
THE LEGISLATIVE FRAMEWORK REGARDING BULLYING IN SOUTH AFRICAN SCHOOLS

A Laas*

T Boezaart**

SUMMARY

Bullying in schools is a global phenomenon that has the potential to impact on children not only physically but also psychologically. In South Africa countless children fall victim to bullying, harassment and abuse at schools. A myriad of constitutional rights are infringed upon when bullying occurs, and the problem is escalating. The *Protection from Harassment Act 71* of 2011 was signed and accepted into law on the 27th of April 2013. This new Act may grant relief to victims of bullying *inter alia* by providing for protection orders, and therefore adds to the legislative framework available to victims. However, in terms of bullying in schools, the parties to these incidents are minors and therefore a critical analysis is necessary with regard to the rights of the victim and the offender. In this context the relationship and interaction between the *Protection from Harassment Act 71* of 2011, the *Child Justice Act 75* of 2008, the *Children's Act 38* of 2005 and the *South African Schools Act 84* of 1996 call for critical analysis.

KEYWORDS: Abuse; best interest of the child; bullying; child justice; children's rights; code of conduct; constitutional rights; discipline; educational context; harassment; harm; offender; protection orders; restorative justice; right to education; victim; violence.

* Annelie Laas. LLB (NWU) LLM (Pretoria). Annelie Laas was enrolled for her LLD degree in the Department of Private Law at the University of Pretoria when she wrote the first draft of this article. However, her sudden and untimely death on 7 July 2014 brought an end to her research on the advantages of a restorative justice approach to bullying and her passionate efforts to curtail bullying in schools.

** Trynie Boezaart. BA (Law) LLB LLD (Pretoria). Professor and Head of Private Law, University of Pretoria. Email: Trynie.Boezaart@up.ac.za.