer-attack-teacher-awarded-r1m-722403> [Accessed 28 July 2023].

Legal Match. 2018. Duty to Act. Legal Match. Available at <https://www.legalmatch.com/legal-library/article/duty-to-act.html> [Accessed 27 July 2023].

Mangena, M.C. & Matlala, S.F. 2023. Teachers' lived experiences of workplace violence and harassment committed by learners from selected high schools in Limpopo Province, South Africa. In *Healthcare* 11 (18), 1-12. <https://doi.org/10.3390/healthcare11182602>

Masitsa, M.G., 2011. Exploring safety in township secondary schools in the Free State province. *South African Journal of Education*, 31(2): 163-174. <https://doi.org/10.15700/saje.v31n2a477>

MEC for Education, Western Cape Province v Strauss 2008(2) SA 366 (SCA). Available at <https://www.saflii.org/za/cases/ZASCA/2007/155.html> [Accessed 29 July 2023].

Minister of Safety and Security v. Van Duivenboden 2002 (6) SA431 (SCA) at 445B-D and 446F-G.). Available at <https://www.saflii.org/za/cases/ZASCA/2002/79.html> [Accessed 24 July 2023].

Mollo, N.T. 2022, The Fourth Industrial Revolution in the higher education institutions of selected BRICS countries: An education law and policy perspective. In: E.K. Niemczyk & Z.L. de Beer (Eds.), *Education for sustainable development in BRICS: Zoom on higher education*. Cape Town: AOSIS Books. <https://doi.org/10.4102/aosis.2022.BK277.06>

Moreroa, M.C. 2022. An analysis of violence towards educators in the selected high schools: a case study of South African Police Service. MA Dissertation, Polokwane: University of Limpopo. Available at [http://ulspace.ul.ac.za/bitstream/handle/10386/3895/moreroa\\_mc\\_2022.pdf?sequence=1](http://ulspace.ul.ac.za/bitstream/handle/10386/3895/moreroa_mc_2022.pdf?sequence=1) [Accessed 7 March 2024].

Mubita, K. 2021. Understanding school safety and security: Conceptualization and definitions. *Journal of Lexicography and Terminology* (Online ISSN 2664-0899. Print ISSN 2517-9306), 5(1): 76-86. Available at <https://education.unza.zm/index.php/jlt/article/view/584> [Accessed 7 March 2024].

Nhambura, M. 2020. Handling of violent behaviour of learners in secondary schools: A case study of Vryburg Cluster in North-West province. PhD Thesis, Potchefstroom: North-West University. Available at <http://hdl.handle.net/10394/36166> [Accessed 27 July 2023].

Nkuna, M.E. 2020. Principals' understanding of their readiness to implement the policy on the South African Standard for Principalship. PhD thesis, Pretoria: University of Pretoria. Available at <http://hdl.handle.net/2263/78487> [Accessed 24 July 2023].

- Oosthuizen, I.J. & De Wet, A. 2019. The Constitution as a source of education law. In: I.J. Oosthuizen (Ed.), *Introduction to Education Law* (3<sup>rd</sup> rev. ed.). Pretoria: Van Schaik.
- Oxford University Press [OUP]. 1999. *South African Concise Oxford Dictionary*. Cape Town: Oxford University Press.
- Pillay, N. 2014. Teachers' knowledge of legislation and education law specifically and its influence on their practice. MEd Dissertation, University of Pretoria. Available at <http://hdl.handle.net/2263/43224> [Accessed 21 July 2023].
- Republic of South Africa (RSA). 1993. *Occupational Health and Safety Act (OHSA) 85 of 1993*. Pretoria: Government Printers. Available at [https://www.gov.za/sites/default/files/gcis\\_document/201409/act85of1993.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/act85of1993.pdf) [Accessed 23 July 2023].
- Republic of South Africa [RSA]. 1994. *Public Service Act 103 of 1994*. Pretoria: Government Printers. Available at <https://www.dpsa.gov.za/dpsa2g/documents/acts&regulations/psact1994/PublicServiceAct.pdf> [Accessed 22 July 2023].
- Republic of South Africa [RSA]. 1996a. *Constitution of the Republic of South Africa*. Pretoria: Government Printers. Available at <https://www.gov.za/documents/constitution/constitution-republic-south-africa-1996-04-feb-1997> [Accessed 24 July 2023].
- Republic of South Africa [RSA]. 1996b. *South African Schools Act 84 of 1996*. Pretoria: Government Printers. Available at [https://www.gov.za/sites/default/files/gcis\\_document/201409/act84of1996.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/act84of1996.pdf) [Accessed 23 July 2023].
- Republic of South Africa [RSA]. 1998. *Employment of Educators Act (EEA) 78 of 1998*. Pretoria: Government Printers. Available at <https://www.gov.za/documents/employment-educators-act> [Accessed 23 July 2023].
- Republic of South Africa [RSA]. 2011. *Protection from Harassment Act (PHA). 17 of 2011*. Pretoria: Government Printers. [Available at <https://www.gov.za/documents/acts/protection-harassment-act-17-2011-05-dec-2011> [Accessed 25 July 2023].
- Rudolf, W.M. 1965. The duty to act: Proposed rule. *Nebraska Law Review*, 44(3): 499-537. Available at <https://digitalcommons.unl.edu/nlr/vol44/iss3/3> [Accessed 27 July 2023].
- Sitoyi, Z.M. 2020. Teacher and learner experiences of violence in a cape flats school. MEd Dissertation, Cape Town: University of Western Cape. Available at <http://hdl.handle.net/11394/7957> [Accessed 24 July 2023].
- Slavich, G.M. 2020. Social safety theory: a biologically based evolutionary perspective on life stress, health, and behavior. *Annual Review of Clinical Psychology*, 16: 265-295. <https://doi.org/10.1146/annurev-clinpsy-032816-045159>
- Smit, M.H. & Oosthuizen, I.J. 2020. The educator as a caring supervisor. In: I.J. Oosthuizen & M.H. Smit (Eds.), *Aspect of Education Law* (5<sup>th</sup> ed.). Pretoria: Van Schaik Publishers.
- South African Council for Educators [SACE]. 2021. Teachers' Safety and Security in South African Schools: A Handbook. Centurion: SACE. Available at [https://www.sace.org.za/assets/documents/uploads/sace\\_16935-2021-05-06-SACE\\_Handbook\\_aw2-web%20-%20ISBN.pdf](https://www.sace.org.za/assets/documents/uploads/sace_16935-2021-05-06-SACE_Handbook_aw2-web%20-%20ISBN.pdf) [Accessed 21 July 2023].

Thajane, S.B. & Masitsa, M.G. 2021. An investigation into policy implementation by primary school principals in the Free State province. *South African Journal of Education*, 41(2): S1-S12. <https://doi.org/10.15700/saje.v41ns2a1960>

United Nations [UN]. 1997. *International Covenant on Economic, Social and Cultural Rights*. New York: United Nations. Available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights> [Accessed 27 July 2023].

United Nations [UN]. 1948. *Universal Declaration of Human Rights*. New York: United Nations. Available at <https://www.ohchr.org/en/universal-declaration-of-human-rights> [Accessed 26 July 2023].

Venketsamy, R., Baxen, E. & Hu, Z. 2023. Student-on-teacher violence in South Africa's Tshwane South District of Gauteng Province: Voices of the victims. *African Journal of Teacher Education*, 12(1): 49-69. <https://doi.org/10.21083/ajote.v12i1.7077>

Xaba, M.I. 2014. An examination of the effectiveness of the implementation of safety and security measures at public schools in South Africa. *Mediterranean Journal of Social Sciences*, 5(27 P1): 490. <https://doi.org/10.5901/mjss.2014.v5n27p490>