Knowledge of educational law: an imperative to the teacher's practice

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The nature of teaching exposes teachers to civil liabilities. In the process of teaching teachers need to discipline students who display bad behaviour. In disciplining the students, teachers use a variety of punishments including corporal punishment. Without knowledge of the legal implications of their actions, inadvertently they may find themselves on the wrong side of the law. This paper makes the argument that knowledge of educational law by teachers has now become imperative given the litigiousness of the parents and their children. Over and above the paper's exhortation for the introduction of educational law to teacher training institutions, it also argues for the provision of in-service courses in educational law to serving teachers as a lifelong or continuous learning endeavour. This is made following the results of a survey that revealed miniscule or no knowledge of educational law among teachers. The data for the investigation were gathered using a questionnaire survey on teachers and school administrators.

Introduction

Basic knowledge of educational law by teachers is steadily becoming an imperative. In their interaction with pupils teachers are expected to maintain law and order in and about schools if meaningful teaching and learning are to take place. For them to maintain this sense of order, the teachers, finding reinforcement from the concept of *in loco parentis* and from the *Education Acts*, have the right to punish students—otherwise the objectives of the schools may not be realized. Society on the other hand expects teachers to be experts on all matters that are brought to bear on their schools. The teacher does bits of the job of a court magistrate counselor, lawyer, policeperson, medical doctor and social worker. This h/she performs without formal training in these areas in spite of certain legal prohibitions and ethical considerations that must be observed when executing these jobs. These jobs, though necessary, are not the teacher's core business and there is considerable evidence that the training of teachers has not adequately equipped them for the wide and increasing demands from these other jobs (Thro 2007). In Botswana, teacher training institutions do not offer educational law as a subject. Also, the two legal documents that guide the teacher's practice (the *Education Act 1967* and the *Unified Teaching Service Act 1976*) are tenuous in so far as guiding the

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teachers' professional life, particularly in respect to the law against wrongs to individuals is concerned. These documents deal mainly with procedures and consequences should teachers contravene certain procedures and provisions of the Acts.

Everybody is expected presumed to know the law. Ignorance of the law is, therefore, not a defence in respect of its violation. Ordinarily put, 'ignorance of the law is not an excuse in law' (Kasozi 1999: 44). Most or all African countries that were formerly tied to England are common law jurisdiction. As a general rule, the existing laws of these former colonies were carried over beyond their independence (Church 1984). Where the laws have been revised, basically this was to simplify the same (Kasozi 1999). The difference between the countries in applying the same law may lay in application by the law enforcers. Some may relax enforcement for whatever reasons (this is where many developing countries lose) while others may not apply the law properly due to their ignorant of the law. The latter may be the reason punishment in schools can be abusive.

Background

The same law that sanctions the beating of students prohibits the unreasonable application of corporal punishment on students:

> Corporal punishment shall be moderate and reasonable in nature and shall be administered only on the palms of the hands or across buttocks with a light cane not more than 1 m long and at the thickest end not more than 1 cm in diameter or with a suitable strap, and no punishment shall exceed five strokes with the cane or strap. (*Botswana Education Act* 1967: 58: 66)

The human rights movements and other associated rights – in the context of this paper, the rights of the child – are other watchdogs on the treatment of children by adults. The universal human rights, the Rights of the Child, which Botswana has ratified, and the African Charter of the Rights and Welfare of the Child (ACRWC) Conventions obligate and bind those, like teachers, who have direct responsibility or have a duty of care over the students. The Conventions on the Rights of the Child of 1989, and the ACRWC of 1990, established the legal framework with reference to children and youth in Africa (UNICEF 2003a, b). The former, adopted by the United Nations General Assembly in 1989, came into force as part of international law in 1990 (Curtis and O'Hagan 2003). In most law and order abiding countries, the same law that 'presumes a person innocent until found guilty' (Kasozi 1999: 113) also applies to children. Due to the increasing encroachment of the law into schools, teachers need basic knowledge of it.

These rights and conventions, particularly the Rights of the Child, are continuously being challenged and blamed for causing what some refer to as 'unprecedented lawlessness' among the youth who wittingly or unwittingly wrongly interpret their rights in a similar way some people wrongly interpret the concept of 'democracy' as boundless or irresponsible freedom. In the UK adults have argued that until children are capable of exercising responsibility, the demand for their rights will remain premature. The rights for children, they contend, not only threatens the

stability of family life but also threatens the maintenance of order in schools (Curtis and O' Hagan 2003). Despite these controversies, the presence of law in school systems worldwide is now a reality. The law is kind no more to teachers who lose their tempers and punish students excessively (Lunny and Oliphant 2003). 'A fine not exceeding P50 or imprisonment for a term not exceeding three months, or both' (*Botswana Education Act* 1967: 58: 66) can be imposed on a teacher who contravenes any provision of the law on corporal punishment. The modern parent is very quick is seeking legal recourse against unfair treatment to their child. Before an offending teacher can know it, his or her next knock at the door could be a contentious parent threatening litigation.

There is growing evidence in Botswana of awareness by the students and their parents of the rights and fundamental freedom of the child in education. The actions by individual parents or small groups of students are indirectly and slowly agitating for schools to be strictly run according to the rule of law. The wearing of school uniform by students and the adoption or prohibition of certain hairstyles in keeping with the school ethos is not a statutory rule, yet teachers continue returning students home for non-compliance. Not many parents have questioned the teachers' actions in this regard. However, in 1994 a group of contentious students set the school staff room ablaze. The students were angered by the head's cutting of a girl's hair, which the head considered unacceptable according to the standards of the school (Investigation Report on Students' Strike at Moshupa Senior Secondary School, Ministry of Education 1994). The students felt the head's action was taken in bad faith and driven by ulterior motive. In 1999 students who were expelled from a secondary school for what the school head described as 'outrageous and unacceptable behaviour' were reinstated following legal intervention by parents (Briscoe 2000). In adjudging the students' case, the school had omitted fundamental requirements that must be observed when considering expulsion.

In another secondary school—although they did not succeed—parents' threatened legal action and damages to the school after their daughter was beaten by a teacher for making noise during study time (School Report to the Ministry of Education 2000). The parents had held that their daughter contacted asthma because of the beating. Recently, a case where a primary school child was beaten by a teacher with a stick on the head and got badly injured is still to be concluded (Mmegi 2006). With this and other evidence, it would not be inappropriate to suggest that teachers and school administrators need to be forewarned and forearmed in their mundane interaction with the students by being exposed to basic educational law as a taught course. Supporting this preposition, Gilliatt (1999: 34) posits that:

> … just a car driver needs to have a rudimentary understanding of the law affecting their use of the public highway, so any professional teacher needs to understand the legal framework in which their role sits.

Purpose of the study

This study investigated the extent at which teachers in Botswana secondary schools are knowledgeable in educational law.

Research questions

Do teachers have adequate knowledge of educational law? Is educational law necessary to teachers? Should educational law be taught at teacher training institutions?

Conceptual framework

In legal jargon a wrongful or negligent act to another person by another which infringes on that person's personal safety and freedom from personal convenience is called a tort or delict, hence the law of tort or delict (Silbiger 1999, Lunny and Oliphant 2003). Tort, which derives from the French for 'wrong', is the law of civil liability for wrongfully inflicted injury (Boberg 1984, Lunny and Oliphant 2003). The law of tort or delict appears as a system to provide compensation for the victims who suffer physical, emotional or psychological personal hurt. Some African countries such as Botswana and Nigeria also subscribe to the law of personal liberty. In Botswana, for example, 'No person shall be deprived of his personal liberty …' (Constitution of Botswana 2002: 6: 5(1)). Complaints often brought against teachers by plaintiffs fall under tort law (Barrell and Parkington 1985). The most common in schools of these is negligence particularly that which concerns physical injury because it is easier to prove (Adams 1992). There is therefore some compatibility and linkage between tort law on the one hand and the human rights, the rights of the child, and the welfare of the child conventions on the other.

Because corporal punishment is legalized in some countries such as Botswana, this makes teachers susceptible to civil liability against wrongs against students. In furtherance of the research questions of this study, areas in which teachers need knowledge of educational law and which without such knowledge their practice can be vulnerable are examined. The examination of the concepts is focused under the broad area of negligence and is made in relation to existing practices and experiences of other educational settings, particularly in countries with more developed educational systems.

Negligence

In order to accuse someone of negligence, at least three tenets must be present:

(i) There must be a duty of care owed by one person to another in the particular context.
(ii) The accused party must have fallen below some standard of behaviour expected of them in exercising the duty of care.
(iii) Damage must have been caused as a result of the breach of the duty of care (Gilliatt 1999: 173).

According to Boberg (1984) negligent acts involve:

(i) Doing something badly even if no intention to do harm was there or the wrong doer was not aware that harm would be caused by their action. In this context, a teacher who unintentionally hits a student on sensitive parts of the body such as parts of the head can be considered negligent.

(ii) Not doing something. For example, a chemistry teacher who fails to take appropriate precautions when preparing gas hydrogen resulting in a student's injury can be sued for negligence.
(iii) Failing to stop someone from causing harm to themselves by doing something stupid. For example, a physical education teacher requiring students to do press ups on stony or slippery ground resulting in the loss of a student's teeth.

Confiscation of students' property, an action common in schools, can constitute an act of negligence if the teacher fails to take due care over their keeping resulting in their loss (Adams 1992). Confiscated property must be looked after as a teacher would look after his own property and must be returned as soon as the reason for the confiscation is past (Barrell and Parkington 1985).

The administering of medicine has aroused some debate among those writing on educational law. Some have called for teachers to receive training in ministering to the medical needs of students, while others say that this is an area best left to the experts. If a teacher in good faith administers tablets to a student that results in an overdose, the overdose has legal implications. The *Medicine Act 1968* in the UK restricts the administering of medicine to qualified practitioners except in an emergency (Gilliatt 1999). However, some parents allow their children to take medicines to school and authorize teachers to administer them on their behalf as furtherance of the principles of the teacher's duty of care and *in loco parentis* (North Side Primary School Prospectus 2003). The *in loco parentis* doctrine places the teacher in the position of the parent and renders the teacher liable to acts of negligence in the execution of their supervisory duties (Morris 1983, Boberg 1984, Rabinowicz *et al.* 1999). Also fitting the definition of *in loco parentis* are child minders, nurses, pre-school teachers and social workers because at one time or another, these people assume the custodianship of children when the parents are absent (Moswela 2005).

The duty of care notion goes beyond the teacher–student relationship in school to the teacher's supervision of the students on school outings (Barrell and Parkington 1985, Adams 1992). The exercise of vigilance, impartiality and fairness to the teacher's protégé is imperative all the time when the students are under the teacher's duty of care even outside school premises. This is because the questions of fairness, reasonableness, justice, equity, humanness, prudence and responsibility constantly arise in the event of litigation between the teacher and the student who he or she ministers. As previously mentioned, the most common complaints against teachers are those that involve physical punishment.

Assault and battery

Teachers have attempted to beat students and students have run away before they are beaten. According to law the attempt amounts to an assault. Lunney and Oliphant (2003: 41) define an assault as:

> … an attempt to offer or beat another without touching him: as if one lifts up his cane or his fist in a threatening manner: or strikes at him, but misses him, … Battery is on the other hand a tort that involves actual touching or the unlawful beating of another. (Lunny and Oliphant 2003: 44)

It is not difficult therefore to see that corporal punishment if administered in an improper manner could amount to battery. But a teacher, who threatens to hit a student and then does so, has committed two offences of assault and battery (Gilliatt 1999). All this means that knowledge of how the law works and an awareness of its particular application is essential to teachers. Basic knowledge of educational law helps teachers to relate the law to problems that are likely to arise in schools (Adams 1992). However, it needs mentioning that courts will uphold the teacher's right or anybody authorized to administer moderate and reasonable physical chastisement (Constitution of Botswana 2002).

In Australia, the UK and the US schools have a clearly established duty of care for the physical welfare of the students (Botha *et al.* 2003). On the whole teachers there find it relatively easier to adhere to legal requirements affecting their practice because of the general exposure they have had to educational law and the generally strict enforcement of law in their societies. This is reinforced by the fact that educational law is a formal subject offered in many teacher training institutions in those countries. In some South African universities such as the University of South Africa and the University of Northern Province educational law is a distinguished subject offered as an elective to future teachers. The course is meant: 'To introduce prospective educators to the educational law environment, labour relations in education and their role, rights and responsibilities as ethical professionals' (UNISA 2005: 19). In his report, the external reviewer expressed a lamentable lack of an educational law course in the Department of Educational Foundations, Educational Management Program, citing it as a commonly taught course in many West African teacher preparing institutions (External Report on Educational Management and Administration, Department of Educational Foundations, Faculty of Education, University of Botswana: April 2006).

Methodology

Data collection

A two-part questionnaire was used to collect data. The first part of the questionnaire required respondents to choose only one from possible five or three responses formulated in the Likert scale. There were five such questions. The sixth question required respondents to rate their knowledge of educational law as literate, semi-literate or illiterate. Under the same category another question asked respondents to rank, according to importance, given areas in educational law such as punishment; accidents and negligence; excursions with students; and children's rights. The second part of the questionnaire invited the expansion of respondents' views on educational law. The first two questions from this section gathered information from teachers and school administrators on why they thought educational law was important to their practice. The use of the two-in-one methods of collecting data was to enhance the quality of responses, because each method has some strength the other does not have. The open-ended questions 'allow the subjects to freely express their thoughts around particular topics' (Bogdan and Biklen 2003: 3). A semi-structured interview was conducted as another data collecting tool in order to enhance the quality of the data.

Sample

The study was an opportunistic sampling where the researcher took advantage of his four-week engagement in an annual winter teaching practice assessment exercise of university students. A total of 12 schools; seven from an urban centre and five from two semi-urban centres (three from one district and two from another) were selected for the study. The selection of these schools was based on the only one reason that the researcher was already on teaching practice there. All the heads of the participating schools were involved. The teachers' (all other teaching staff will be referred in this as teachers) involvement was preferred on their teaching experience, to deliberately harness views based on experience from those with three or more years of teaching experience. A further five more schools randomly selected from the group of rural schools, were added to the study. Only heads from these schools were involved in the study but as interviewees only. On average there were 19 subjects (excluding the head) involved from each school. Altogether, the subjects of the study were to be 245 school practitioners made up of 17 heads and 228 teachers all of which had more than three years teaching experience.

Data analysis

The three data collecting methods used required two different techniques of analyzing the data. For the one response items, the data were aggregated and a frequency distribution of scores made for each item. This method of data analysis is associated with one suggested by Elliot (1991). The 'agree' and 'strongly agree' responses were taken together as general agreement. The same applied to the 'disagree' and 'strongly disagree' responses. The data were then presented as tables. For the open-ended and interview schedule responses the researcher identified shared meanings from the responses and the resultant identifications grouped into categories or themes. This method of analysis enabled the researcher to understand the extent at which teachers and administrators thought the knowledge of educational law was important or not to them.

Findings

The study set to explore the extent at which secondary school teachers in Botswana were knowledgeable in educational law. Out of the 240 copies of the questionnaire distributed to schools 171 were completed and returned, thus representing a 71% return rate. The findings are presented below. The findings are from two sections of the questionnaire. From Section A the findings are presented as opinion polls using tables. Those from Section B and from the interview are elaborate written or spoken expressions representing the views of respondents on some aspects of knowledge of educational law among the teachers. Although both the teachers and administrators were involved in the survey, for purposes of style and narrative smoothness, the word 'teacher' will be used generically to refer to both unless where a specific distinction between the two words is to be highlighted.

There was a 94% response rate to the question above (161 out of 171 respondents). As the table above reflects, knowledge of educational law among teachers is very limited. Although the study was carried out in urban and semi-urban schools,

Table 1. Teachers' knowledge of educational law

Knowledge	*Frequency*	*Percentage*
Literate	29	18
Semi-literate	94	58
Illiterate	38	24
Total	161	100

the findings do not show any significant difference between the teachers in the different locations. The majority of teachers (82%) fall within the semi-literate and illiterate bracket. A minimum value of 29 shows only 18% of the teachers from the total sample as literate.

Table 2 shows that 94% of the teachers view the introduction of educational law at teacher training institutions as necessary to them. This view is corroborated by 98% of the teachers who held that teacher in-service programs should include a component of educational law and by 96% and 93% of the teachers who respectively were of the opinion that all teachers irrespective of level need knowledge of educational law. This majority refuted the statement that educational law is necessary to administrators only. Also of significance from Table 2 is the observation that 95 or 58% of the respondents consider the *Education Act* to be helpful in providing knowledge of educational law. Whereas this may be the case, one teacher described the *Education Act* as *too shallow*, another as *too vague* and a few others denied knowledge of having ever seen the document.

Table 3 clearly shows the 'child rights' variable as topping the list of areas which teachers feel knowledge of educational law is essential to their everyday practice. A total of 110 or 51% of the respondents ranked this factor number one. The 'punishment' variable was ranked second with 59 or 31% responses. 'School outings' and 'classroom and playground supervision' were comparatively not considered very essential areas in which teachers need educational law.

Why educational law is essential to teachers

The popular view (from Table 2) that educational law is an important subject that needs to be formally introduced to teachers has been supported and justified by specific statements from the respondents as follows:

Table 2. Views on the importance of educational law

Statement	*SA*	*A*	*N*	*D*	*SD*	*Total*
Educational law to be a core course at teacher training institutions.	115	32	2	4	4	157
Only administrators need knowledge of educational law.	7	3	2	31	120	163
Both administrators and teachers need knowledge of educational law.	137	16	2	2	2	159
In-service teacher professional development programs to have a component of educational law.	117	45	0	0	3	165
The Education Act helps with knowledge of law.		95	20	48		163

Table 3. Areas in which teachers need educational law most (Frequency of responses)

Ranking	*Punishment*	*%*	*Excursions*	*%*	*Supervision **	*%*	*Child's Rights*	*%*
1.	59	31	12	8	16	10	110	51
2.	46	24	39	25	24	15	66	31
3.	46	24	49	32	56	35	10	5
4.	40	21	55	35	66	41	28	13
Total	191	100	155	100	162	100	214	100

* Classroom & playground supervision

(a) *Responses from open-ended questionnaires:*

- Teachers sometimes do things out of ignorance and this has put them in trouble because ignorance of law is no excuse. The modern teacher should learn educational law to avoid this.
- The advent of child's rights makes it mandatory for every teacher to be knowledgeable in issues of educational law.
- Administrators stand out as mediators of conflict between staff and therefore need to be conversant with the laws that affect their educational practice to enable them the fair arbitration of cases.
- Knowledge of educational law is necessary for teachers to be more vigilant as they lead, correct, reproof, punish and guide students.
- We need such knowledge for the sake of knowledge, for professional enrichment and to be in the know in our area of operation so that we relate the job to law.
- Standards in discipline have declined among students because teachers are afraid to punish in case parents challenge the teacher's action.

(b) *Responses from interviews:* Out of the five heads who were interviewed, one claimed illiteracy and four claimed semi-literacy. Three of the five said that knowledge of educational law was not essential to teachers, urging that parents trust them with their children. One said: 'Our students are very well behaved because we use corporal punishment and parents are supportive of this as an effective measure. The students expect to be beaten when they offend'. Another interviewee retorted: 'The rights of children is not quite an issue in our school unlike in towns and cities'. Two heads who said knowledge of educational law was essential to teachers argued the teachers can be transferred from rural to urban areas.

Discussion

The study was conducted to determine the level of educational law teachers possessed and to find out the views of teachers on whether educational law should be taught at teacher training institutions in Botswana. Overall, the results suggest that only a handful of teachers are knowledgeable in educational law. Those who

claimed knowledge of the subject indicated that they obtained this knowledge at higher learning institutions outside Botswana, in South Africa and overseas universities. Indeed the Ministry of Education regularly sends serving teachers for further studies to overseas and regional tertiary institutions.

Educational law is essential to teachers

Not only is knowledge of educational law essential to protect teachers from possible civil liabilities, it is also important for their professional enrichment, a sense corroborated by Gilliatt (1999). Also, as one respondent put it, teachers need such knowledge for the sake of knowledge so that they can relate their job to law. Respondents have argued that it can, as it has happened before, be embarrassing for school practitioners to be found wanting in an area they claim professionalism. There is little doubt that the students who were expelled at a secondary school and later reinstated had committed offences that warranted expulsion. But because the school had not observed certain basic legal procedures, the appeal was held. Basic knowledge of educational law by school authorities would likely save schools and government from losing face in such circumstances. Not only should teachers rely on formal courses for the acquisition of knowledge on educational law, statutes such as 'Constitution of Botswana', 'the Laws of Botswana' and 'Criminal procedure and evidence', which can broaden the teacher's knowledge of general law, should be in every teacher's library.

Areas in which knowledge of educational law is most essential

The variables 'child's rights' and 'punishment' were identified as areas of need by teachers. These two variables are intricately related to each other because the improper use of punishment can constitute a violation of the child's rights. Teachers feel they need knowledge of educational law in order to guide them in the way they punish students. Generally, most cases concerning discipline arise from the use of punishment, particularly corporal punishment. For convenience, corporal punishment is the most preferred form of punishment. Unlike detention and manual work, the teacher does not have to spend time supervising offenders. The beating of children in school has been sanctioned by law although the beating is regulated. One may ask why hitting in school is allowed at all. The response to this concern may lay in the cultural values and beliefs attached to beating people, children in particular. A minority, notably heads of rural schools did not find the need for knowledge of educational law to teachers. These findings reflect these cultural values and beliefs to some extent. A significant group in society still strongly believes in corporal punishment as the 'best medicine for misbehaviour' among children including other young people outside school. This group believes in the old adage that says: 'Spare the rod and spoil the child'. To them, corporal punishment builds character in the individual and they will cite examples of themselves and responsible others in society who benefited from the use of the stick. The belief in beating has found reinforcement from the country's legal system which allows beating to civil offenders. This group is referred here as the 'conservatives'.

A different group, the 'progressives', however, views beating as out of synchronization with reality and as destructive to the children's ego. Although there are exceptions, the 'conservatives', without prejudice, are generally the less informed about human and children's rights, the *Education Act* and its specifications on corporal punishment and other legal structures that protect the child against abuse by adults including teachers. Most of these are people from rural areas. Parents from this group generally regard the teacher as a 'Mr Fix It for the nation' and one who has all the knowledge and every right over children at school, a view that has the potential to 'authorize' the teacher to abuse students. Culturally, a child who reports beating at school to the parent risks further beating by the parent. On the other hand parents in urban centres are more exposed to legal issues affecting children at school, courtesy to the readily available print and electronic media. The teachers' knowledge that parents in urban schools are knowledgeable about legal issues that affect their children can on its own restrain teachers from going over board in the use of corporal punishment. But as long as the two groups hold polarized views on corporal punishment, it may take some while before the beating of children in schools is abolished.

It is suggested that the 'school outing' variable was accorded a low rating because outings such as sports and excursions are seasonal and only few teachers take part in them. However, one would have expected a much higher score rating for the 'classroom and playground supervision' factor considering that it is regarded in literature as an issue of high importance in schools. As Boberg (1984) and others pointed out, civil liabilities revolve around acts of negligence in the classroom and at playfields. The fact that teachers are with the students for long periods increases the chances of accidents arising from negligent acts. Subjects such as chemistry (gases and fumes), physics (mains electricity), home science (open fires), design and technology (sharp instruments) expose students more to physical hurt than the more traditional subjects. Boys particularly, like to keep weapons that can cause harm to themselves and their neighbours. The low rating of this factor can be attributable to the reported high level of teacher ignorance in educational law. However, in spite of the different ratings accorded the four knowledge areas, educational law is still essential in all of them. As pointed out by Lunny and Oliphant (2003), all four fall under the broader theme of negligence.

Educational law to be introduced at teacher training institutions

The combined results from teachers who considered themselves semi-literate and illiterate in Table 1 justify educational law as a subject that warrants inclusion in the curriculum for teacher trainees. Justification for educational law as a subject relevant to the practical concerns of teachers is further reinforced by the data in Table 2. From this table, one can see that 94% of the teachers were of the view that law should be taught to all future teachers. The heightened need for knowledge of educational law by teachers may be the result of the current unfolding awareness of society, including children, of human rights and other associated rights. The department of in-service training in the Ministry of Education could include basic aspects of educational law in the regular courses it offers to teachers. This can bridge the wide gap that exists between the literate and illiterate in educational law. This idea blends well with the generally-held notion that learning is a lifelong or continuous process.

The *Education Act* has been described as tenuous in many respects. Some respondents have denied knowledge of the *Act*. These sentiments should not be dismissed as mere fusses by teachers. In schools there is usually only one copy of the *Act* for the whole school kept in reserve in the head's office. Given the alleged vagueness and shallowness of the *Education Act*, the validity of some teachers' claim that they are knowledgeable in educational law basing it on the *Education Act* is questionable and can likely lower the literacy and semi-literacy rates reported in the findings. The *Education Act*, as described by its critics, is not educative but rather directive. It does not deal with the 'why', but deals with the 'what' to do and 'how' to do it. Teachers' knowledge of the law should be something more than just a rule book copout.

Conclusion

In the light of the analysis, teachers and school administrators in Botswana generally lack knowledge of educational law. Even the most senior teachers and administrators have little knowledge upon which to rely. This is the case because teacher training institutions do not offer educational law as a subject. The few that have knowledge in this area have acquired it as part of their training outside the country. Knowledge in this field is no longer an option for teachers in modern Botswana where society generally and parents and their children in particular are becoming increasingly litigious. The paper concludes by firmly proposing that because knowledge of educational law is now necessary to teachers, educational law should be a taught course at teacher training institutions in Botswana. Knowledge of educational law can have the following benefits to school practitioners:

- More confidence and freedom by teachers in disciplining the students as they will be more familiar with correct procedures.
- Teachers would relate knowledge of educational law to their professional lives.
- With information and knowledge on educational law, teachers would be more cautious in their dealing with students and minimize the legal pitfalls they sometimes go through and which pitfalls beset their practice particularly in high-risk subjects.
- Action that can expose the teacher, the school or the employer to legal embarrassment can be avoided. Also, costs to government acting on vicarious liability can be avoided.
- Student–teacher relationships would be enhanced if the teachers are seen to be fairly and impartial by the students. Their actions would reflect them as parents and students would see them as such (the *in loco parentis* and reasonable parent notions).

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