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**Building nonviolent schools: A protocol for the implementation
of restorative discipline guided by transformative
constitutionalism**

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Declaration

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I, **Gale Esmè Davids** declare that the thesis, ***Building nonviolent schools: A protocol for the implementation of restorative discipline guided by transformative constitutionalism***, submitted for the qualification of the degree:

PHILOSOPHIAE DOCTOR

(PhD Education),

with the specialisation in Policy and School Governance at

The University of the Free State

is my own independent work. All the references that I have used have been indicated and acknowledged by means of complete references.

I further declare that this work has not previously been submitted by me at another university or faculty for the purpose of obtaining a qualification.

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Gale E Davids
November 2024

Abstract

This study explores the implementation of restorative discipline practices in South African schools as an alternative to punitive disciplinary systems. The research is motivated by the high prevalence of violence in South African society and its impact on learners' behaviour and educational outcomes. The primary aim of this study is to examine the implementation of a restorative approach to learner discipline, guided by transformative constitutionalism, to promote nonviolent schools. Moreover, it aspires to develop a protocol for the implementation of restorative discipline, also guided by transformative constitutionalism, to promote nonviolent schools.

The study therefore aimed specifically to explore the extent to which relevant legal documents, including the *Constitution of the Republic of South Africa*, international human rights treaties, and educational policies, inform learner discipline, transformative constitutionalism, and restorative justice. To achieve the aim of this study, I employed literature reviews, document analysis, and policy analysis. It examines the potential of restorative discipline to address the negative impacts of exposure to violence and transform school culture from punitive to restorative approaches.

This research contributes to schools by informing education policies and the field of Policy Studies in Education, adding value to nation-building efforts in South Africa. The findings reveal the importance of learner discipline guided by transformative constitutionalism and restorative justice to build nonviolent schools in South Africa. The protocol provides practical suggestions for introducing restorative discipline, guided transformative constitutionalism, and fostering nonviolent schools.

In conclusion, this study demonstrates how restorative discipline practices, guided by transformative constitutionalism, can address violence in South African schools. The research emphasises the shift from punitive to restorative approaches, offering a practical implementation protocol aligned with constitutional and human rights principles. These findings contribute to Policy Studies in Education and provide insights for creating nonviolent school environments, with the potential to impact nation-building efforts by fostering a culture of peace within South Africa's educational system. This study advocates for the inclusion of constitutional principles in disciplinary approaches. It also recommends how to apply restorative practices in schools.

Keywords

learner discipline; human rights; restorative justice; restorative discipline; safe schools; school culture; social justice; transformative constitutionalism; violence

Dedication

“In Loving Memory”

This study is dedicated to my beloved parents, Floris John Samuel and Kathleen Maureen Phillips, whose lives were tragically taken by COVID-19 in the early days of 2021, mere days apart, as they had lived - together.

You taught me the meaning of perseverance,
showed me that education opens doors,
and demonstrated through your own lives
that standing up for what is right
matters more than standing with the crowd.

The values you instilled and the unwavering sense
of social justice you championed continue to guide my path.
Your wisdom illuminates these pages,
and your courage inspires every word.

Though you cannot witness this milestone,
I feel your presence in every achievement,
and your love in every challenge I overcome.

Gone from this world, but forever present in my heart.
Your legacy lives on through this work,
and in the lives of all those you touched.

Abbreviations

ATCP	Alternatives To Corporal Punishment
HRE	Human Rights Education
DoE	Department of Education
DBE	Department of Basic Education
DOJ &CD	Department of Justice and Constitutional Development
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
NEP	Nonviolent Education Practices
RD	Restorative Discipline
RDP	Restorative Discipline Practices
RJ	Restorative Justice
SAHRC	South African Human Rights Commission
SASA	South African Schools Act
TC	Transformative Constitutionalism
UDHR	Universal Declaration of Human Rights
UNESCO	United Nations Educational Scientific and Cultural Organisation

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- 2 Chronicles 15:7

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CHAPTER 1: ORIENTATION AND CONTEXTUALISATION OF THE STUDY

1.1 INTRODUCTION AND BACKGROUND

School discipline is multi-faceted, and ill-discipline remains a major issue, both globally and locally (Buys, 2018). Alvis (2015) raises the concern that learner discipline issues, such as bullying and violent acts, are on the rise in South Africa because schools do not properly address them. Consequently, misconduct and criminal behaviour manifest as anti-social behaviour that harms others within the context of the school. However, aligned with the *Constitution of the Republic of South Africa* (RSA, 1996) (hereafter the *Constitution*), the *South African School Act* (SASA), (Department of Education, 1996) aims to provide a safe and disciplined environment where learners receive quality education. Yet, many South African schools experience high levels of ill-discipline (Wolhuter and Van der Walt, 2020) and violence (Reyneke, 2015) which depict the deterioration of schools as safe places for learning and teaching (de Wet, 2024). Furthermore, concerns about the negative and harmful impact of violence and the lack of discipline on school climate and culture are well documented (Chitsamatanga and Rembe, 2020; Reyneke and Reyneke, 2020).

Violence and ill-discipline do not occur in isolation in schools but should be understood in terms of the broader context of violence and lawlessness in South African communities. Research reveals that children's social environment, human rights culture, unqualified teachers, and unprofessional conduct by teachers are the most common factors contributing to school-based violence and ill-discipline (Reyneke, 2015). Furthermore, Reyneke (2015:33) suggests that socio-economic problems at home and in the school environment are factors contributing to poor academic performance and behavioural issues among many learners in South Africa. Many learners come from single or child-headed households. For example, in 2019 only 32.7% of children lived with both their parents, and 21.3% lived with neither parent (Statistics South Africa [SSA], 2021). Additionally, research shows that many children in South Africa experience high levels of poverty (Reyneke, 2015:58), which is a significant factor in the persistent poverty levels in the country.

Considering the COVID-19 pandemic, newly released data for South Africa indicate a 40% decline in active employment, and with an estimated 20-33% of job losers falling into poverty because of COVID-19-related employment and economic impacts (Jain, Budlender, Zizzamia and Bassier, 2020). The trauma experience and the impact of the COVID-19 pandemic have further worsened the already vulnerable and severely affected lives of many learners in South Africa. Poverty is now recognised as a contributing factor in the behavioural issues that disrupt classroom instruction, depriving learners and their peers of their right to an education (Obadire and Sinthumule, 2021:5). Children who live in poverty find it difficult to focus on their studies, as they rely on government aid and the national school nutrition programme. Arriving at school on an empty stomach leaves these learners lacking the energy to study because their parents are unable to meet their needs, social difficulties and “poverty drive some learners to resort to theft at school” (Obadire and Sinthumule, 2021:4).

All South Africans have a right to basic education (RSA, 1996: Section 29(1)(a)), and the Bill of Rights (RSA, 1996, Chapter 2), obliges the government to ensure education is available in an environment that is safe and conducive to learning and teaching (RSA, 1996, Chapter 2, Section 24; DoE, 1996, Section 8(2)). A factor that impacts negatively on a safe and conducive school environment is the use of punitive disciplinary approaches, particularly corporal punishment. Although statistics show that the national percentage of learners reportedly experiencing corporal punishment at school has dropped from 16,6% in 2009 to 6,8% in 2019, it was most prevalent amongst learners in KwaZulu-Natal (12,7%), Eastern Cape (10,5%), and Northwest (10,4%) (SSA, 2019:17). The impact of corporal punishment is harmful. The impact of corporal punishment is harmful, with research indicating that learners often respond with aggressive behaviour (Akhar and Awan, 2018:606).

School-based violence includes violent crimes such as murder, attempted murder, assault, corporal punishment, rape, statutory rape, sexual assault, bullying, gang activities, verbal aggression, property-related crimes, and drug and alcohol abuse (Reyneke, 2015:58; Makota and Leoschut, 2016; Centre for Justice and Crime Prevention [CJCP], 2017). Other reported learner misconduct includes learners arriving at school intoxicated or becoming intoxicated on school grounds, general class disruptions, and rudeness, all of which contribute to schools being unsafe and conducive for learning and teaching (Reyneke, 2015:58; Davids, 2017:4). In Gauteng Province alone, 94 violent

criminal incidents have been reported in schools over the last five years (Ramulifho, 2023). According to Ramulifho (2023), these incidents include 26 gang-related incidents, 45 learner-on-learner violent incidents: one teacher-on-teacher violent incident, six learner-on-teacher and four teacher-on-learner incidents and whereby members of the community murdered eight learners and four teachers, which indicates that schools are unsafe.

The negative impact of poverty and violence in communities presents behavioural problems, malnourishment, and criminal activities amongst learners in and outside schools, leading them to stop attending school and ultimately to leave school (Reyneke, 2015:58). Violence in schools and in the community has a traumatic effect on learners; therefore, an alternative and collaborative approach is needed to reduce school violence and the trauma that learners suffer. Therefore, this study explores such an alternative and collaborative approach by considering how restorative disciplinary approaches may contribute to the constitutional imperatives espoused in the *Bill of Rights* by addressing school violence and learner ill-discipline constructively and affirmatively.

The *Constitution* is the supreme law of South Africa (RSA, 1996) and obliges schools to realise the rights of every citizen enshrined in the *Bill of Rights* (RSA, 1996, Chapter 2). Subsequently, all laws and legislation should be aligned with the imperatives of the *Constitution*. Corporal punishment infringes on several rights of children and is banned in the *South African Schools Act* (1996) (SASA, DoE, 1996, Calvino, 2021). In brief, corporal punishment of children is a violation of human rights. The use of corporal punishment on children constitutes a violation of their human rights, contravening various international agreements that expressly prohibit cruel, inhumane, and degrading treatment. These include, *inter alia*, the *Universal Declaration of Human Rights* (1948), the *United Nations Convention on the Rights of the Child* (1989), and the *African Charter on the Rights and Welfare of the Child* (1999). Regardless of the location or the identity of the perpetrator, engaging in corporal punishment infringes upon children's fundamental rights to protection from all forms of violence and undermines their human dignity. Moreover, corporal punishment infringes on children's right to education.

Despite the passage of decades since the *United Nations Convention on the Rights of the Child* (UNCRC, 1989) acknowledged that children, like all individuals, possess inherent human rights, children continue to experience physical assault under the guise of "discipline" within homes, schools, and various other environments. Adults entrusted with

the responsibility of educating children still seek to rationalise the imposition of pain on the developing bodies and minds of those under their care. The evident contradictions lie in the fact that resorting to physical punishment teaches children violence instead of promoting peace, disrespect instead of fostering respect, and conflict instead of encouraging resolution (Baker, MacKenzie and McCormick, 2021; Sibisi, Sibisi and Mpofu, 2024). Even within educational institutions, which are supposed to be places of care and protection for children, illegal instances of corporal punishment persist. Despite governmental efforts and strides in establishing a legislative framework, acts of corporal punishment in schools continue.

After the abolishment of corporal punishment, schools and teachers struggled to find alternative ways to effectively deal with learner misbehaviour (Teise, 2015; Reyneke and Reyneke, 2020) and were not appropriately empowered with alternative approaches to infuse and maintain discipline. Arguably, the *Constitution* does not support the use of punitive disciplinary measures because such measures will almost certainly violate learners' rights to dignity and their right not to be treated or punished in a cruel, inhuman, or degrading manner. This is true even though there is no specific reference in the *Constitution* to school discipline (RSA, 1996). Since the new democratic dispensation post-1994, the national government, through the Department of Basic Education (DBE), has launched several initiatives and policies to provide alternatives to the use of, for example, corporal punishment (SASA, 1996; DBE, 2017). The most recent document from the DBE in this regard, namely the *Protocol to Deal with Incidences of Corporal Punishments in Schools* (DBE, 2017:8), essentially highlights the abolishment of corporal punishment in schools by providing clear guidance on how to deal with issues of corporal punishment.

Considering all the above-mentioned factors, it appears that despite South African education policies and legislation aiming to uphold a safe and disciplined school environment, these efforts have been ineffective (Teise, 2015). This supports the concern of the negative and harmful impact of violence and the lack of discipline on the climate and culture of schools (Payne and Welch, 2022; Reyneke and Reyneke, 2020; Obadire and Sinthumule, 2021; de Wet, 2024).

1.2 STATEMENT OF THE PROBLEM

The background and preliminary literature review highlight concerns about the occurrence of violence and ill-discipline within the school context, which challenges efforts to promote a safe and conducive environment for learners (Baruth and Mokoena, 2016; Davids, 2017; Richter, Matthews, Kagura and Nonterah 2018; Reyneke and Reyneke, 2020). For instance, in many communities, children are exposed to and experience some form of violence (Richter et al. 2018). Given the high prevalence of violence in South Africa (Baruth and Mokoena, 2016:95), learners are directly or indirectly exposed to violence across the most important spheres of their lives, namely, home, school, and within their communities experiencing politically driven violence. In support, Sui, Massar, Kessels, Reddy, Ruiters and Saunders-Phillips (2020:4098) found that all forms of violence in childhood significantly impact various educational outcomes. The prevalence of violence, including gang violence and abusive family relationships, negatively affects learners' behaviour and is often linked to trauma experienced from exposure to a violent society (Richter et al. 2018). Consequently, children who experience trauma because of being exposed to violence, do not have the advantage of a place to connect with others. Schools are supposed to be that safe place; however, the absence of a support system and the current punitive discipline system prevent learners from forming connections with teachers and fellow learners (Reyneke and Reyneke, 2020). Therefore, if learners get the opportunity to learn positive responses to conflict, such as restorative practices, the negative impact can be addressed.

In brief the problem statement can be summarised as follows:

South African schools face a critical challenge as the prevalence of violence—including gang activity, abusive family relationships, and community conflict—creates trauma that manifests in disruptive learner behaviour, perpetuating cycles of harm that traditional punitive disciplinary approaches fail to address. These highlighting the urgent need for a constitutionally aligned restorative protocol that can transform school cultures while addressing the underlying trauma experienced by learners exposed to systemic violence. As such, I believe, restorative discipline practices could positively contribute to maintaining learner discipline.

1.2.1 RATIONALE

The positive relationship between school culture and learner disciplinary problems stirred my interest considering restorative discipline after I completed my master's degree in education and *thereafter co-publishing a chapter* on the role of parents in schools (Jacobs, Le Roux and Davids, 2020). My research for this chapter, as well as my personal research journey revealed that research on restorative justice in South Africa is limited, particularly in relation to restorative discipline. This is especially true regarding how restorative justice might enable a school to shift from current punitive discipline practices toward a restorative discipline approach that promotes a culture of basic human rights and nonviolence.

Consequently, I am interested in exploring, conceptualising, and developing a feasible solution to effectively involve all role-players in a school community to foster a shift from a punitive disciplinary system to a restorative one, ultimately promoting human rights. In this study, I aim to conceptualise and develop an implementation protocol to promote the use of restorative discipline in schools, aligned with the constitutional imperatives. Based on the emerging findings, I propose an implementation protocol for restorative discipline in schools.

The introduction of restorative disciplinary practices in other countries, like Australia (Reyneke and Reyneke, 2020:58), has proven effective in not only improving learners' behaviour but also effectively transforming the school climate (Reyneke and Reyneke, 2020:84). It is noteworthy to indicate that there are schools in South Africa that have implemented restorative discipline approaches, though implementation varies in scope and consistency across the country. For example, several schools in the Western Cape province have adopted restorative practices as part of broader efforts to reduce school violence and improve school climate (Buys, 2018; Masinga 2021). Initiatives in KwaZulu-Natal where restorative circles and conferencing have been introduced (Govender, 2020; Mlambo and Kiyala 2024). Some schools also participating in the "Safer Schools" programmes that incorporate elements of restorative justice (Bush and Glover, 2016; Du Plessis and Mestry, 2019) and faith-based schools have integrated restorative practices aligned with reconciliation principles (Burks, 2017; Baker, Mackenzie and McCormick 2021).

As this study is conducted under Policy Studies in Education, a sub-discipline of Education, I believe it has the potential to inform not only education policies but also

contribute to other fields within education and add value to nation-building. As such, against this backdrop, I decided to analyse the *Constitution of the Republic of South Africa* (RSA, 1996), the *South African School Act* (DoE, 1996) and international human rights treaties together with *Alternatives To Corporal Punishment: The Learning Experiences* (ATCP, DoE, 2000) and *Protocol to Deal with Incidences of Corporal Punishment in Schools* (DBE, 2017) (hereafter *Protocol*), for the implementation of restorative discipline, guided by transformative constitutionalism to promote nonviolent schools (cf. 1.1).

In this chapter, the research process is discussed in detail, as this is a literature study and not in a separate chapter. Furthermore, this study explores restorative discipline as an alternative approach to the current punitive system, and it might hold the key to promoting transformative constitutional imperatives and restoring the negative impact of harmful learner behaviour. According to Reyneke (2011) and Buys (2018), restorative discipline is a value-driven approach that respects the human rights of every stakeholder and protects, promotes, and fulfils everyone's human rights (Reyneke, 2011; Buys, 2018).

Subsequently, I aim to initiate a process to implement a workable restorative discipline protocol that can add value to nation-building and influence current policies and theories and the implementation would likely occur after several preparatory stages. However, there is first a need to conceptualise and develop protocols to successfully implement restorative discipline within the South African context, given the occurrence and prevalence of violence in communities and how such violence manifests in schools. Thus, this study aims to explore the development of a constitutionally compliant protocol for implementing restorative discipline to promote constitutional rights and nonviolent schools in South Africa. Ultimately, this study set out to provide suggestions for introducing restorative discipline in schools, guided by transformative constitutionalism, to promote nonviolent schools in South Africa.

1.3 RESEARCH QUESTION AND SUB-QUESTIONS

Based on the above, this study was guided by the question: How does the implementation of a restorative discipline approach, guided by transformative constitutionalism, promote nonviolence in schools?

To answer this question, the following sub-questions were asked:

- 1.3.1** What is the general state of learner discipline in South African schools?
- 1.3.2 What is transformative constitutionalism, and which human rights are most impacted by disciplinary measures and violence?
- 1.3.3 What is restorative justice, and how does it relate to learner discipline?
- 1.3.4 What is the potential of South African policies to implement restorative discipline, guided by transformative constitutionalism, to promote nonviolent schools?
- 1.3.5 What protocol should be followed when implementing restorative practices guided by transformative constitutionalism in building nonviolent schools?
- 1.3.6 What suggestions can be made for implementing restorative discipline, guided by transformative constitutionalism, to promote nonviolent schools in South Africa?

1.4 RESEARCH AIM AND OBJECTIVES

The overall aim of this study is to explore the implementation of a restorative approach to learner discipline, guided by transformative constitutionalism, to promote nonviolent schools. To answer the main research question, the following objectives are set to:

- 1.4.1 Explore the general state of learner discipline in South African schools.
- 1.4.2 Conceptualise transformative constitutionalism and identify which human rights promote restorative discipline concerning nonviolent education initiatives.
- 1.4.3 Conceptualise restorative justice as an approach to learner discipline.
- 1.4.4 Examine the potential of South African policies to implement restorative discipline, guided by transformative constitutionalism, to promote nonviolent schools.
- 1.4.5 Provide a protocol for implementing restorative practices, guided by transformative constitutionalism, in building nonviolent schools?
- 1.4.6 Offer suggestions for implementing restorative discipline, guided by transformative constitutionalism, to promote nonviolent schools in South Africa.

1.5 CONCEPTUAL FRAMEWORK

Glanz (2017:10) asserts that "interrelated concepts, definitions, and propositions, explain or predict events or situations by specifying variables' relationships." These ideas, concepts, and themes form a rich and extensive body of knowledge on the

In research, the conceptual framework plays an important role in the analysis and interpretation of data. A theoretical framework is a conceptual structure or model that serves as the foundation for understanding, analysing, and interpreting a particular phenomenon or problem within a specific field of study (Varpio, Paradis, Uijtehaage and Young 2020:989; Dehalwar and Sharma 2023:1). It provides researchers and scholars with a systematic and organised way to approach their research questions or hypotheses (Collins and Stockton 2018:2). Thus, the purpose of a theoretical framework is to guide research, shape the research design, and help researchers make sense of their findings. Therefore, the theoretical framework is a valuable tool for the coherence and depth of my study. My conceptual framework is based on two concepts: transformative constitutionalism and restorative justice. Following the review of literature on the existing knowledge and previously formed ideas about transformative constitutionalism and restorative justice in relation to learner discipline, my epistemological dispositions serve as a lens for methodically analysing my data (Collins and Stockton, 2018).

A conceptual framework is a crucial tool in research that outlines the key concepts, variables, relationships, and assumptions guiding an academic inquiry. It serves as a roadmap to conceptualise and structure research by providing a framework for understanding the research problem (Dehalwar and Sharma 2023; Creswell and Creswell 2017).

Key components of a conceptual framework include research questions that guide the entire study and help in formulating hypotheses and theories (Creswell, 2014; Ravitch and Riggan, 2016); study variables (independent, dependent, and intervening) that are crucial for understanding the research problem (Kumar, 2011; Sekaran and Bougie, 2016); relationships among variables that outline presumed cause-and-effect relationships or correlations (Kumar, 2011; Ravitch and Riggan, 2016); theoretical underpinnings grounded in existing theories, models, or bodies of knowledge (Maxwell, 2013; Jabareen, 2009); and assumptions which are the foundational beliefs or hypotheses underlying the framework (Kivunja, 2018; <https://researcher.life/blog/article/what-is-a-conceptual-framework-and-how-to-make-it-with-examples/>).

Aspects of a conceptual framework encompass guiding theories and assumptions that shape the researcher's perspective (Grant and Osanloo, 2014; Ravitch and Riggan, 2016); methodological approach including the overall strategy for data collection and analysis (Creswell and Poth, 2018); contextualisation that situates the study within broader social, political, and cultural environments (Creswell & Poth, 2018); positionality of the researcher which acknowledges how their social identity influences the research process (Creswell and Poth, 2018); and visual or written representation through diagrams or narrative form to illustrate relationships between variables (Maxwell, 2013; Rocco & Plakhotnik, 2009). Moreover, developing a conceptual framework involves selecting a relevant topic, determining specific research questions, conducting literature research, defining variables, detailing relationships between variables, and designing the framework using visual aids like figures and tables to depict these relationships (Kumar, 2011; Rocco and Plakhotnik, 2009).

Based on the abovementioned, my conceptual framework on transformative constitutionalism and restorative justice is the essential tool in this research process. It helps me conceptualise my study, construct the research methodologies, and interpret my findings which will be aligned with the rest of the chapters of this study. Moreover, it provides structure and coherence to my research endeavours, facilitating a deeper

understanding of complex phenomena and contributing to the advancement of knowledge within a specific field.

1.6 RESEARCH METHODOLOGY AND DESIGN

This section encapsulates the primary aspects of the research methodology and the general development of the study. Ryan et al. (2007:742) define research methodology as the specific approach and processes of a research study. Aligned with the transformative research paradigm, I employ a scoping literature study methodology, which ultimately enables me to address my research questions and potentially uncover elusive trends (Hammersley, 2020:24) that can inform future strategies for implementing restorative discipline in schools.

A research design serves as the blueprint for conducting a study and is defined as "a flexible set of guidelines that link theoretical paradigms to both inquiry strategies and methods for gathering empirical material" (Denzin and Lincoln, 2018:78). Furthermore, a research design encompasses the methodology and methods to be utilised in the study.

In this study, I use a qualitative research approach which constitutes literature reviews as the blueprint for the collection, measurement, and interpretation of information and data. Specifically, this qualitative research design takes the form of a literature study. Qualitative research is exploratory, as it aims to explain how and why certain phenomena occur in a specific context. It therefore contributes to an understanding of the world in which we live, as well as the reasons why things are as they are (Polkinghorne, 2015a; Creswell and Creswell, 2017). This approach allows for the exploration of the potential of restorative discipline, guided by transformative constitutionalism, to promote nonviolent schools while also contributing to an in-depth understanding of this specific research topic.

In line with the explicit aim of this research (cf. 1.4), a brief overview of the research methodology and methods is provided, all considered as an integrated framework aimed at addressing the research question cohesively and logically. However, before beginning, it is worth noting the difference between methodology and methods. According to Cohen, Manion, and Morrison (2017), research methodology concerns the approach the researcher adopts to undertake a particular type of study. Various options are available, including quantitative, qualitative, and mixed methods approaches. While quantitative

research entails the gathering of objective data that is analysed numerically (Taherdoost, 2022:54), qualitative research relies on the interaction between the researcher and research participants to obtain data in natural settings (McMillan, 2023:16). Creswell (2021:32) refers to mixed methods research as an “inquiry involving collecting both quantitative and qualitative data, integrating the two forms of data, and using distinct designs that may involve philosophical assumptions and theoretical frameworks.” The choice of a particular research methodology subsequently assists a researcher in making decisions about how a study will be undertaken. Research methods, however, are specific techniques or tools used by the researcher to collect and analyse data (Cohen et al. 2017). While a research methodology is a systematic approach geared toward achieving a particular research aim, research methods assist with the collection, generation, and analysis of information to enable the answering of the research question. The choice of research methods is always influenced by the chosen methodology. As noted by Ponelis (2015:535), methodology serves as “the theoretical foundation for the selection of research methods”. While a mixed methods approach would inform research methods that collect both qualitative and quantitative data (Taherdoost, 2020:54), a qualitative approach would call for methods that do not require any statistics but enable the interpretation of data generated as subjective experiences in natural settings (McMillan, 2016:304).

Research methodology refers to the specific procedures or techniques used to identify, select, process, and analyse information about a topic (Ryan et al. 2007:742). In support, Nieuwenhuis (2007:99) regards research methodology as the body of knowledge that the researcher applies in research methods-that is, the specific approaches and processes of the research study. In agreement, Crotty (1998:3) not only clarifies research methodology as the strategy, plan of action, process, or design underlying the choice and use of methods but also clearly links the choice and use to desired outcomes. Additionally, methodology refers to how the researcher may practically proceed with what they believe can be known (Terre Blanche and Durrheim, 2006:6-7).

1.6.1 Research Paradigm

A research paradigm can be described as “a collection of assumptions or concepts regarding fundamental aspects of reality that shape a particular perspective” (Ponelis, 2015:537). Mertens (2010:7) shares a similar viewpoint, asserting that a paradigm represents a perspective on how the world is understood. It encompasses various

philosophical assumptions that establish a foundation for both thought and action. Beyond merely framing a study, a research paradigm also aligns with the fundamental values or philosophical beliefs guiding the research endeavour.

1.6.1.1 Transformative Paradigm

Aligned with a qualitative approach, my study drew upon the transformative paradigm, also known as the critical paradigm, which surfaced from the works of critical theorists such as Karl Marx and Max Horkheimer (Morley, Ablet, Noble and Cowden, 2020). According to Omodan (2022:12) transformative paradigm is based on the premise that the “research should be about understanding the world and changing it”. Additionally, Mertens (2017:18) maintains that the transformative paradigm focuses on both “personal and societal impacts”. Transformative researchers, by implication, have the potential to contribute to both personal and societal transformation (Mertens and Catsambas 2021). Mertens (2017) argues that these two dimensions are intertwined, with personal transformation being a necessary component of research aimed at supporting societal change, particularly in advancing human rights and social justice. As such, a transformative framework scrutinises assumptions related to ethics, the nature of reality, epistemology, and methodology, guiding researchers addressing transformation on both personal and societal levels (Mertens, 2017; Morley et al. 2020; 2017; Omodan 2022). In other words, ethically, researchers are urged to examine their identities and their relationships with the communities in which they work. This process extends beyond self-examination to a critical analysis of cultural biases that may hinder their ability to contribute positively. Mertens (2017:20) also suggests that designing research to explicitly address issues of discrimination and oppression increases the likelihood of personal and social transformation.

Mertens and Catsambas (2021:165) underscore the importance of “ethical practice” in evaluation from a transformative perspective. They advocate moving beyond merely avoiding harm to actively addressing negative aspects and promoting positive outcomes in evaluations. The authors urge evaluators to consider the ethical implications of their work and to strive to effect beneficial changes through their evaluations. Moreover, the transformative paradigm, as articulated by Mertens (2010:473), encompasses research that prioritises the promotion of social justice and human rights, acknowledging the significant impact of individuals' cultural and social contexts on their perspectives and

experiences. This paradigm recognises the diversity of realities and interpretations shaped by cultural, social, and historical factors. However, Omodan (2024:12) highlights the emergence of the transformative research paradigm as a response to perceived limitations in traditional research methodologies. Omodan (2024) suggests that the transformative research paradigm has the potential to catalyse substantive change in how social problems are understood and addressed, advocating for a shift away from positivist notions of objectivity toward the creation of empowering knowledge.

Furthermore, Mertens (2017:18) contends that transformative research inherently aims to affect both personal and societal transformations, recognising the interconnectedness of personal and social change. Personal transformation is seen as crucial in research endeavours aimed at fostering societal-level change, particularly concerning human rights and social justice. Moreover, Mertens (2017:20) elaborates on the concept of a transformative framework, which involves an examination of ethical assumptions alongside considerations of the nature of reality, epistemology, and methodology. Central to this framework is the call for researchers to engage in rigorous self-reflection and critical analysis of their cultural biases to mitigate potential blind spots that may impede their ability to contribute meaningfully to positive societal impacts.

Moreover, Omodan's (2022) insights underscore the challenges inherent in embracing the transformative research paradigm, particularly regarding the design, implementation, and evaluation of research initiatives. The author emphasises the critical importance of methodological alignment within transformative research endeavours, advocating for methodologies that explicitly recognise power dynamics and social change imperatives, while also prioritising research that resonates with the lived experiences of those being studied. Thus, the transformative paradigm, as delineated by Mertens and Omodan, represents a departure from traditional research approaches, offering a holistic framework for generating knowledge that is intellectually rigorous, ethically grounded, and socially relevant.

In this study, which aims to explore the implementation of a restorative approach to learner discipline, guided by transformative constitutionalism, to promote nonviolent schools, the transformative paradigm aligns seamlessly with the overarching goal of promoting transformative constitutionalism and nonviolence within educational settings. Rooted in principles of social justice and human rights, the transformative paradigm complements

the study's objective by advocating for both personal and societal transformations. By adopting a restorative approach to learner discipline, the study aligns with Mertens' (2017:18) assertion that transformative research is essential for fostering societal change. The focus on restorative practices in schools not only addresses individual behaviour but also contributes to broader societal change by fostering an environment grounded in principles of human dignity, equality, and social justice.

Furthermore, Mertens' (2017:20) concept of a transformative framework becomes particularly relevant, emphasising the need for researchers to critically examine ethical assumptions, the nature of reality, and methodology. In the context of implementing a restorative approach, this involves careful consideration of the ethical dimensions involved in disciplining learners, understanding the realities of school environments, and adopting methodologies aligned with restorative principles. Additionally, Omodan's (2024:12) emphasis on methodological alignment within transformative research is pertinent to this study's exploration of the restorative approach, highlighting the importance of methodologies that recognise power dynamics and social change imperatives. This ensures that the implementation of restorative practices in schools is not only effective but also aligned with the broader goals of transformative constitutionalism and nonviolence.

In the view of the abovementioned, the transformative paradigm provides a vigorous theoretical context closely aligned with the study's aim of exploring the implementation of a restorative approach to learner discipline, focusing on social justice, human rights, and transformative change to foster a school environment that promotes constitutional values and nonviolence.

1.6.2 Research Approach

This study employs a qualitative approach aimed at understanding and exploring complex phenomena by examining the subjective experiences, perspectives, and behaviours of individuals or groups (Busetto, Wick and Gumbinger, 2024). This approach primarily focuses on gathering non-numerical data, such as words, images, and observations, to gain insights into the underlying meanings, motivations, and context of a particular phenomenon.

In pursuit of the aim of this study, namely, to explore the implementation of a restorative approach to learner discipline guided by transformative constitutionalism and nonviolence in schools. I am aware of other methodological options such as mix methods (Mertens, 2017; Creswell and Creswell, 2023), but I regarded the qualitative research design as the most appropriate because it connects my research questions to understand the nuanced aspects of restorative practices in the context of transformative constitutionalism.

From the outset, I operated under the assumption that a qualitative approach can contribute to a better understanding of how restorative discipline can be implemented in schools to promote success in transformative constitutionalism and nonviolence in schools. In line with a qualitative approach and to fulfil my research objectives and aim, I utilise literature study, document analysis, and policy analysis. In this study, data were collected from existing literature concerning learner discipline, transformative constitutionalism, and restorative justice within the realms of education and law.

1.6.3 Research Design

Research design is the comprehensive framework or blueprint that guides a study from formulation of research questions through data collection, analysis, and interpretation. It is essentially the plan for conducting research that ensures valid, reliable, and meaningful results (Muzari, Shava and Shonhiwa, 2022). In qualitative research, the design is either grounded theory, mixed method, phenomenology, explorative, case studies, etc. (Taherdoost, 2022).

I opted for a qualitative research design using a scoping literature review approach. This methodological choice was particularly appropriate for my study on restorative discipline in schools because it allowed me to systematically map the existing knowledge landscape, identify conceptual boundaries, and reveal critical gaps in the literature regarding how restorative practices connect to transformative constitutionalism and nonviolence principles in educational settings.

Unlike traditional literature reviews, the scoping review methodology enabled me to examine the breadth and depth of available evidence across diverse disciplines including education, law, and conflict resolution. This comprehensive approach was essential given the interdisciplinary nature of restorative discipline implementation and its constitutional implications. According to Kothari (2010), a good research design is flexible, efficient, and

appropriate, with its quality being dependent on the research methodology. The exploratory nature of my qualitative research design stems from its desire to explain the “how” and “why” of events within a given setting. Consequently, it advances knowledge of the world in which we live and reveals the causes behind certain situations (Polkinghorne, 2015:154). This deepens our understanding of the research issue and enables an exploration of the potential for transformative constitutionalism -guided restorative discipline to support nonviolent schools.

I considered the following research methods as not only in alignment with a qualitative research design but also as the most appropriate to address my research objectives to achieve my research aim. Before introducing these methods, a summary in **Table 1** illustrates how the chosen research methods correspond with my research objectives.

Research methods	Research objectives
Literature review	By drawing on literature, I was able to conceptualise the extent of learner discipline in South African schools.
Literature Review/Document Analysis	In alignment with the aim of my study, I explored the concept of transformative constitutionalism and identified which human rights promote restorative discipline in relation to nonviolent education initiatives (cf. 1.3 3). In my pursuit of this objective, I analysed selected education-related documents and specific policies (cf. 5). To construct a theoretical framework for my study, I consulted various scholars' work on transformative constitutionalism and restorative justice.
Document Analysis and Policy Analysis	The difference between policy analysis and document analysis lies in their focus and methodology. Policy analysis examines the content, context, and implications of formal policies, while document analysis investigates a broader range of textual materials to understand organisational practices and meanings, such as the International Human Rights Treaties. I opted for both approaches to achieve methodological triangulation and develop a more comprehensive understanding of my research area. In alignment with the aim of the study, I explored the potential of relevant Documents and South African education policies to promote nonviolent school. For this objective, I analysed selected education-related documents and specific policies (cf. 5).
Final Synthesis	All the data generated through the various research methods were synthesised and interpreted to develop a protocol for the implementation of the restorative discipline approach to promote transformative constitutionalism and nonviolence in schools.

Development of Protocol	Findings from Chapter 5, derived from selected education-related documents and specific policies (cf. 5), informed the development of my protocol.
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Table 1. Research Methods and Research Objectives (Davids, 2024).

1.6.3.1 Literature Review

Arshed and Danson (2015) describe a literature review as a “comprehensive study and interpretation of literature that addresses a specific topic.” In this study, the scoping literature review provides an explicit and reproducible means of identifying, evaluating, and synthesising (Fink, 2019:3) published work on learner discipline, transformative constitutionalism, and restorative justice in relation to learner discipline both internationally and nationally. As asserted by Makonye (2022:60), a literature study is oriented towards secondary research, thus obviating the need for fieldwork. In earlier times, a literature study or desktop study was commonly referred to as literature research or literature review, which involved the compilation of existing data (Ruffell and Barry, 2021).

The literature in this study was located through searches using Google Scholar and ResearchGate, as well as data from a variety of online (Internet) peer-reviewed journals articles, and other relevant sources from electronic databases such as the EBSCOhost, Hein Online, Jstor, Sabinet, and Sage Online. The researcher examined studies published from 2014 to 2024 that relate to learner discipline. These searches were refined using the following keywords such as “transformative constitutionalism,” “restorative justice,” “social justices,” and “restorative practices.” The 2014-2024 timeframe represents a critical decade of progression in restorative discipline approaches within educational settings, coinciding with significant developments in transformative constitutionalism's application to school governance. By focusing on this recent decade, the study examines contemporary developments in how constitutional principles can be operationalised within school disciplinary protocols, ensuring the research addresses current legal, social, and educational contexts rather than historical learner discipline approaches that may no longer align with evolving understandings of children's rights, trauma-informed practice, and social justice within educational settings

The literature review served multiple functions: it enabled me to understand and to demonstrate the current state of research, identify key arguments and disagreements

related to my topic, and highlight gaps in the literature to justify my own research topic. Additionally, it helped me to build a conceptual framework for policy analysis and informed my methodological choices, such as a scoping literature review and document analysis.

1.6.3.2 Document Analysis

A document analysis is a form of qualitative research in which documents are interpreted to give voice and meaning to a selected topic, uncover meaning, develop understanding, and provide relevance to the research problem (Merriam, 2009:214). In this study, a document analysis was undertaken of *the Constitution of South Africa* (RSA, 1996), *South African School Act*, (DoE, 1996), and on the International Framework for Human rights to identify what transformative constitutionalism entails, and which human rights mostly promote restorative discipline concerning nonviolence education initiatives.

Furthermore, the review of scientific research papers helped me identify gaps as articulated in this study's problem statement to gain knowledge of the current debates and perspectives on the state of learner discipline and actions taken in South African schools concerning restorative justice and transformative constitutionalism. Consequently, the document analysis and a literature review together enabled me to develop a protocol to implement restorative discipline in schools.

1.6.3.3 Policy Analysis

Policy can be perceived as both a written text and a set of practices (Samuel, 2017). In support, Patton, Sawicki and Clark (2015:18) regard policy analysis as "a set of systematic procedures that can be used to challenge contemporary policy problems". Moreover, Dunn (2015:2) claims that "policy analysis is a process of multidisciplinary inquiry aiming at the creation, critical assessment, and communication of policy-relevant information". Based on the above definitions, for the purpose of this study, I base my understanding on Samuel's (2017) approach to policy reading the *Protocol to Deal with Incidents of Corporal Punishment in Schools, 2017*, (hereafter *Protocol, 2017*). To accomplish this, I conducted a policy analysis to explore whether this policy aligns with the South African education policy framework and whether this policy incorporates principles of restorative justice. The policy analysis employs the ten steps of Samuel's (2017) approach to policy content analysis. In addition, Weimer, and Vining (2017:30) highlight the importance of client-

based viewpoints in policy analysis that are relevant to public decisions and informed by social values.

Based on the above, I implemented this method by breaking up the reading *Protocol, 2017* into parts, understanding them, and developing ideas for improvement. The assessment of *Protocol, 2017*, aims to explore whether the policy was informed by the principles of restorative justice and to identify the gaps that need to be transformed. Furthermore, one advantage of policy analysis is that it provides a heuristic aid for improved policy making without any presumptions and enables the researcher to scrutinise the content within a document (Patton et al. 2015:6; Loseke, 2017:100). In this study, I was particularly interested in analysing the policy content. In alignment with my research aim, I analysed selected South African education policies to determine the protocol required to implement restorative practices guided by transformative constitutionalism in building nonviolent schools.

Samuel (2017) indicates that the content analysis of policy can focus on the written product as well as aspects that are absent from the text. Thus, content analysis may involve more than a mere summary and interpretation of key terms, policy intent, and proposals for implementation. A more comprehensive content analysis also considers the silences in a policy, referring to elements not mentioned in the text. For Taylor et al. (1997), content analysis addresses the “how” and “what” questions about a policy. As such, content analysis can include foregrounding the aims and objectives of the policy, the underlying assumptions, the values embedded in the document, the language used in the text, and the extent to which equity issues are promoted.

I undertook a content analysis of South African education policies, *inter alia*, *South African Schools Act, 1996* and the *Protocol to Deal with Incidence of Corporal Punishment in Schools, 2017*. My analysis specifically referenced policy aims, objectives and underlying values to determine the potential of these policies to promote nonviolent schools. Content analysis was specifically useful for exploring the extent to which values were drawn from the *South African Constitution* and the notion of transformative constitutionalism and restorative justice. Since policies can be regarded as tools for change (cf. Patton and Sawicki, 1993; Taylor et al. 1997), I deemed it imperative to analyse the use of language in the policy texts and attend to the silences within them. As noted by Taylor et al. (1997), what is omitted by policy writers is just as important as what is included in the policy text.

Regarding document and policy analysis, I used qualitative data analysis. Neuman (2014:477) defines data analysis as the “systematic organisation, integration, and examination of data with the purpose of deriving ‘patterns’ and ‘relationships’ from the information we have gathered.” On one hand, document analysis provided a broad base of information, which informed the policy analysis.

I categorised the education-related documents into manageable and workable themes. Thematic data analysis” method was followed. Thematic data analysis is a recognised data analysis method with clear and distinguishable steps that should be followed. For policy analysis, I used coding to assign labels and organise data into different themes (cf. Creswell, 2014; McMillan and Schumacher, 2014). This coding system helped me to closely examine and compare units of information from South African education policies to generate meaning. Guided by an inductive approach, I used qualitative analysis to explore the potential of South African education policies for restorative discipline guided by transformative constitutionalism to promote nonviolent schools.

1.6.3.4 Development of a Protocol

Protocols are developed to standardise procedures, provide clear expectations, and ensure compliance, thereby maintaining quality and reliability by performing tasks uniformly (Hollmann, Regierer, D’Elia, Kisslinger and Liguori, 2022). Obadimu, Karanikas and Kourousis (2020:7) maintain that standardisation not only streamlines operations but also facilitates benchmarking and comparison, which are crucial for quality assurance and improvement initiatives.

In education, protocols establish clear expectations, procedures, and responsibilities for stakeholders to maintain discipline. It is important that the protocol aligns with relevant education laws and policies and advocates for clear legal mandates to translate school-based restorative justice into actionable policy (Reyneke and Pretorius, 2017; Nussbaum 2018:635; Mofokeng, 2020:415). Additionally, protocols facilitate efficient communication and coordination among team members and ensure adherence to legal and ethical standards. By providing structured frameworks for training and documentation (Rivera Jr, 2021:7), protocols can support continuous improvement and promote nonviolent school environments guided by transformative constitutionalism.

In the context of this study, a protocol for the implementation of restorative discipline guided by transformative constitutionalism to promote nonviolent schools would provide clear expectations, procedures, and responsibilities for stakeholders, promoting accountability, respect for human rights, and a positive school climate.

1.6.3.5 Final Synthesis

For this study, the interpretive synthesis approach seemed to be the most appropriate, as it acknowledges my role as the researcher as an active interpretive agent and is mainly inductive and iterative (Weed, 2008:23). All the data generated through the various research methods were drawn together and interpreted to develop a protocol for the implementation of the restorative discipline approach guided by transformative constitutionalism and to promote nonviolence in schools.

1.7 TRUSTWORTHINESS OF THE STUDY

This section focuses on the steps I took to ensure the integrity of this study. According to De Vault (2019), trustworthiness is an important concept in qualitative research, as it defines essential traits (components) such as credibility, transferability, dependability, and confirmability (cf. 1.6). Achieving a study's trustworthiness requires transparency regarding the researcher's beliefs, values, assumptions, and biases and how these may impact the research process (Lincoln and Guba, 2016). This includes acknowledging prior assumptions and the experiences that the researcher brings to the study.

Awareness and transparency regarding the researcher's position and process can enhance trustworthiness and authenticity (Alexander, 2019). I acknowledge that my own experiences and assumptions have influenced my interpretation of the data, which may differ from other readers' interpretations. However, efforts were taken to establish clear processes when collecting and analysing data to minimise any biases. Throughout the research process, I regularly collaborated with my supervisors, fellow learners, and peers in the field of education, which allowed for discussion and reflection on the topic. I also kept a research diary for personal reflections and recorded any discussions with colleagues that offered alternative perspectives.

Below is a brief discussion of the criteria considered to enhance the integrity of this qualitative study (cf. Merriam, 2009:213-234). Research indicates that quality criteria for qualitative research include credibility, transferability, dependability, and conformability

(Denzin and Lincoln, 2018), with reflexivity being essential for ensuring transparency and quality (Creswell, 2023:55). Record-keeping, detailed documentation, and member-checking contributed to the credibility of the analysis (Denzin and Lincoln, 2018). Transferability was supported through data saturation, 'thick descriptions' of the research process (Korstjens and Moser, 2018:122), and transparency regarding my position as the researcher, allowing readers to assess whether findings about restorative disciplinary measures are applicable to their own contexts (Merriam, 2009:226). To ensure transferability, I reviewed over 150 research articles on learner discipline, transformative constitutionalism and restorative justice that informed my scoping literature study. In Chapter 5 when I analysed the *Constitution of the Republic of South Africa* (1996), the *South African Schools Act* (1996), and international frameworks such as the Universal Declaration of Human Rights (UDHR) (1948), the United Nations Convention on the Rights of the Child (UNCRC) (1989), and the *African Charter* on the Rights and Welfare of the Child (1999). No new themes, codes, or insights emerge from additional data and the information becomes repetitive and further data collection yields diminishing returns.

To ensure dependability, I established an audit trail of all the research processes to ensure consistency. According to Merriam (2009:221) an audit trail provides consistency. Recognising the importance of dependability for maintaining credibility and trustworthiness, I carefully defined my research objectives and methods, standardised data collection procedures, and handled data rigorously. Peer review and expert feedback from my peers and colleagues further enhances the dependability of my research. I also employed triangulation, thorough documentation to support dependability. Obtaining ethical clearance for this literature study ensured transparency was prioritised, addressing potential bias (Moser and Korstjens, 2018:10).

For reflexivity, I kept a journal (Korstjens and Moser, 2018:121). Prioritising confirmability ensured the findings were trustworthy and not unduly influenced by my own biases or perspectives. Through self-reflection, I documented my biases, assumptions, and feelings throughout the research process. Additionally, I meticulously maintained an audit trail, recording every step from data collection to analysis, allowing for potential replication of the study.

Triangulation was achieved by using multiple data sources, methods, or researchers to validate and cross-verify findings. For example, I consulted colleagues through member-

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checking and peer debriefing sessions to gain external perspectives and identify potential biases.

I also documented all efforts to ensure confirmability, including reflexive practices, the audit trail, triangulation methods, and peer debriefing. Continuing data collection until data saturation was reached and explicitly acknowledging my positionality and its potential impact on the research.

Ensuring overall confirmability was a significant challenge. In analysing policy documents, I meticulously examined discourse, considering the speakers, their intended audiences, and the underlying messages. I conducted a comprehensive content analysis to highlight gaps or silences within the policies, revealing aspects left unaddressed. This approach, influenced by Mertens (2010), provided a deeper understanding of the policy writers' perspectives on restorative discipline within transformative constitutionalism aimed at fostering nonviolent school schools. By scrutinising the language employed, I discerned policy writers' stance towards these principles and objectives.

Maintaining critical reflexivity was paramount throughout my research process, as emphasised by Davis (2020) and Lees, Walters and Godbold (2018). This required continuous examination of my positionality, including my attributes, experiences, values, beliefs, and biases, and their impact on my knowledge construction. My predominantly Western educational background, which emphasises individualism, was recognised as a potential influence on the study. Being mindful of my critical subjectivity allowed me to navigate my research effectively. Additionally, I acknowledged the inherent incompleteness of the texts I analysed, understanding that they reflect the authors' particular viewpoints. As Mertens (2010:261) suggests, texts are contextual and do not encompass universal truths. Thus, I contextualised my study within South African education policies, recognising they were developed in response to the nation's historical context.

Though my study did not involve direct interaction with participants who could benefit from its outcomes, it remained crucial to disseminate the research findings to policymakers, as advocated by Mertens (2010). This reciprocity aims to provide policymakers with insights to reconsider and enhance education policies in line with transformative constitutional principles such as human dignity, equity, and social justice. While reciprocity involves sharing research findings, authenticity gauges the degree to which the inquiry motivates

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actionable change, as highlighted by Mertens (2010) and Fletcher, Hibbert, Hammer and Ladouceur (2022).

As transformative research, this study aims to promote action both during and after the research process. Personally, the inquiry process facilitated learning and allowed me to explore new ways of interpreting literature and policy documents. Through cycles of conceptualisation, reconceptualisation and analysis, I gained a deeper understanding of relevant aspects, enhancing ontological authenticity. Although this study explores the potential of South African education policies to promote restorative discipline guided by transformative constitutionalism to build nonviolent schools, achieving social justice and social change relies on policymakers' willingness to take action. This study is based on the premise that protocols for restorative discipline can be aligned with the constitutional aspirations toward restorative justice to promote nonviolent schools.

1.8 ETHICAL CONSIDERATIONS

As a researcher, it is my fundamental ethical responsibility to ensure that my research adheres to ethical requirements. Regarding ethical considerations in research in qualitative research, Merriam (2009:213-234) suggests "credibility or internal validity, consistency or reliability and transferability or external validity" as criteria to enhance the integrity of qualitative research. To enhance the validity, reliability and ethics of this study, I adhered to the ethical principles by avoiding plagiarism, citing all sources used, and following ethical standards for research without direct contact with human or animal subjects. Ethical clearance was obtained (HSD2021/1854/22).

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1.9 DEMARCATION OF THE STUDY

This section explains the scientific demarcation of this study.

1.9.1 Scientific Demarcation

This study was conducted within the field of *Policy Studies in Education*, a sub-discipline of Education. To clarify this, I first explain the concepts of policy, policy analysis, and policy studies in general, before discussing education policy studies specifically.

The term "policy" can be used to describe a "pretty stable, intentional course of action by an actor or a set of actors in dealing with a specific problem or matter of concern"

(Anderson, 2013:6). Hartshorne (1999:5) adds that this deliberate route is an action taken by the government through "legislation, ordinances and regulations pursued through administration and control, financing and inspection," intended to benefit the nation and its citizens. Similarly, Patton and Sawicki (1993:21) describe policy analysis as the "process through which we find and assess various policies or programmes that are designed to diminish or resolve social, economic, or physical problems." Consequently, policies are directive (May and Jochim, 2013:427) and are typically implemented in response to issues affecting the whole population of a country.

Therefore, policies as directives (May and Jochim, 2013:427) are typically implemented in response to problems that affect most citizens of a country. However, Taylor (1997:24) noted that there is no set method for analysing policies. Although experts have different opinions on what policy analysis encompasses, most concur that it is a time-consuming process that also addresses issues of interpretation and implementation (Braun, Maguire and Ball, 2010:549). These authors contend that different actors interpret and understand policies differently, and as a result, the actual implementation of a policy may deviate significantly from its original objective (Braun et al. 2010:549). However, policy studies are important in that they offer methods for critically analysing policies within a broad socioeconomic, economic, and political framework.

Education policy, according to Bridges, Smeyers, and Smith (2009:43), is "a detailed description for action aimed at the preservation or alteration of educational institutions or practices." In support, Sykes and Wilson (2016, 852) confirm that education is no longer solely confined to the events occurring in schools and classrooms but is also governed by "rules and regulations promulgated in state capitals and the federal government, designed to improve learner academic performance and social development as well as management and operation of the schools they attend."

Education Policy Studies, as a field of study, focuses on the *analysis of policy* and/or the *analysis of policy*. The previous refers to the informational base upon which policy is constructed, while latter entails the critical examination of existing policy, which is undertaken in Chapter 1.

Based on the foregoing, this study can be demarcated within Policy Studies in Education, as it involved the analysis of existing policies to *explore the* implementation of a restorative approach to learner discipline that promotes transformative constitutionalism and

nonviolence in schools. As such, this study resonates strongly with education policy studies.

1.10 OUTLINE OF THE STUDY

This section provides a general overview and orientation of the stated aim and objectives of this study, outlining how the research unfolds through consecutive chapters.

The **first chapter** introduces the study's background, the problem statement justifying the research, the key research questions, the research methodology, and the significance of the study.

The **second chapter** explores the current state of learner ill-discipline and conceptualises the issues of learner discipline and the prevalence of school violence in South Africa through a literature review.

Chapter three presents a conceptualisation of what transformative constitutionalism entails and identifies the human rights that promote restorative discipline concerning nonviolent education initiatives.

Chapter four conceptualises restorative discipline.

Chapter five presents the data and findings of the study on how restorative discipline can be implemented in schools based on a document and policy analysis.

Chapter six provides suggestions and a protocol for implementing restorative discipline to promote transformative constitutionalism and nonviolent schools.

Chapter seven synthesises the preceding sections and presents the study's findings to offer recommendations on how South African schools can promote nonviolence through the implementation of restorative discipline, guided by transformative constitutionalism.

1.11 SUMMARY

This chapter presents a brief exposition of this study. Given the concern over violence and ill-discipline in schools and subsequent harmful impacts on the school climate and culture, the research aims to explore a protocol for the implementation of a restorative discipline approach guided by transformative constitutionalism to promote nonviolence in schools.

Considering the important role of schools in ensuring that teaching and learning occur in a safe and conducive environment, the next chapter will be informed by a literature review to determine the extent of learner discipline in South African schools.

CHAPTER 2: LEARNER DISCIPLINE: A LITERATURE REVIEW

2.1 INTRODUCTION

The primary goals of school discipline are to ensure the safety of teaching staff and learners and to create a conducive environment for teaching and learning (Buys, 2018:91). Research demonstrates the value of a safe and positive environment for learners' academic performance and overall development (De Villiers and Joubert, 2020; Marcucci, 2021). The *Constitution of the Republic of South Africa* emphasises the need for education to provide a safe and disciplined environment for quality education (RSA, 1996, Chapter 2, Section 24; DoE, 1996b, Section 8(2)).

However, school discipline is a multifaceted issue, and ill-discipline remains a major problem both globally and locally (Buys, 2018, Botha and Zwane, 2021). Exploring the current general state of learner discipline in South African schools is crucial for improving educational outcomes, addressing social issues, and creating a safe and supportive learning environment (De Villiers and Joubert, 2020; Marcucci, 2021; Amrisal, 2024). However, obtaining accurate data on learner discipline in South African schools is challenging due to underreporting and hesitancy to report incidents (Alvis, 2015; Motseke, 2020).

In general, the concept discipline describes behaviour which could either be good or bad. Learner ill-discipline describes a particular type of behaviour and therefore a type of discipline (reference). The negative impact of learner discipline issues in schools is a growing concern in South Africa, affecting both learners and teachers (Alvis, 2015; Davids, 2017; Reyneke and Reyneke, 2020). Schools should be safe environments for learners and teachers, as mandated by the *South African Constitution* (RSA, 1996). However, violence in schools puts learners and teachers at risk, violating the right to freedom and security of the person (Davids, 2017). The government must provide education in a safe and conducive environment (RSA, 1996).

An abundance of literature has explained the realities of learner ill-discipline. However, this chapter provides a literature review on the manifestation of ill-discipline in schools, the nature and extent of discipline issues, and the effects of ill-discipline and violence on

teaching and learning. It begins with an overview of learner discipline and the distinction between discipline and punishment. It then explores the reality of learner ill-discipline and the prevalence of violence in schools, particularly in the South African context, by providing an overview of the characteristics of a safe school. I subsequently reflect on the current disciplinary approaches in South African schools, setting the foundation for empirical work in Chapter 4.

2.2 LEARNER DISCIPLINE: A BRIEF OVERVIEW

The concept of learner discipline is highly disputable, and there is no single definition that is universally accepted. The definition of learner discipline may vary depending on the context and the perspective of the individuals involved in the discussion. However, in the interest of simplicity, I will not contribute to the dispute but rather provide a general overview of learner discipline to explore the extent of learner ill-discipline in South African schools. I believe that by providing a general overview of learner discipline, including awareness of the prevalence of ill-discipline, I will be able to highlight the influences of learner discipline to ensure that schools are a safe place for teaching and learning.

Literature defines discipline in schools as the set of rules, policies, and procedures that are put in place to promote positive behaviour, prevent misconduct, and maintain a safe and orderly learning environment (Durik, Schwartz, Schmidt and Shumow, 2017; Wall; 2018). Various studies show that good learner discipline is regarded as an important feature of a successful school (Durik et.al. 2017; Segalo and Rambuda, 2018; Motseke, 2020; Obadire and Sinthumule, 2021) and that safe schools are those that have effective policies, practices, and procedures in place to promote good discipline, minimise disruptions, and prevent violent incidents (Hammar, Forsberg and Thornberg, 2024: 1775). In another study conducted by Greenberg, Brown, and Abenavoli (2016:25), it was found that schools with strong, positive school climates and good disciplinary practices were associated with lower rates of learner violence and higher levels of academic achievement. A similar sentiment was expressed by Schipper, de Vries, Goei and van Veen (2020:113), who suggested that creating a positive school climate through good discipline practices and a focus on prevention can lead to safer schools. Furthermore, Bradshaw, Cohen, Espelage and Nation (2021:221) conducted a study that found discipline policies that are consistently applied and communicated to learners, families, and staff can contribute to the creation of safe school environments. Most recently, Bear,

Soltys and Lachman (2022:365) conducted research on school safety and found that positive disciplinary practices, such as clear and consistent consequences for misbehaviour and an emphasis on building positive relationships with learners, were consistently associated with safer school environments.

Given the findings of these studies, learner discipline should be emphasised throughout all aspects of school life to ensure successful teaching and learning. As schools are the place where individuals are developed and prepared for their roles in society, it is expected that schools are well-organised and foster well-educated and well-behaved learners. However, various studies indicate that learner ill-discipline and violence in schools are 'unfortunate realities that have serious consequences for teaching and learning' (Teise, 2015:50; Baruth and Mokoena, 2016:95). Therefore, it is critical to create a safe, supportive, and orderly educational environment that promotes effective teaching and learning (DBE, 1996; Teise, 2015:50). To assess the extent of learner discipline in South Africa, it is necessary to discuss the fundamental characteristics of a safe school, with a particular focus on the features that promote an environment conducive to effective teaching and learning. But first, I must distinguish between discipline and punishment.

2.2.1 Discipline vs Punishment

Although they are frequently used interchangeably, discipline and punishment are two distinct techniques for controlling behaviour and creating personal growth. In the context of schools, discipline and punishment are separate methods used to address behavioural issues or mould behaviour in individuals. Despite having similar goals of behaviour guidance, they differ in their underlying assumptions and results.

On the one hand, discipline entails instructing, directing, and nurturing people to cultivate self-control and positive behavioural patterns. To attain long-term goals and sustain ideals, self-control entails managing thoughts, emotions, and behaviours, including emotional regulation and delaying gratification. For instance, punishment should impart "self-control skills" to the child (Morin, 2021:1). Positive behavioural patterns, such as respect, adaptability, self-care and problem-solving, promote personal development, healthy relationships, and well-being. Integrating self-control and constructive behavioural patterns into one's discipline promotes effective self-management, increased personal responsibility, and goal achievement. These traits enable people to overcome challenges, make wise choices, and build a meaningful and rewarding life. As indicated earlier (cf.

2.2), discipline is defined in schools as the set of rules, policies, and procedures that are put in place to promote positive behaviour, prevent misconduct, and maintain a safe and orderly learning environment (Wall; 2018). Discipline aims to foster internal motivation and responsibility.

On the other hand, punishment involves the intentional infliction of harm and suffering (Zawadzki, 2024:1) and employs negative consequences or penalties to discourage people from engaging in undesired behaviour. In other terms, punishment in discipline is the use of negative consequences to discourage undesirable behaviour. In this regard, Morin (2021:1-2) explains that punishment instils a penalty for a child's offence, whereas discipline takes an authoritative approach. In contrast, Erhardt, Freitag and Filsinger (2023:479) argue that punishment relies on authoritative enforcement, short-term compliance, and potential negative effects such as fear or resentment. Nevertheless, discipline aims to guide behaviour through understanding and internal motivation, while punishment relies on external consequences to suppress unwanted behaviour without necessarily promoting long-term change or understanding. Effective discipline combines positive reinforcement, clear communication, and teaching, while punishment should be used judiciously and supplemented with guidance and teaching efforts.

In the context of school discipline and punishment, all disciplinary measures must be consistent with the intrinsic dignity of the child, with the child's best interests (Reyneke, 2015) always taking precedence. In this sense, punishment refers to measures implemented in reaction to a child's inappropriate or rule-breaking behaviour. The Committee on the Rights of the Child (2003) addresses the right to education and provides guidelines on school discipline and punishment. It outlaws corporal punishment and underlines the need for all disciplinary techniques to respect a child's dignity. Punishment should be reasonable, non-discriminatory, and in the child's best interests.

2.3 LEARNING DISCIPLINE ISSUES

Despite South African education policies and legislation (cf. 1.1) aiming to uphold a safe and disciplined school environment, they appear to be ineffective (Teise, 2015) and fail to address the negative and harmful impact of violence and the lack of discipline on the climate and culture of schools (De Wet, 2016; Payne and Welch, 2022; Reyneke and

Reyneke, 2020; Obadire and Sinthumule, 2021). To understand discipline issues in schools, it is important to first indicate how safety and discipline are described.

2.3.1 Characteristics of a Safe School

A safe school is widely acknowledged as a prerequisite for successful teaching and learning (cf. 2.2), and positive discipline is the most crucial attribute of an effective school (Payne and Welch, 2022). In terms of section 24 of the *Constitution* (RSA, 1996, s24) every learner has the right to an environment that is not harmful to their well-being. Moreover, it is the constitutional right of every learner to enjoy education in a harmonious and carefree environment. Aligned with the *Constitution*, the DoE maintains that a safe and disciplined school environment is an essential condition for the successful delivery of quality education (DoE, 2008). Welsh and Little (2018:70) identify safe schools as having a high level of discipline, open communication, a positive culture, and an environment conducive to teaching and learning, effective administrative practices, and a lack of crime and violence. Consequently, safe school environments imply not only an ideal environment for excellent education, but also a setting where the fundamental values contained in the *Constitution* can be cultivated. Safe school environments indicate not just a space for quality education but also a setting in which constitutional values can be developed, serving as the foundation for schools (Bush and Glover, 2016). Therefore, improving the school climate is the first step towards building a safe school environment and giving effect to constitutional rights.

Considering the foregoing and recent research (Mongale, 2021; Majoro, 2023; Obadire, 2024), safe schools exhibit specific characteristics that contribute to a positive learning environment. The following characteristics of a safe school are discussed in terms of how a school that is conducive to teaching and learning should look. In a school that is conducive to teaching and learning, one would find, *inter alia*, sound relationships, effective leadership, a supportive and structured climate, and an environment free of violence and crime. These are some characteristics that are indicative of a disciplined school environment. Thus, the characteristics of a disciplined school environment include a structured and supportive environment; sound interpersonal relationships, shared beliefs, values, and traditions; effective leadership; and free of violence and crime.

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2.3.1.1 A Structured and Supportive Environment

Effective teaching and learning can only take place in a “supportive and structured environment” (Naude and Meier, 2019:3). In support, Nkambule (2022:17) suggest that a safe school that exhibits a structured and supportive environment helps individuals learn to manage their emotions, make responsible decisions, and develop respectful and cooperative relationships with others. In addition, a safe school should employ positive discipline strategies that promote positive behaviour (De Villiers and Joubert, 2020) through clear expectations and boundaries, modelling positive behaviour (Zenodo, 2021), reinforcing good behaviour with praise and rewards, providing opportunities for meaningful participation and decision-making, and using appropriate corrective measures when necessary (Wolhuter and van der Walt 2020). Positive discipline strategies create a positive learning environment, foster responsibility and respect, and address behavioural issues constructively.

A school that is conducive to teaching and learning promotes the opportunity for all staff members and learners to be involved in problem-solving. A positive school environment is not fostered by including some individuals and excluding others in solving problems. Schoolwide (and even some classroom) problems are not simply the domain of one or two individuals; they are the responsibility of all who work in and use the school. Discipline codes in safe schools tend to be developed from the input of many learners, teachers, and administrators (DBE, 2011). As such, by implication, maintaining discipline is everyone's responsibility; although the various parties may have different roles, they have a mutual responsibility to establish and deal with learner problems.

This approach to discipline aligns with the principles of promoting democratic values and social justice in schools, as emphasised by various studies (Davids, 2017; DBE, 2020). By implication, a safe school promotes positive behaviour and self-regulation through a structured and supportive environment in line with the values of the *Constitution* through active participation and building positive interpersonal relationships (RSA, 1996). Therefore, I concur that a safe school is characterised by a supportive and structured environment conducive to effective teaching and learning.

While a structured and supportive environment forms the foundation of a safe school, it is the quality of relationships within this environment that truly brings it to life. In the following

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section, I explore how positive interpersonal relationships contribute to a school's disciplinary climate.

2.3.1.2 Positive Interpersonal Relationships

A safe school is characterised by positive interpersonal relationships between learners, teachers, and parents. Strong relationships built on trust and understanding, with open and respectful communication between teachers, learners, and parents, are vital to addressing disciplinary issues promptly and collaboratively (Davids, 2017:134; Zenoda, 2020:3). In addition, Davids (2017:135) suggests that sound, two-way communication is necessary, with role-players collectively working towards finding strategies and solutions for issues of learner discipline. In support, Smit (2017: :24) emphasises that effective communication is key to establishing a positive school climate and fostering relationships between learners, teachers, and parents, which can help prevent conflict and promote a culture of respect and trust. In this regard, Davids (2017:136) suggests that encouraging open dialogue among learners, teachers, parents, and other stakeholders facilitates a sense of shared responsibility and ownership in the educational process, which implies positive interpersonal relations. Furthermore, research shows that in a safe school, it is often found that teachers establish strong connections with learners based on trust, empathy, and understanding (Coristine, Russo, Fitzmorris, Beninato and Rivolta, 2022). Similarly, Richter et.al. (2018) support the notion that learners are, in turn, encouraged to build positive relationships with their peers, which fosters a supportive and inclusive community. Strong interpersonal relationships based on trust, empathy, and understanding promote an environment that is conducive to effective teaching and learning.

These positive interpersonal relationships do not exist in a vacuum; they are nurtured and sustained by a shared set of beliefs, values, and traditions that define the school's culture. Next, I examine how these shared elements contribute to a safe school environment.

2.3.1.3 Shared Beliefs, Values, and Traditions

A safe school exhibits shared values, beliefs, traditions, customs, and practices that are unique to a particular school community. Everyone in the school community understands what forms of behaviour are acceptable and undesirable. A safe school, by extension, demonstrates positive ideals and positive traditions that accord with constitutional

imperatives. Constitutional imperatives such as democracy, social justice and equity, equality, non-racism and non-sexism, *ubuntu* – human dignity, an open society, accountability, the rule of law, respect, and reconciliation (Ehren, Baxter and Paterson 2018; Davids, 2017) inform the norms of the school, in particular, the code of conduct, and are congruently inculcated in the culture of the school. Thus, this implies a safe school entails behaviour that is regarded as socially and culturally acceptable in the school community (Reyneke and Reyneke, 2020:566).

Social and cultural norms have a strong influence on individual behaviour in a wide range of settings, including violence and its prevention, because norms can generate or reduce violence and its negative consequences. Research reveals that safe schools are committed to upholding moral values, principles, and behavioural norms such as integrity (honesty, truthfulness, and consistent principled behaviour); courtesy (good manners, cheerfulness, and friendliness); respect for the law and all school authorities; respect for others and their well-being; respect for people's cultural traditions; respect for both public and private property and the environment; and tolerance (DBE, 2011). These morals are aligned with the constitutional imperatives of human dignity.

While a strong school culture is crucial, it requires effective leadership to establish and maintain these shared beliefs and values. Next, I will look at the role of leadership in creating and sustaining a safe school environment because, school leaders articulate the vision that shapes cultural norms (Leithwood, 2021; Alzoraiki, Ahmad, Ateeq, Naji, Almaamari and Beshr 2023). They have the authority to implement policies that reinforce these values. Leaders control resources necessary to support cultural initiatives.

2.3.1.4 Effective Leadership

Effective leadership sets the stage for a positive school environment, but one of its most crucial outcomes is ensuring a school that is free from crime and violence. As such, I next explore how this safety aspect contributes to a safe school.

When school leaders implement clear policies, consistent procedures, and proactive security measures, they create the foundation for a secure school environment where learners and staff can focus on teaching and learning without fear (Khanyile and Mpuangnan, 2023; Du Plessis and Mestry, 2024). Strong administrators achieve this by

developing comprehensive safety protocols, ensuring adequate supervision, maintaining secure facilities, and fostering open communication channels between all stakeholders.

The establishment of a safe school environment free from crime and violence represents one of leadership's most fundamental achievements. Principals have an important role to play to ensure that learners and staff feel physically and emotionally secure (Botha and Fuller, 2024:963). As such they can dedicate their full attention to academic pursuits rather than concerns about their wellbeing. This sense of safety emerges from both visible security measures, such as controlled access points and emergency response plans, and less tangible elements like a culture of mutual respect and zero tolerance for threatening behaviours. Effective leaders recognise that safety encompasses not just protection from physical threats, but also from bullying, harassment, and other forms of intimidation that can disrupt the learning environment (Masekela, Ngobeni and Sepeng, 2024).

The presence of a safe school environment directly contributes to the development and maintenance of a safe school culture. When learners understand that their security is prioritised and protected, they are more likely to respect and adhere to school rules and behavioural expectations (DePaoli and McCombs, 2023:8). This creates a positive feedback loop where enhanced safety promotes better discipline, which in turn further strengthens school safety. A safe environment is characterised by learners who understand boundaries, accept consequences for their actions, and demonstrate respect for authority and their peers. This disciplined atmosphere does not emerge from punitive measures, but rather from leadership that establishes clear expectations, fair consequences, and support systems that help learners develop self-regulation and responsible decision-making skills.

2.3.1.5 Free of Crime and Violence

A school that is free of crime and violence implies a safe environment. Schools that prioritise safety and security create a conducive environment for the promotion of democratic values and social justice, which are fundamental to the *Constitution* (Nkambule 2022:258). Implementing strategies such as monitoring and surveillance, early intervention and support, and restorative justice can help prevent crime and violence in schools (World Health Organisation, 2019). As such, a safe school is characterised by the application of positive discipline, a non-violent approach that guides learners' behaviour.

Furthermore, a school that is free from crime and violence exhibits positive discipline, sound communication, a positive school culture and climate, and sound administrative practices, all of which are essential for creating an environment conducive to teaching and learning (Teise, 2015; Fraser, 2024). By implication, a school that is conducive to teaching and learning promotes learning, safety, and socially acceptable behaviour, with a strong academic focus, and fosters excellent relationships between school staff and learners, as well as significant parental involvement (Davids, 2017:135). These schools prioritise values such as respect, responsibility, and collaboration, and use effective school-based preventive programmes such as The National Safe Schools Framework (Centre for Justice and Crime Prevention (CJCP), 2016; Richter et.al. 2018) and The Health Promoting Schools Programme (WHO, 2019) to address various issues, recognising that safety and order are linked to learners' social, emotional, and academic development.

Based on the above-mentioned, safe schools exhibit specific characteristics that contribute to a positive learning environment (Ramzan, Javaid, Kareem and Mobeen, 2023; Ntsanwisi, 2024). While these characteristics of a safe school are clear in theory, putting them into practice can present significant challenges. In the following section, I will discuss the prevalence of ill-discipline in schools, particularly the obstacles schools face when implementing these principles, and strategies for overcoming them.

2.4 THE PREVALENCE OF ILL-DISCIPLINE IN SCHOOLS

Maintaining school discipline is crucial for creating a conducive environment for effective teaching and learning. However, ill-discipline among learners presents significant challenges for other learners and teachers and has adverse consequences for the entire school community. Various studies show that the manifestation of the different forms of learner ill-discipline differs from minor violations to the most frequent (Davids, 2017; Wolhuter, 2020; Ntshengedzeni, Khalabai and Simeon, 2024). Research often makes a distinction between 'disruptive' and 'challenging behaviour', but it is about the severity (Evans and Burke (2024). I, however, make the distinction between 'disruptive behaviour' and 'violent behaviour' in terms of their prevalence in schools. In this regard, this section provides an overview of the various forms of ill-discipline exhibited by learners, with a focus on disruptive behaviour and violence in schools. Additionally, it examines the implications of ill-discipline for learners, teachers, and parents.

2.4.1 Disruptive Behaviour

Various studies show that disruptive behaviour by learners affects disrupted parties' well-being worldwide (Auradha and Pushkala, 2020; McDonald, Lester and Michelson, 2023). For example, in the United States of America, teachers report an “alarming increase” in disruptive behaviour, estimating that it is exhibited by nearly one-quarter of their learners. Disruptive behaviour in South African schools is well documented (Joubert, 2015; Masingi, 2017; Leoschut, 2017; Makhasane and Mthembu, 2019). Violent behaviour reflects more major types of behaviours, including physical and verbal aggression, and unsafe and dangerous behaviours. In this study, I use the term ‘serious, disruptive behaviour’ interchangeably with violent behaviour to suggest behaviour that goes beyond what is considered ongoing, low-level disruptive behaviours.

Sibanda and Mpofu (2017:118) regard disruptive learner behaviour as disorders in the environment that depart or deviate from normal or expected behaviour and bring about disharmony. In addition, it implies that such behaviour does not allow learning and teaching to successfully proceed. In this regard, Belle (2017) asserts that disruptive behaviour can be said to be a state or condition that hampers effective learning and teaching in schools. Furthermore, research shows that disruptive learner behaviour is multifaceted and can manifest in various ways, such as talking out of turn, disrespecting teachers or peers, noncompliance with instructions, aggression, bullying, and other forms of misconduct (De Wet, 2016; Motseke, 2020). Furthermore, issues such as late arrival, failure to do homework, talking back, and disrespectful conduct toward teachers also have a major impact on other learners when teachers must spend teaching time addressing ill-discipline. In support, Buys (2018) emphasises learner ill-discipline negatively impacts the overall classroom climate and hinders the learning progress of all learners involved.

While disruptive behaviour may be perceived as simply inappropriate behaviour in the classroom, research indicates that disruptive behaviour in the classroom is related to disciplinary issues in schools that affect the learner's fundamental right to education (Reyneke and Reyneke, 2020:61); their right to feel safe and be treated with respect in the learning environment (Canter, Osher, Berg, Steyer and Rose, 2019:307; Chetty and Mestry, 2018; Mestry, 2019). When learners clash with other learners, it contributes to an unbearable atmosphere in the classroom. Research shows that numerous factors contribute to disruptive behaviour in learners (Wall, 2018; Motseke, 2020). According to

Daley and McCarthy (2021: 385), social-emotional difficulties, learning disabilities, attention-deficit/hyperactivity disorder (ADHD), and conduct disorders can significantly impact learner behaviour and contribute to discipline challenges in the classroom. In addition, environmental factors, such as a chaotic home life (De Villiers and Joubert, 2020); lack of parental involvement (Segalo and Rambuda, 2018:1); or a challenging socio-economic background (Gregory and Fergus, 2017), can also play a role. Literature shows, however, that some schools are no longer safe places (Mestry, 2015; Baruth and Mokoena, 2016). Subsequently, a lack of school safety contributes to learners experiencing 'higher levels of violence at schools' that need to be urgently addressed collectively (Jacobs et al. 2020:397).

The above-mentioned and various studies suggest that the general trends of learner discipline have deteriorated. While this chapter does not want to engage in the corporal punishment debate, it is worth noting many teachers attribute the current lack of discipline to the abolishment of corporal punishment (Obadire and Sinthumule, 2021:1). In addition, four years after the abolishment of corporal punishment, the *Alternatives to Corporal Punishment: The Learning Experience* (DoE, 2000) (hereafter *ATCP*) was introduced to address the concerns around learner misbehaviour and the improvement of a culture of learning and teaching. However, many teachers felt that it came too late since they had no alternatives or suggestions to deal with discipline problems in the absence of corporal punishment which deprived them of the authority to deal with badly behaving learners (Obadire and Sinthumule, 2021:1).

While the *ATCP* does offer disciplinary strategies that encourage non-violent, constructive, and positive approaches, such as withdrawal of privileges, behavioural modification, time-out for misbehaving learners, and preventive, corrective, and supportive methods (DoE, 2000:5), learner misbehaviour continues to escalate (Nhambura, 2020). This indicates that the issue of disruptive learner behaviour is not only a significant concern for the safety of teachers and learners but also contributes to the deterioration of the overall culture of learning and teaching.

Despite the measures that have been put in place by the Department of Education, research shows that negative learner behaviour is escalating into violence in schools (Leoschut and Leoschut, 2017; Buys, 2018).

2.4.2 Violent Behaviour

Research shows the magnitude of learner violent behaviour globally and locally. Startling findings from a United Nations International Children's Fund report (UNICEF, 2020) show a bleak reality that one in every two of the world's billion children is subjected to some sort of violence each year. This bleak statistic contrasts sharply with less serious disciplinary issues and research shows that violence in schools is escalating. For example, physical, sexual, cyber, verbal, direct or indirect violence can take various forms and be subtle or violent. These incidents go beyond the bounds of minor indiscretion, and various studies show that sexual violence, and gang-related violence opposed to the previously mentioned less serious (minor) forms of ill-discipline, involve the use of dangerous weapons, shootings, deliberate disruption of classes, tardiness, vandalism, bullying, gangsterism, intimidation (Mestry, 2015:661; Shields, Nadasen and Hanneke, 2015; De Wet, 2016; Leoschut, 2017; Wall, 2018; Motseke, 2020). In support, Makhasane and Mthembu, 2019, Qwabe, Maluleke, and Olutola, 2022) assert that sexual violence, bullying, gang-related violence, and corporal punishment are very prevalent in schools that risk compromising safety in schools.

In addition, research shows that school safety is a matter of significant concern both globally and locally (Buys, 2018; Qwabe et al. 2022). School safety has gained attention due to incidents of violence, bullying, and threats within educational institutions. The study by Huskey and Connel (2021) in the United States highlights the prevalence and impact of various safety concerns. Their findings emphasise the need for interventions and policies to address these issues effectively. Additionally, United Nations Educational Scientific and Cultural Organisation's 2021 report on education and safety recognises school safety as a global concern (UNESCO, 2018). The report explores challenges faced by different regions and emphasises the significance of promoting safe learning environments worldwide. Another study, conducted by the World Health Organisation (WHO) in 2019, guides how schools can embed violence prevention within their routine activities and highlights the importance of interaction that schools provide with learners, parents, and other community members.

Similarly, research in the South African context shows several external factors that are contributing to ill-discipline and disruptive behaviour in schools (De Wet, 2016; Leoschut, 2017; Makhasane and Mthembu, 2019). These factors may include the wider social and

economic environment in which the school is located, such as poverty, unemployment, and crime (Fredericks et al. 2021). In addition, other external factors that can contribute to ill-discipline include inadequate school infrastructure, insufficient resources, and poor teacher training and support (Heeks, Kruger and Ward, 2022). Schools that lack basic resources such as textbooks, stationery, and adequate classroom space may struggle to maintain an orderly and disciplined learning environment. Similarly, teachers who feel unsupported or lack the necessary training and skills to manage disruptive behaviour may struggle to maintain control in the classroom.

Literature suggests that learners who come from disadvantaged backgrounds may be more likely to exhibit disruptive behaviour due to the stressors they experience at home (Reyneke, 2015:58). Additionally, issues such as gang violence, drug abuse, and community unrest can spill over into the school environment and contribute to a sense of insecurity and fear among learners and teachers. Many children in South Africa experience high levels of poverty (Reyneke 2015:58). Furthermore, considering the recent COVID-19 pandemic, newly released data for South Africa shows that there is a 40% decline in active employment. It is estimated that 20-33% of job losers fall into poverty because of COVID-19-related employment and poverty impacts (Jain et.al. 2020:39). The trauma experienced and the impact of the COVID-19 pandemic have worsened the already vulnerable and severely affected lives of many, if not the majority, of learners in South Africa.

Bullying is widely viewed as a harmful and unacceptable behaviour that causes emotional distress. Research findings indicate that "bullying is a significant problem negatively affecting learners" (Young and Govender 2018:1; De Wet, Reyneke and Jacobs, 2020:517). The victims of bullying face academic, emotional, social, and behavioural challenges (De Wet et al. 2020:517). Verbal and physical aggression, along with threatening and intimidating behaviour, are linked to poor academic outcomes for both victims and offenders (Moon and McCluskey:122). While bullying occurs across all age groups, secondary schools seem to be the most common setting for such behaviour (Mncube and Steinmann, 2014:205; Meier, 2019). Learners who endorse aggressive attitudes are more likely to engage in violence at school (Burton and Leoschut, 2019). For example, learners who display school violence often show a lack of control, poor anger management, impatience, and moodiness (Meier, 2019). It is often seen as an abuse of power, leading to feelings of fear, helplessness, and isolation for those targeted.

Aggression can manifest as spoken words or verbal statements driven by anger, or it can involve physical behaviours expressing aggression (De Wet, 2016). Some common forms of physical aggression include hair-pulling, kicking, hitting, pinching, pushing, scratching, spitting, destroying personal property, coercion for sex, eye-rolling, and making faces (Young and Govender 2018:1).

Moreover, with the worldwide increase of learner disruptive behaviour and violent behaviour, recent media reports portray a bleak picture that learner violent behaviour is on the increase. A male teacher from a high school near Zeerust was stabbed to death by one of his learners when he entered the class (Cilliers, 2018:3). In another incident, a teacher was attacked and assaulted by two learners when he tried to take a cell phone from a learner who was busy talking on it in the class (Krüger, 2018:6). Meyer (2019:17) revealed that “40 assaults with knives in the Western Cape schools in the first 8 months of 2019” had been reported.

Based on the above-mentioned, the magnitude and escalating serious problems within schools call for urgent action to create safe and conducive learning environments for all learners and teachers. As such, negative learner behaviour not only affects the victims but also has a detrimental effect on the overall learning and teaching environment.

2.4.3 Effects of Ill-Discipline

Research has shown that discipline is necessary for the effective functioning of a school and that in contrast, disruptive behaviour, or other forms of misbehaviour by learners are often harmful to fellow learners' and teachers' safety in schools. The following section is a brief overview of the effects of ill-discipline on different role-players (cf. 1.1).

Various studies focus on the effects of ill-discipline focusing on learners (Masingi, 2017; Govender and Young, 2018; De Wet, Reyneke and Jacobs, 2020; Obidare and Sinthumule, 2021) and teachers (Segalo and Rambuda, 2018; Botha and Zwane, 2021), but little on the effects of ill-discipline on parents. Subsequently, the review of literature is to determine the effects of ill-discipline on teaching and learning. Research suggests that most schools are facing major challenges with violent learner behaviour that is on the increase and make schools unsafe for other learners (Richter et.al. 2018; Bell and Puckett, 2023).

Based on the above-mentioned ill-discipline among learners is a pervasive issue in schools, with various implications for teachers, learners, and parents.

2.4.3.1 Effect on Learners

Ill-discipline among learners has broad consequences that extend to learning, academic success, and social-emotional well-being. Research shows that it disrupts the learning process (Motseke, 2020; Sithole, Ngobeni and Phage 2024), hampers the classroom environment (Mbane, 2020; Seshoka, 2022), “impairs social skills” (Lunga, Koen, and Mthiyane, 2021:74), “triggers negative emotions” (De Wet et al. 2020:516), and erodes self-confidence (Mahaye, 2023b). This behaviour can lead to stress, and anxiety, and hinder holistic development because learners lacking discipline often struggle with focus, time management, study habits, attendance, and motivation. This leads to incomplete assignments, poor-quality work, reduced engagement, and limited self-accountability. Therefore, recognising the significance of discipline is vital for teachers, parents, and learners to foster a conducive learning environment and promote academic achievement while nurturing essential life skills.

Studies indicate that learners are either offenders or victims of a range of problems and that bullying is becoming a serious problem that affects them negatively (Young and Govender, 2018:1; Farina, 2019:5; De Wet et al. 2020:517). De Wet et al. (2020:517) emphasised that victims of bullying are at high risk of experiencing academic, emotional, social, and behavioural difficulties. In this regard, Singh and Steyn (2013:84) reveal that verbal and physical aggression, and threatening, and intimidating behaviour, are associated with poor academic outcomes for victims and offenders. In addition, research shows that bullying also has a long-term effect on the offender as well. In support, Reyneke and Jacobs (2018:78) highlight a significant association between bullying behaviour and offender behaviour later in life (De Wet et.al. 2020:516). Although bullying behaviour occurs at all ages, a growing body of research indicates it is most common in secondary schools (Mncube and Chinyama, 202:39). There is little doubt that negative learner behaviour harms other learners as well, and this is not conducive to learning and teaching.

According to Singh and Steyn (2014:84), learners with poor academic skills become frustrated, lose academic motivation, and as a result, eventually resort to violent behaviour. In addition, various studies show that younger learners are targeted because

they cannot defend themselves against bullies (Burton and Leoschut, 2016; WHO, 2020). For example, girls are more vulnerable to being targeted because they are physically weaker. Moreover, criminal behaviour such as rape, bullying and intimidation of other learners creates a disruptive and unsafe environment. This also contributes to the tendency of poor academic performance among learners (Mestry, 2015:661; Marais 2016:5). Furthermore, the effect of vandalism (the intentional destruction, defacement, or damage of school property) such as graffiti, broken windows, damaged equipment, and theft (Mestry, 2015) has far-reaching and detrimental effects on learners and teachers. For example, damaged facilities and equipment can impede the delivery of quality education, making it challenging for learners to focus on their studies and for teachers to conduct effective lessons. In this regard, learners are also denied the opportunity to effectively engage in learning. Additionally, various authors share the concern for learner safety because of vandalism and robbery (Leoschut and Burton, 2016; Mncube and Shumba, 2020; Mnini, 2023).

Based on the above-mentioned incidents, negative learner behaviour occurs in some schools daily, both outside the school boundaries and in the close vicinity of schools. In this regard, Cilliers (2019:1) reveals that a 17-year-old girl stabbed an 18-year-old learner to death near the school entrance of a high school near Delareyville. I subsequently concur with the large volume of literature on learner discipline that negative learner behaviour is associated with poor academic outcomes and psychological effects on the learners as victims and offenders (Mncube, 2015; Smith, 2018). Although learner ill-discipline and school violence are critical problems in most schools, they harm not only learners but also teachers.

2.4.3.2 Effects on Teachers

Ill-discipline can disrupt the flow of instruction, affecting both learners' and teachers' concentration, engagement, and creating a negative atmosphere that hinders teaching and learning (Brown, 2017). It can also lead to decreased academic achievement, increased teacher stress, burnout (Turner and Garvis, 2023: 351) and poor overall classroom performance (Meier and West, 2020), because teachers are accountable for academic achievements. Teachers face the challenge of managing the consequences of ill-discipline to ensure a conducive learning environment for all learners (Beukes, 2020:3; Letuma, 2024). However, many teachers are ill-equipped to effectively deal with learners

who have behavioural problems, leading to increased stress and time spent on managing classroom disruptions (Lunga et.al. 2021:73; Anuradha and Pushkala, 2020).

Teachers often feel helpless and disempowered when dealing with discipline issues, which can lower morale (Jackson, 2018:112). Some teachers attribute the current lack of school discipline to the banning of corporal punishment, suggesting that its absence has resulted in a decline in learner behaviour and respect for authority (Ntuli, 2020; Matsebele, 2020; Ampofo, 2021). The inability to effectively address ill-discipline and maintain control over the classroom creates challenges for teachers, impacting their well-being and ability to provide quality education.

Subsequently, one concurs with various authors that negative disruptive behaviour and violence in schools indeed harm the teaching and teachers (Jackson, 2018:112), since they are the ones experiencing these problems first-hand. However, ill-discipline and violence in schools not only affect learners and teachers but also harm parents.

2.4.3.4 Effects on Parents

As indicated earlier, ill-discipline and acts of violence in schools are indeed having an impact on teachers (Jackson, 2018; Anuradha and Pushkala, 2020) and the overall teaching and learning environment. However, research shows that ill-discipline of their children also harms parents. While research shows that learners exposed to violent behaviour (Mestry, 2015:656) may also expose others at school to aggression and violence, parents are also affected by the misbehaviour and lack of discipline of their child or children (Maphosa and Shumba, 2010: 397). Furthermore, learners who engage in ill-discipline are likely to be exposed to violence, and vandalism at home and in their communities. It is then likely that this negative behaviour spills over into schools, leading to destructive behaviour in the learning environment (Baruth and Mokoena, 2016:96). However, some parents may find it difficult to maintain discipline at home, contributing to the lack of discipline in schools (Baruth and Mokoena, 2016:97) and often blame schools for discipline problems (Warnick and Scribner, 2020: 99). Like teachers' experiences, parents may also feel helpless and afraid of their children perceiving a loss of control and influence over their behaviour.

In addition, the literature also identifies peer pressure as having a significant impact on learner behaviour. Negative behaviour can be reinforced by peer pressure (Laursen and

Veenstra, 2021), leading to engagement in risky activities such as substance abuse, vandalism, and theft. Parents often express concerns about the influence of alcohol, drug abuse, and gangsterism on their children's behaviour, which can have emotional effects on them (Sekar and Bhuvaneswari, 2023:453). On the other hand, gang involvement negatively impacts the parent-child relationship and can be devastating for parents (Jacobs et.al. 2020). As such, ill-discipline in schools is very much the parents' responsibility and has a larger effect on the community.

Considering the above-mentioned, I deemed it necessary to look at what the causes of ill-discipline and violence in school might be.

2.5 CAUSES OF ILL-DISCIPLINE AND VIOLENCE

Research shows that the root cause of ill-discipline is a multifaceted, multidimensional challenge that results from several intersecting factors (Mahome, 2017). Therefore, it is important to understand the causes of ill-discipline within the context of the families and communities that learners come from. This section provides a brief overview of social, cultural, and political factors as contributing factors that are detrimental to effective teaching and learning.

2.5.1 Social Factors

Social factors play a significant role in influencing learner behaviour. As humans, we are inherently social beings, and our interactions with others shape our beliefs, and actions (Lehrl, Evangelou and Sammons, 2020; Malik, Nisar and Manhas, 2023). When it comes to learning, social factors can have both positive and negative impacts on how individuals engage with educational processes.

Research shows that social factors such as influence by peers, teachers, family, and culture all play a role in shaping how learners engage with education (Lehrl et al. 2020). For instance, Mandal (2024) shows that positive peer interactions, supportive teachers, and a stimulating home environment promote motivation for academic success and learner well-being. Conversely, negative peer pressure, unsupportive teachers, or disadvantaged backgrounds can hinder learning. In addition, negative social norms and expectations such as bullying can contribute to ill-discipline (De Wet, 2016). Additionally,

the social norms and expectations, socioeconomic factors also impact learner behaviour. In this regard, Reyneke (2015:33) highlights socio-economic problems at home and in the school environment as contributing factors to poor academic performance and behavioural problems among learners. Furthermore, children growing up in poverty often face numerous obstacles to their educational success, because they may lack adequate school resources, including textbooks, stationery, and access to technology. Poverty can also contribute to inadequate housing, which may affect the child's ability to study in a conducive environment (Astor, Noguera, Fergus, Gadsden and Benbenishty, 2021). On the one hand, financial constraints can lead to limited access to extracurricular activities. On the other hand, educational support services can enhance learning outcomes that help to keep learners off the streets and give them some purpose and meaning to their lives. By implication, financial support, access to extracurricular activities and educational support services also develop other talents beyond academic abilities.

Recent studies by Jain et al. (2020:39) provide insight into the impact of the COVID-19 pandemic on employment and poverty levels in South Africa. The trauma experienced during the COVID-19 pandemic, as mentioned, worsens the already vulnerable lives of learners in South Africa. The pandemic disrupted the education system, causing school closures, remote learning challenges, and loss of routine and social interaction, resulting in adverse effects on learners' mental health and well-being. In addition to the existing challenges of single or child-headed households and high levels of poverty, the COVID-19 pandemic has further exacerbated the vulnerabilities faced by learners in South Africa. The pandemic has had far-reaching impacts on various aspects of society, including the economy and the well-being of individuals and families. The decline in employment opportunities has severe implications for households, as job losses often lead to increased financial strain and reduced access to basic needs (Jain et al. 2020:39).

The economic repercussions of the pandemic have had a direct impact on the lives of learners and their families. Education-related expenses, such as school fees, uniforms, and educational resources, may also become more challenging to afford. These financial constraints can significantly hinder learners' access to quality education and impede their overall development and academic progress. Moreover, the trauma and disruptions caused by the COVID-19 pandemic have further compounded the challenges faced by learners. Studies found that learner behaviours changed the educational landscape post-COVID-19, highlighting areas of concern for learner well-being, such as physical

aggression, substance abuse, lack of school attendance, decline in respect for school authority and mental health concerns (Welsch 2022; Bács, 2023).

The above-mentioned indicates that many South African learners experience high levels of ill-discipline and violence in and around schools as contributing factors to social ills. In this regard, Reyneke (2015:58) further emphasises that poverty and violence in communities harm learners, leading to behavioural problems, malnourishment, and involvement in criminal activities.

This study acknowledges the effect of societal factors like poverty and school violence on teaching and learning in schools.

2.5.2 Cultural Factors

Culture shapes individuals' beliefs, attitudes, values, and behavioural patterns, and these elements can influence how learners interact with their peers, teachers, and the learning environment.

It provides a framework through which people perceive and interpret the world around them, influencing how they interact with others and make decisions. For instance, cultural symbols, language, and institutional contexts reinforce these influences, while cultural identity and scripts provide frameworks for social interactions. Cultural relativism recognises diverse viewpoints, and cultural change plays a role as societies evolve. In this regard, Ingram and Oh (2022:57) affirm that cultural factors such as communication styles, cultural norms, and individualism vs. collectivism impact how learners behave. Perception of authority, parenting practices, and peer/community influences also play a role. In addition, cultural diversity significantly adds to the complexity of learner discipline (Hademenos, 2024).

In addition, research shows that a school may have learners from different cultural, ethnic, and socioeconomic backgrounds, which can make it challenging to create a unified approach to discipline. As a result, discipline policies may be inconsistently enforced across all teachers and school employees, leading to a lack of confidence among learners. Furthermore, one of the challenges to consistently enforcing discipline policies is the belief in legal guidelines around discipline, such as not using physical punishment or violating learners' rights (Jackson, 2018:112). In this regard, numerous studies indicate that the

constraints of corporal punishment make it challenging for teachers to effectively implement discipline policies.

Various studies suggest that culture can contribute to ill-discipline and violence through the acceptance of aggressive behaviour as normal (Dlungwane, 2017; Obadire and Sinthumule 2021). In addition, social media abuse fuels the rise in disruptive behaviour. It is important to note that while social media has brought many benefits, it has also introduced new challenges, including the potential for abusive behaviour. For example, social media platforms provide a platform for individuals to engage in cyberbullying, which involves using digital means to harass, threaten, or demean others. Research shows that cyberbullying can lead to emotional distress, anxiety, and depression in victims, which may result in disruptive behaviour as they struggle to cope with the abuse (UNESCO, 2018; Jacobs and De Wet, 2020). Learners who are victims of cyberbullying may bring emotional distress and frustration into the classroom. This can manifest as disruptive behaviour such as acting out, being withdrawn, or even retaliating against classmates or teachers.

Considering all the previously mentioned, I found that while scholars have devoted much attention over the last 30 years to trends, harms, and inequities associated with the intensification of school security and punishment, surprisingly little literature has focused on the political factors that influence learner behaviour in schools. Therefore, I found it necessary to review the literature in terms of the broader context of political factors that have influenced the social and cultural conditions in South Africa.

2.5.3 Political Factors

Historically, South Africa has faced significant political challenges, including the apartheid system that institutionalised racial segregation and oppression (Ruiters, 2021:890). This system not only legally separated the majority of black¹ South Africans from whites in all spheres of society but also led to the violation of basic human rights and social exclusion (Adonis and Silinda, 2021). The effects of apartheid, which lasted until the early 1990s,

¹ The term "whites", usually refers to those who have retained their European identity and heritage. During the apartheid era, the *Population Registration Act No. 30 of 1950* categorised the population as 'White', 'Native', and 'Coloured' with 'Indian' as a subcategory of the latter. For the purpose of this study, the term "blacks" is used to include Coloureds, Blacks and Indians.

continue to shape the social and economic landscape of the country. During this period, political instability, racial discrimination, and economic disparities disproportionately affected certain communities, exacerbating poverty and social inequality. The transition to democracy in South Africa brought about political changes, including the dismantling of apartheid laws and the establishment of a more inclusive and democratic society. However, the legacy of apartheid continues to impact the socioeconomic conditions of many South Africans, particularly marginalised communities.

In addition to the social and cultural factors, political factors also play a role in addressing the impact of apartheid's legacy on learner discipline and ensuring effective teaching and learning in a safe environment. The legacy of apartheid in South Africa continues to affect the socioeconomic conditions of marginalised communities, which in turn impacts learner discipline. Socioeconomic disparities limited educational opportunities, psychological effects, cultural factors, and community influences all contribute to disciplinary challenges. Addressing these issues requires addressing socioeconomic disparities, improving access to quality education, providing support for marginalised communities, promoting cultural inclusivity, and fostering community engagement. By tackling these underlying challenges, learner discipline can be enhanced, and educational outcomes improved. For example, schools and teachers can align their efforts to maintain discipline by actively advocating for educational policies that address the socioeconomic disparities resulting from apartheid by engaging with policymakers, participating in relevant forums, and voicing the importance of equitable resources, funding, and support for marginalised communities. By advocating for policies that promote social justice and educational equity, schools can contribute to addressing the root causes of ill-discipline.

Therefore, understanding the political factors at play is essential for developing comprehensive and sustainable solutions to the challenges faced by learners in South Africa. This requires political will, evidence-based decision-making, and a commitment to prioritising the needs of children and vulnerable populations. By addressing political factors and implementing effective policies, South Africa can work towards creating a more inclusive and supportive environment for all learners, irrespective of their household composition or socioeconomic background.

Taking the above-mentioned into consideration, literature reveals that addressing the challenges of instilling discipline in South African schools requires a multifaceted approach where schools should consider the *social*, *cultural*, and *political context* in instilling

discipline. This may include the provision of adequate resources and training, effective disciplinary policies, and a focus on building strong relationships between learners, teachers, and the wider community. In the next section, I provide a brief overview of the literature on why schools face so many challenges to instil discipline in schools.

Large numbers in classes cause disruptive behaviour, and some teachers have difficulty controlling large groups. For example, larger classes are noisier and more prone to pushing, crowding, and hitting, which can have a detrimental impact on classroom discipline. One teacher cannot handle such issues in the classroom on his or her own. Teachers waste crucial class time in such situations because they spend most of the time trying to control the learners, which results in less time left for actual teaching. In support, in a study, conducted by the DA's Gauteng education spokesperson, an oversight assessment at a school, which found the learning environment to be unsuitable (West and Meier, 2020: online). The classrooms were severely overcrowded, with 74 learners in each classroom, making it challenging for effective teaching and learning. In addition, research shows that an overcrowded classroom denies learners the dignity of learning in a conducive atmosphere and that the high learner-teacher ratio makes it difficult for teachers to provide personalised attention and manage learner behaviour effectively (Du Plessis and Letshwene, 2020:78). The limited space and resources in overcrowded classrooms can lead to major disruptions and hinder a conducive learning environment, making it challenging to maintain discipline and create a focused academic environment.

2.6 CHALLENGES IN TERMS OF LEARNER DISCIPLINE

The South African *Constitution* guarantees the rights of children in very strong terms and makes the best interests of children a matter of paramount importance in all affairs relating to children (RSA, 1996, s28; Reyneke, 2015). While schools used to have more authority to discipline learners, parents and communities are now more vocal about their rights and beliefs (Gill and Johnson 2024). This can make it difficult for schools to enforce discipline consistently.

The following challenges are highlighted as reasons why schools struggle to instil discipline in South African schools:

2.6.1 Unqualified and Underqualified Teachers

When there is a teacher shortage, positions are often filled by candidates who do not meet the required teaching skills or qualifications (Sibiya, 2017). Qualified teachers undergo specific training to develop effective teaching techniques, classroom management strategies, and behaviour management skills. Without this training, unqualified teachers might not know how to handle disruptive behaviour or maintain a structured learning environment, leading to disciplinary challenges. Furthermore, various studies show that unqualified teachers mainly teach in rural areas (Du Plessis and Mestry 2019: 52; Du Plessis and Lekhwene, 2020:79). Learners in rural areas find it difficult to engage in education due to the lower quality of educational provision, which results in lower educational attainment (Du Plessis and Lekhwene, 2020:78). However, much of the solution lies in the supply of adequate numbers of appropriately trained, motivated, and engaged teachers in rural areas.

Existing research also suggests that unqualified teachers may struggle to implement consistent and fair disciplinary measures (Letsoalo, Maoto and Chuene, 2018; Du Plessis and Mestry, 2019). As a result, inconsistent enforcement of disciplinary measures can confuse learners and lead to a lack of respect for rules and regulations, further contributing to disciplinary issues. In addition, underqualified teachers might not have a strong grasp of the subjects they are teaching (Du Plessis and Mestry, 2019; Nilsson and Cederqvist, 2024). This can result in ineffective lessons, frustration among learners, and a lack of interest in the class, leading to disruptive behaviour (Kessels and Heyder, 2020:584). In addition, effective communication is essential for maintaining discipline. In support, research also suggests that unqualified teachers may face difficulties in conveying expectations and consequences clearly (Du Plessis and Letshwene, 2020:79), which can lead to misunderstandings and an inability to manage disruptive behaviour effectively. Subsequently, unqualified or underqualified teachers may harm learner engagement. In this regard, Du Plessis and Mestry (2019) found that learners may be less motivated to behave appropriately if they feel their teacher is not adequately qualified or invested in their education. This can result in disengagement and an increase in disruptive behaviour.

2.6.2 Teacher Unwilling to Move Away from Punitive Discipline

Section 10 (1) of the *South African Schools Act*, (DoE, 1996) states that no person may administer corporal punishment at a school to a learner. Teachers often consider violent punishment as the only way to deal with learners' disruptive behaviour. However, teachers need to promote respect, tolerance, and responsibility in schools, which implies that the relationships between teachers and learners must be based on mutual respect, dignity, and responsibility. Furthermore, although teachers have a right to discipline learners, discipline should be corrective and educative, rather than punitive and punishing (Segalo and Rambuda, 2018).

Among the most dominant problems faced by teachers is that they are not adequately equipped to counter violent incidents and might react similarly in violent and obnoxious ways (Davids and Waghid, 2016; Kubeka, 2021:155). Research suggests that the lack of proper training to implement alternative discipline strategies is a contributing factor to the lack of learner discipline in schools (Botha and Rens, 2018; Lodi et.al. 2021). For example, when teachers are not adequately trained, they might struggle with implementing these strategies effectively, lack confidence in handling behaviour issues, and miss opportunities for proactive engagement. This can result in inconsistent discipline, a failure to understand individual learner needs, and a focus on punitive measures rather than promoting positive behaviour. In support, Graham (2018:1243) highlights that some teachers are frequently not taught why children misbehave and how to positively reprimand them based on their actions. When a learner's requirements, such as the need for attention, are not addressed, they frequently misbehave. The irritation caused by a learner's misconduct, combined with a lack of ability to deal with it, drives some teachers to lash out at their learners and use corporal punishment or humiliating types of emotional punishment.

It is thus assumed that proper training not only equips teachers to manage behaviour effectively but also has long-term benefits for learners' overall development and attitudes towards learning and authority. In addition, the lack of comprehensive handling of teachers who still use corporal punishment is also a contributing factor to why teachers experience challenges in instilling learner discipline. According to Mashau et al. (2015:285), many teachers still hold the perception that corporal punishment is/was the only option to maintain discipline in schools. Several reasons contribute to this, such as a lack of training in alternative disciplinary strategies, perceived effectiveness, cultural norms, fear of losing

control, and lack of oversight or reporting mechanisms. However, if teachers are allowed to use corporal punishment without facing consequences, they may continue to resort to it. Tiwari 2019:272) assert that one of the primary causes of corporal punishment's continued use is that teachers do not recognise its distinction from "discipline." These authors maintain that positive disciplinary methods can be used to teach a child new and appropriate behaviour without putting them in fear of physical harm, whereas corporal punishment aims to stop a child from acting in a certain way.

Literature suggests that to prevent this, school leadership should ensure that clear policies against corporal punishment are implemented, provide training on alternative methods, and establish reporting mechanisms to address instances of corporal punishment (Mashau et al. 2015:288; Du Plessis and Letshwene, 2020:79). Promoting positive discipline approaches and creating a safe school environment are crucial for managing behaviour effectively and ensuring teachers use appropriate disciplinary methods.

2.6.3 Over-Emphasis on Children's Rights

According to Dube (2020: 136), some of the challenges faced by teachers in maintaining discipline in schools are due to an emphasis on children's rights and legal guidelines. The belief in these guidelines, which prohibit physical punishment and protect learners' rights, can make it difficult for teachers to effectively enforce discipline policies (Du Plessis and Letshwene, 2020:79). While protecting children's rights is important, it can lead to issues such as weakening teacher authority and classroom management.

Research conducted in South Africa indicates that teachers are struggling to instil discipline in learners, particularly in primary schools, following the banning of corporal punishment (West and Meier, 2019; Dlamini, Ede and Okeke, 2022). This is reinforced by Wolhuter's (2020) findings that teachers are uncertain and anxious about violating learners' rights. A study by Du Plessis and Letshwene (2020:79) suggests that learners are not disciplined and that learners exercise their rights not to be sent out of the class because they know that teachers cannot go beyond a certain limit. This situation ultimately hinders teachers in fulfilling their responsibilities, particularly when it comes to maintaining discipline.

Furthermore, the above highlights that some studies suggest an overemphasis on human rights contributes to the increase in learner misconduct. For example, some teachers believe that focusing excessively on human rights (Mbane, 2020; Obadire and Sinthumule, 2021; Makola, Ndlovu and Schlebusch 2022) plays a role in the lack of discipline seen in schools. As such, balancing discipline with learners' rights and well-being is a delicate task, and teachers are cautious not to violate learners' rights while maintaining a safe and orderly environment. Amidst the challenge to protect learners' rights, research fails to highlight that teachers are protected under the same human rights to be treated with dignity and respect as stipulated in the *Bill of Rights*, Chapter 2, Section 10 of the *Constitution* (RSA, 1996), which states that everyone has inherent dignity and the right to have their dignity respected and protected.

Another challenge that most teachers face in instilling learner discipline is the lack of respect for teachers' rights. Recent research shows a lack of appreciation for the rights of teachers (Mefi and Asoba 2020; Seshoka, 2022) to discipline learners, which is characterised by learners' lack of respect, morals, and values, concerns over teacher safety and personal protection, a sense of teacher disempowerment, poor classroom management and teaching strategies, and ineffective parental involvement (Segalo and Rambuda, 2018:1). In support, Nhambura (2020:2) asserts that learners no longer respect their teachers, misbehave in the classroom, and engage in gangster activities or carry dangerous weapons to school with the intention of causing grievous bodily harm on teachers or other learners. As such, teachers have become victims of violent learners.

In addition, teachers feel that with the ban on corporal punishment, learners are aware that they have a level of protection even greater than that afforded to the teachers themselves (Du Plessis and Letshwene, 2020:79). However, instilling discipline is not the sole responsibility of teachers.

2.6.4 Lack of Parental Involvement in Discipline of Children

Discipline is a collaborative effort between schools and parents. When parents are not actively involved in their child's education and behaviour, maintaining discipline becomes more difficult. In this regard, research suggests that the lack of discipline among learners should be attributed to the continued decline in moral upbringing (Reyneke, 2015; Wolhuter and van der Walt, 2021). In support, Segalo and Rambuda (2018:2) highlight

that parents are often unaware of their children's behaviour due to a lack of parental involvement in instilling discipline. While not all parental involvement contributes to instilling discipline, parents have a responsibility to make a difference in learner achievement and behaviour. However, teachers risk the wrath of parents if they dare to discipline learners, for example, a teacher was badly assaulted by a parent, allegedly for ill-treating her son (Msibi, 2019).

Nevertheless, recent studies indicate that parents are aware of their responsibility to be involved in schools to maintain discipline (Davids, 2017:77). However, they feel they cannot solve issues if they are not aware of their existence (Mashau et al. 2015:288) and that teachers should inform them promptly so that problems can be addressed immediately *"before they become big problems"* (Davids, 2017:77). In this regard, it is important that teachers and parents work together to address the challenges of learner misconduct. Davids (2017:123) suggests that parents and teachers need to establish sound school-to-home and home-to-school communication. Many studies underscore the importance of parental involvement in maintaining discipline in schools (Davids, 2017; Jacobs, et.al. 2020; Wolhuter, 2022).

2.6.5 Lack of Resources

In addition to the previously mentioned challenges, a lack of resources can pose significant challenges to instilling discipline in schools. Research shows that schools lacking resources might not be able to maintain their facilities adequately (Okeke and Mtyuda, 2017:57; Du Plessis and Mestry, 2019).

Learners have the right to basic education, which implies a quality education that should take place in a physical and emotional environment that is safe for all. This implies that schools should have the necessary resources to ensure equitable quality education. Therefore, to fulfil the rights of learners, schools should possess resources such as classrooms, bathrooms, stationery, textbooks, libraries, science laboratories, and modern technology in good condition, facilitating effective teaching and learning. The lack of these provisions hampers learners' access to the right to basic education (Munongi, 2023: 154) and may pose a challenge when it comes to instilling discipline in learners. For example, many schools are underfunded and understaffed (Jita and Munje, 2020), which can make it difficult to provide the support and resources needed to maintain a positive and

disciplined learning environment (Du Plessis and Mestry, 2019). Adequate human resources are also essential in the shape of proficient, capable, and committed teachers. As such, educational settings must be conducive for effective learning, enabling learners to fully exercise their right to education (Wilson-Strydom and Okkolin, 2016).

Hence, matters concerning safety, violence, and discipline must be addressed alongside defining and facilitating the actualisation of the right to education. Neglecting these facets within educational policies and systems could be construed as a failure to uphold learners' right to education. Furthermore, the lack of resources significantly impacts the culture of teaching and learning. In the next section, I discuss the effect of school culture on discipline.

2.7 THE EFFECT OF SCHOOL CULTURE ON DISCIPLINE

Research suggests that a school's culture is a combination of values, norms, relationships, attitudes, written and unwritten rules and assumptions that influence socialisation and interaction in a school community (Reyneke and Deacon, 2020:176). As such, the culture of a school is informed by the discipline within the school. As indicated earlier (cf. 2.3), cultural factors can also contribute to disciplinary challenges in South African schools. Some cultures may place less emphasis on discipline and obedience to authority figures, which can create a clash between cultural values and the expectations of the school, subsequently influencing learning and teaching negatively.

The next section examines what school culture is; the impact school culture has on learner discipline; how learner discipline impacts the school's culture; and how learner disciplinary methods influence the culture of a school.

2.7.1 Defining School Culture

School culture is a multifaceted concept that permeates every facet of a school. It is a complex interplay of tangible and intangible elements that shape the environment, interactions, and outcomes within the school community. According to Reyneke and Reyneke (2020:125), school culture is readily apparent in how learners are integrated into the fabric of the school. Symbolic representations, such as uniforms, logos, and traditions, serve as visible markers of the underlying ethos. Additionally, school culture encompasses a combination of attitudes, relationships, and regulations that collectively dictate the

functioning of the school (Ismail, Khatibi and Azam, 2022:261). This blend of explicit and implicit norms forms the guiding principles that govern behaviours and interactions.

Literature shows that a school's culture is intricately linked to its historical trajectory and is shaped by conscious and subconscious attitudes, values, and traditions (Marengke, 2020:3213). The composition of this culture is a product of diverse influences, including learners, teachers, parents, administrators, and broader socio-cultural contexts. Hence, school culture serves as a reflection of the broader societal norms and the unique characteristics of the school community (Leithwood, 2021:8). In addition, a strong school culture is a cornerstone of effective teaching and learning. It creates an environment where learners not only excel academically but also thrive socially and emotionally. Research underscores the significance of a positive scholastic environment, emphasising the role of shared expectations and values in governing behaviours and relationships (Reyneke and Reyneke, 2020:130). When teachers continuously refine their professional skills and learners are held to elevated standards, schools yield commendable outcomes in terms of both academic achievements and personal development (Carpenter, 2015:2).

School leadership plays a pivotal role in cultivating a positive school culture (Padayachee and Gcelu, 2020), where a sense of belonging is fostered (Cortina, Arel, and Smith-Darden, 2017:2; Allen, Kern, Vella-Brodrick, Hattie and Waters; 2018; Korpershoek, Canrinus, Fokkens-Bruinsma and de Boer, 2020:642). Effective leaders set the tone for the school, fostering an environment where both staff and learners can flourish. This resonates with Carpenter, Scribner and Lindle (2016:56) and Filippaki (2023:20) in that school culture is a collective endeavour encompassing shared values and actions. As such, the alignment of policies, procedures, and educational expectations contributes to the overarching school culture, reflecting the school's distinct ethos. Furthermore, the symbiotic relationship between school culture and instructional strategies is crucial for educational excellence. A well-defined culture provides a framework within which instructional methods can thrive. This synergy ensures that teaching approaches align with the broader educational goals, creating a conducive environment for teachers and learners to succeed.

As such, I concur that school culture is a dynamic and pervasive force that shapes every aspect of an educational institution. Its manifestations are diverse, encompassing symbols, traditions, relationships, and regulations. A positive school culture is fundamental

for effective teaching and learning, with leadership and shared values playing crucial roles. The intricate interplay between school culture and instructional strategies underscores the significance of fostering an environment where learners can excel academically, socially, and emotionally. As we navigate the complex landscape of education, understanding and nurturing school culture remains a cornerstone of achieving lasting educational excellence and safe schools.

2.7.2 The Impact of School Culture on Learner Discipline

In schools that prioritise positive discipline, the enforcement of rules is consistent and creates an environment with well-defined boundaries and corresponding consequences. This structured approach to maintaining order translates into a learning environment that is conducive to effective teaching and learning (RSA, 1996: Chapter 2, Section 24; DoE, 1996b, Section 8(2); Oosthuizen and van der Walt 2023). Disruptions are minimised, allowing teachers and learners to focus on the academic content. Importantly, positive discipline encourages responsible behaviour and discourages disruptive actions, resulting in a lower incidence of behavioural problems. Studies show that a sense of safety and well-being pervades these schools, as learners feel both emotionally and physically secure (Wolhuter and van der Walt, 2020; Brown and Shay, 2021:602). This contributes to improved mental well-being and fosters a more conducive atmosphere for learning. Teachers in such environments experience higher levels of job satisfaction, as they can channel their efforts into teaching, forming meaningful relationships with learners, and enhancing their professional growth. Collaborative parent-teacher relations are a hallmark of schools with positive discipline, where open communication and shared goals lead to a more cohesive school community (Davids, 2017; Jacobs et.al. 2020). This commitment to positive discipline translates into improved academic performance. With disruptions kept to a minimum, learners benefit from a focused learning environment that allows for more effective absorption of the curriculum. As a result, learner engagement increases, and the peer environment becomes a positive force, reinforcing responsible behaviour. Mental well-being is nurtured, creating a holistic atmosphere where learners thrive not only academically but also emotionally (De Villiers and Joubert, 2020).

In stark contrast, schools characterised by negative ill-discipline struggle with inconsistent rule enforcement, leading to an environment where rules lack credibility. The learning atmosphere becomes one of frequent disruptions, making effective teaching and focused

learning a challenge for both teachers and learners. This environment fosters a higher occurrence of behavioural issues, ranging from bullying to disrespect (Bernstein and Batchelor, 2022). Safety and well-being are compromised in schools, with learners often feeling unsafe both emotionally and physically (Valente and Crescenzi-Lanna, 2022). This negatively impacts their mental well-being and detracts from their ability to concentrate on their studies (UNESCO, 2018). Teacher burnout is a common outcome, as the constant struggle to manage ill-discipline takes a toll on teachers' ability to effectively perform their teaching roles. As such, parent-teacher relations can become strained, with parents frustrated by perceived inaction on behaviour management. Academically, negative ill-discipline leads to poor performance due to disruptions and a resulting reduction in instructional time. Disengagement among learners is a consequence of the disrupted learning environment, and negative peer influence tends to dominate. Mental health is adversely affected, contributing to heightened stress and anxiety among learners.

Taking the above-mentioned into consideration, one can concur that positive discipline in schools fosters an environment where rules are consistently enforced, disruptions are minimised, and learners and teachers thrive. This approach leads to improved academic performance, mental well-being, and positive teacher morale. Conversely, negative ill-discipline creates an atmosphere of inconsistency, leading to disruptive learning environments, poor academic outcomes, and challenges in maintaining a positive school community. The choice between positive discipline and negative ill-discipline has a profound impact on the entire educational experience and the well-being of all stakeholders involved (Mannix-McNamar et al. 2021:3).

2.7.3 The Impact of Learner Discipline on the School's Culture

The culture of a school can be heavily influenced by the way discipline is handled. Discipline is a crucial aspect of any school's operation, as it helps to maintain order, respect, and a safe learning environment for learners (Burke and Larmar, 2021:602). However, the way discipline is implemented can have a significant impact on the school's culture. In addition, school leaders have a key role in the impact of the culture of a school, and enforcing positive discipline creates a positive school culture that includes the establishment of a proactive, collaborative school mindset.

Discipline serves as a mirror reflecting the values, norms, and attitudes upheld within a school community. The methods employed to address behavioural issues can either reinforce a culture of respect, accountability, and collaboration, or they can inadvertently breed an environment of fear, hostility, and distrust (Wall, 2018). When discipline is approached in a fair, consistent, and transparent manner, it sends a message that the school community values responsibility and ethical conduct. On the contrary, harsh or arbitrary discipline practices can result in learners feeling alienated, misunderstood, or even oppressed, thereby shaping a culture of resentment and negativity.

Various studies suggest that the relationship between school culture and discipline is mutual and transformative (Bell, Van Horne and Cheng, 2017; Gregory, Skiba, and Mediratta 2017:259). This means that they rely on each other for mutual benefit and have the power to bring about positive changes within the school environment. A positive school culture influences how discipline is approached, while effective discipline practices shape the culture. This interaction can lead to a positive atmosphere, better behaviour, and enhanced learning experiences. Transformative approaches like restorative discipline empower learners and promote personal growth, fostering a sense of responsibility and belonging within the school community. As such the relationship between school culture and discipline is transformative because their interaction has the potential to bring about positive changes within the school environment (Payne and Welsch, 2022).

In addition, when school culture fosters respect, cooperation, open communication, and a sense of community, it creates an environment where learners are motivated to behave responsibly and respectfully. This transformation enhances the overall learning experience and supports learners' emotional and social development. As such, the interaction between school culture and discipline has a transformative impact on the school environment. A positive school culture, characterised by respect, cooperation, and community, motivates responsible behaviour, and supports learners' emotional growth. Adopting restorative discipline practices shifts conflict resolution from punitive measures to understanding and personal growth. This approach empowers learners to take ownership of their behaviour and learning, fostering responsibility and investment in the school community. Overall, this transformative relationship enhances interactions, learning, and development, making schools a thriving environment for both learners and teachers (Darling-Hammond, 2023).

As established, discipline is not solely about correcting behaviour; it is a powerful tool that moulds the very essence of a school's culture. By adopting an approach to discipline that is fair, transparent, and focused on growth, school leaders can actively shape a positive culture that embraces respect, accountability, and collaboration. As teachers strive to cultivate a nurturing and conducive learning environment, recognising the pivotal role of discipline in shaping school culture becomes paramount.

2.8 CURRENT APPROACHES TO DISCIPLINE

As mentioned, (cf. 2.1), the *South African Constitution* (RSA, 1996) affirms that “Everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources.” Aligned with the constitutional imperatives, schools should provide an environment that is free of violence, where learners are safe and not treated or punished in a cruel, inhuman, or degrading manner (RSA, 1996, s12(1)(c) and (e)). In support, the *Bill of Rights* (RSA, 1996, Chapter 2) obliges the government to increasingly make education available so that learning and teaching can take place in a safe and conducive environment (RSA, 1996, Chapter 2, Section 24; DoE, 1996, s8(2)). However, a factor that impacts negatively on a safe and conducive school environment is punitive disciplinary approaches in general and corporal punishment.

As such, the next section investigates the most prevalent approaches to discipline, namely retributive, positive, and restorative approaches, in terms of their general characteristics to determine the implications of a particular approach on the school culture.

2.8.1 Retributive Discipline

Literature shows that retributive or punitive discipline, also known as corrective discipline, is the most used form of discipline (Reyneke and Reyneke, 2020:54). The retributive discipline approach in schools is a traditional method of maintaining order and control through punishment and consequences. Rooted in historical practices, this approach emphasises accountability and aims to deter rule violations through the threat of negative outcomes. While it has been a prevalent disciplinary method for decades, it has faced growing scrutiny due to its limitations and potential negative effects on learners. Retributive discipline relates to or is intended to be a deserved and severe punishment. In the school context, it involves the application of punishments or negative consequences

when learners engage in unacceptable behaviour or violate school rules (Aboluwodi, 2015:138). Punishments can range from detention and suspension to expulsion, and they are intended to deter learners from engaging in problematic behaviour.

The retributive discipline approach focuses on establishing clear rules and regulations within the school environment. By setting explicit expectations for behaviour, proponents of this approach believe that learners will be more likely to adhere to these guidelines. However, consistency in enforcing these rules is also emphasised to prevent favouritism and maintain a standardised disciplinary process. Punitive measures are a cornerstone of the retributive approach. Detentions, suspensions, expulsions, and other consequences are designed to convey the seriousness of rule violations and create a sense of accountability. Some authors argue that such swift and definite consequences can serve as a curbing, discouraging learners from engaging in disruptive or inappropriate behaviour (Amemiya, Mortenson and Wang, 2020:23; Lum, Tingstrom, Dufrene, Radly and Lynne, 2017:370). The terms "discipline" and "punishment" are often used interchangeably, but they have different meanings (cf. 2.2.1). Discipline involves teaching and guiding children toward appropriate behaviour (Gregory and Fergus, 2017:118), while punishment typically involves inflicting emotional or physical pain as a means of coercion (Sheley, 2020). The latter approach is characterised by strict rules that learners must always adhere to. Literature reveals that punitive discipline involves punishing learners for breaking rules or misbehaving (Warnick, 2022: 390). Punishments can range from detention and suspension to expulsion, and they are intended to deter learners from engaging in problematic behaviour. While punitive discipline can be effective in some cases, it can also create a negative school culture by fostering a sense of fear and resentment among learners. The most common characteristic is the use of corporal punishment in some cases and disciplinary hearings for serious violations. Research and parenting experts emphasise that punishment is not the only, nor the most effective, way to discipline children (Obadire and Sinthumule, 2021; Saputri and Widyasari, 2022; Foucault, 2023). Instead, effective discipline focuses on teaching children the right lessons, modifying their behaviour, and helping them understand the consequences of their actions.

However, ill-discipline infringes both teachers' and learners' constitutional rights (Mahaye, 2023a; Munongi, 2023). Munongi (2023:53) argues that punitive measures such as detention, suspension, and expulsion may violate the offender's right to education. In addition, misbehaviour may also infringe on the victim's right to dignity. Dignity is a

fundamental right included in the *South African Constitution* (Reyneke, 2020). This right also plays a major role in shaping school discipline, thus Reyneke (*ibid.*) asserts that “dignity is an acknowledgement of the intrinsic worth of human beings and therefore all human beings are entitled to be treated as worthy of respect and concern.” In support, Davids and Waghid (2016:30) indicate that the DoE has been placing increasing emphasis on attitudes towards discipline and punishment. Such an initiative is the *ATCP* (DoE, 2000), which was introduced four years after corporal punishment was abolished in 1996 to address concerns about learner misbehaviour and the enhancement of a learning and teaching culture.

Despite disciplinary alternatives, learner misbehaviour and violence are still on the rise (Leoschut and Makota 2016:19; Wolhuter and van der Walt, 2020). In support, the literature reveals that the retributive approach not only fails to reduce ill-discipline and violence in schools, but it may increase the frequency and intensity of these incidents (Motseke, 2020) and contribute to the deterioration of the learning and teaching culture. In practice, retributive discipline often aligns with an authoritarian structure within schools. Teachers and administrators hold a significant amount of power in enforcing rules, making decisions about consequences, and maintaining order. This top-down approach prioritises the authority of teachers, sometimes at the expense of involving learners in the decision-making process.

While the retributive discipline has certain advantages, it also faces significant criticisms and challenges. More and more studies demonstrate that the retributive disciplinary strategy places a limited emphasis on treating the underlying causes of misbehaviour (Mander, 2017; De Villiers and Joubert, 2020). By primarily relying on punishment, this approach often neglects the underlying reasons for learners' actions, missing an opportunity for growth and personal development. Moreover, the retributive approach can negatively impact learners' emotional well-being (Maffly-Kipp, Rivera, Schlegel and Vess, 2022). In support, research shows that frequent punishments and harsh consequences may lead to feelings of shame, anxiety, and resentment (Gregory and Fergus, 2017; Reyneke, 2020). Learners who are subjected to this type of discipline may become disengaged from the learning process, leading to a counterproductive cycle of continued misbehaviour.

There is also a potential for disproportionate punishment under the retributive model. Certain groups of learners, such as those from marginalised backgrounds, might be more likely to face harsher consequences due to implicit biases and systemic inequalities (Payne and Hannay, 2021:927). This can perpetuate a cycle of disadvantage and hinder the educational experience for these learners (Silverman, Rosario, Hernandez and Destin, 2023:255).

In response to these concerns, educational institutions are increasingly exploring alternative approaches to discipline. As such, this necessitates a discussion of the positive approach to discipline.

2.8.2 Positive Approach to Discipline

Positive discipline emphasises discipline over punishment and encourages correction, responsibility, and self-control without damaging learner dignity (Makola, Ndlovu and Schlebusch, 2022:1). When discipline is consistently enforced fairly and equitably, learners are more likely to respect authority and each other (Wall, 2018). This can lead to a positive school culture, where learners feel safe, supported, and encouraged to learn. In contrast, when discipline is inconsistently applied or perceived as unfair, learners may become resentful and mistrustful of authority. According to Zych, Ortega-Ruiz and Del Rey (2015: 189), this can lead to a negative school culture, where bullying and other forms of misconduct are more likely to occur. As previously mentioned, the disciplinary approach of a school can also shape the overall culture (cf. 2.5.2). Some schools prioritise punitive measures, such as detention or suspension, as a means of enforcing rules and maintaining order. Others may focus more on restorative justice practices, which seek to address the underlying issues that lead to misbehaviour and work towards repairing any harm caused. Schools that prioritise restorative justice may have a more collaborative and empathetic approach, where learners are encouraged to take responsibility for their actions and work towards resolving conflicts (Evans and Vaandering, 2022; Weber and Vereenoghe, 2020).

All the above establishes the context of learner discipline, necessary to investigate the most prevalent approaches to discipline and to determine the impact of a particular approach on the school's culture. The impact of each approach on the school culture can

vary significantly. Given these negative implications for both learners and schools, schools over the years have realised that their responses to learners needed to be reconsidered.

Research reveals that there is no uniform definition of positive discipline in literature, but it is described as a set of disciplinary strategies that encourage teachers to adopt and apply 'positive', nonviolent approaches to school discipline (DoE, 2000:5; Reyneke, 2020). However, various literature provides several distinctions as to what constitutes positive discipline. Some general characteristics of the positive approach suggest including the notion of non-violent, constructive, and positive disciplinary approaches such as privilege withdrawal, behavioural modification, time-out for misbehaving learners, and preventative, corrective, and supportive disciplinary methods (Reyneke, 2020). In this regard, Reyneke (2020:56) asserts that the focus of the positive strategies is on the prevention of misconduct and building relationships with learners. As such, the positive approach to discipline is also known as the proactive or preventative approach because strategies are aimed at preventing disciplinary issues before they occur.

2.8.3 Restorative Approach to Discipline

Various studies have shown many promising outcomes in schools that use a restorative justice approach rather than punitive approach to learner violations, including reduced recidivism and higher academic outcomes (Mpofu, Mkhize and Akpan, 2024) on an international level. Yet very little is known about the restorative approach to discipline in South African schools.

The restorative approach to discipline focuses on repairing harm and building relationships between learners, teachers, and the school community. Instead of punishing learners, restorative discipline involves helping them understand the impact of their actions and finding ways to make amends. According to Blaikie and Priest (2017), the restorative approach to discipline can help create a positive school culture by promoting empathy, communication, and problem-solving skills.

2.9 CONCLUSION

In conclusion, the growing concern over the negative impact of learner discipline issues on both learners and teachers in South African schools has garnered significant attention from scholars and researchers. A range of studies by Alvis (2015), Davids (2017),

Reyneke and Reyneke (2020), and Wolhuter and van der Walt (2020) has highlighted the pressing need for safe and conducive educational environments as mandated by the *South African Constitution* (RSA, 1996).

However, despite these mandates, it is evident from the body of research that challenges persist in creating such environments. The issue of learner discipline remains multifaceted and contentious, resonating not only in South Africa but also internationally (Gcelu, Padagachee and Makhasane, 2020; Wolhuter and van der Walt, 2020). This is especially concerning due to the rise of violence in schools, as emphasised by Davids (2017), which threatens the fundamental rights of learners, teachers, and parents.

The literature review has delved into various dimensions of the issue, shedding light on the manifestations of ill-discipline in schools, the nature and current state of discipline issues and the profound effects of ill-discipline and violence on the teaching and learning process. This exploration has underlined the urgency of addressing these challenges to ensure effective education and the realisation of learners' and teachers' rights. The overview of learner discipline, distinguishing between discipline and punishment, has set the stage for a deeper understanding of the complexities involved. The prevalence of violence in schools, particularly in the South African context, further underscores the need for proactive measures to create safe learning environments.

As the next step, the forthcoming chapter delves into a detailed document analysis and literature review of the theoretical framework that guides this study. By engaging with existing research, this chapter aimed to contribute to a comprehensive understanding of learner discipline issues and their implications for South African schools.

CHAPTER 3: TRANSFORMATIVE CONSTITUTIONALISM

3.1 INTRODUCTION

The complex issues of learner discipline, and the prevalence of violence in schools particularly in the South African context, underscore the need for proactive measures to create safe learning environments. The *Constitution of the Republic of South Africa* (RSA, 1996) (hereafter the *Constitution*) emphasises this pressing need. Section 28 of the *Constitution* protects every child's right to be protected from maltreatment, neglect, abuse, or degradation. In education, this translates into a mandate and obligation for institutions to foster environments that are not only academically enriching but also physically and emotionally safe (RSA, 1996).

As a constitutional democracy, the *Constitution* (RSA, 1996) and *Bill of Rights* uphold democratic principles such as human dignity and freedom, safeguarding the civil, political, and socio-economic rights of all its citizens. The *Bill of Rights* lays the foundation that “everyone has the right not to be treated or punished in a cruel, inhuman or degrading way” (RSA, 1996, section 12). Furthermore, everyone has the right to dignity (section 10); the right to education (section 29); and the best interest of the child should be regarded as of paramount importance (section 28(2)). Thus, the state plays a pivotal role in ensuring the transformation of society through continuous efforts to achieve constitutional objectives. This includes the establishment and enforcement of policies and practices that guarantee a safe and conducive learning environment in educational institutions.

Since education is recognised as the primary catalyst for societal renewal and transformation (Locatelli, 2024:316), it is critical to emphasise the educational objectives outlined in the *United Nations Convention on the Rights of the Child* with a focus on human rights education (1989, Article 29(1)(b)). Article 29 states that children's education should facilitate the holistic development of their personalities, talents, and abilities. It should also foster an understanding of their own rights while fostering respect for the rights, cultures, and differences of others. Additionally, the education provided should equip children to lead peaceful lives and contribute to environmental protection. In other words, the goal is to equip children with the knowledge, skills, and values necessary to navigate the

complexities of a rapidly changing world, promoting not only their personal well-being but also their ability to positively contribute to a peaceful environment. Therefore, if the goal is to bring about societal transformation through international law and the *Constitution*, it is essential to educate children on these principles. This requirement is not only mandated by law under Section 7 of the *Constitution* but is also aligned with the provisions of the Convention on the Rights of the Child (UN, 1989) ratified by the South African Government.

When considering the goal of equipping children with the necessary knowledge, skills, and values to navigate a rapidly changing world and promoting personal well-being and a positive contribution to a peaceful environment, there are legal and constitutional implications that align with transformative constitutionalism principles for social transformation. In this context, international law serves as a benchmark for educational transformation by offering a framework rooted in human rights, sustainability, and peace.

At this point, I want to emphasise that as an educator, my understanding of transformative constitutionalism is limited to how legal scholars and specifically some legal academics have engaged with the notion of transformative constitutionalism. In addition, this chapter explores the human rights relevant to this study, as encompassed in the *Constitution*. Against this exposition, conclusions are drawn about the relevance of nonviolent education initiatives.

3.2 TRANSFORMATIVE CONSTITUTIONALISM

Transformative Constitutionalism encapsulates two notions – transformation and constitutionalism. The transformation notion of transformative constitutionalism refers to the overarching goal of bringing about significant and positive change in society through the interpretation and application of constitutional principles. It extends beyond a narrow understanding of constitutional law and envisions the *Constitution* as a dynamic and evolving instrument capable of fostering social, political, and economic transformations. This transformational aspect of transformative constitutionalism is particularly relevant in contexts where historical injustices, such as apartheid in South Africa, have deeply impacted South African society (Blignaut, 2021:7). The *Constitution*, as ‘the supreme law of the Republic’, is vested with the power ‘so as to’: *‘Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human*

rights' and '[i]mprove the quality of life of all citizens and free the potential of each person' (RSA, 1996). The *Constitution* not only envisions a new societal structure vastly different from the discriminatory apartheid era but also upholds fundamental principles of democracy, freedoms, equity, and social justice. This vision is outlined in Chapter 1, Sections 1-6 of the *Constitution*. Furthermore, the *Constitution* mandates parallel application provisions in sections 8(2) and (3), along with the requirement to interpret all laws, including legislation, common law, and customary law, to "promote the spirit, purport, and objectives of the *Bill of Rights*." The implications of 'so as to' reinforces the provisions of '[h]uman dignity, the achievement of equality and the advancement of human rights and freedoms' as core values to address historical injustices.

Constitutionalism, on the other hand, refers to the governance doctrine determining the legitimacy of government actions (Urhibo, 2023:584), grounded in principles of people's sovereignty and the supremacy of the *Constitution* (Urhibo, 2023:585). It delineates the structure of laws and institutions necessary to restrain political power in the interest of all citizens (Andrias and Sachs, 2020). Transformative constitutionalism merges these concepts, serving as a normative framework committed to fostering democratic dialogue, sharing responsibility for transformation among all branches of government and civil society, with the goal of restoration and peace (Gready 2022:182). It envisions a comprehensive reshaping of political, social, economic, and legal culture, grounded in constitutional values and principles (Murcott, 2023:133).

Ultimately, transformative constitutionalism signifies a commitment to using constitutional and legal tools to fundamentally alter societal assumptions and promote inclusive, democratic governance.

3.2.1 The Origin of Transformative Constitutionalism

Transformative constitutionalism) is a concept that originated in South Africa's transition from apartheid to constitutional democracy. It is a process based on subjective interpretation and is not one that has a singular definition or understanding. However, literature shows that the concept of transformative constitutionalism is a legal and constitutional theory that emerged as a powerful tool in post-apartheid South Africa for societal change (Hailbrunner, 2023; Dugard, 2021). It was developed as a response to the oppressive history of apartheid and aimed at fundamentally transforming society through

constitutional means. The *South African Constitution*, adopted in 1996, serves as a cornerstone for this concept. Going beyond merely establishing a legal framework, it seeks to bring about social change by addressing historical injustices, promoting equality, and protecting human dignity (Hailbronner, 2017:527).

South Africa's history is marked by the institutionalised racial segregation and discrimination of apartheid (Jackson, 2022:831). The development of the *Constitution*, specifically the *Interim Constitution* of 1993, was a critical step in the transition from apartheid to democracy. Negotiations, conducted through the Convention for a Democratic South Africa (CODESA), resulted in the *Interim Constitution* (Ndinga-Kanga, Van der Merwe and Hartford, 2020). The 1994 elections marked the end of apartheid, and the Constitutional Assembly subsequently played a vital role in crafting the final *Constitution* adopted in 1996, solidifying principles of democracy, equality, and human rights in South Africa. To counter the inequalities and injustices of the legacy of apartheid and to sustain a newly acquired freedom of democracy, the new South Africa is characterised by the constitutional principles of *inter alia*, "human dignity, human rights, non-racialism, non-sexism, democracy, freedom, equity and social justice" (RSA, 1996, Chapter 1, Section 1). In 1994, the new democratic government embarked on a series of new laws aligned with "the values that underlie an open and democratic society based on *human dignity, equality and freedom*" (RSA, 1996: Preamble, Section 39(1)) to transform South African society.

The notion of transformative constitutionalism, first articulated by Karl Klare in 1998, gained popularity during South Africa's transition from apartheid to constitutional democracy. Klare defines it as a "long-term project of constitutional enactment, interpretation, and enforcement" committed to reshaping a country's political and social institutions and power dynamics in a democratic, participatory, and egalitarian manner (Klare, 1998:150). This involves a sustained commitment to enacting, interpreting, and enforcing a constitution to transform the political and social landscape of a nation. The objective was to shift the balance of power towards democracy, equality, and participation through legislative provisions that give effect to the guarantees of the *Constitution*.

To achieve these shifts, the intention was to enact laws and regulations aligned with the principles outlined in the *Constitution*. This underscores the importance of legal frameworks in institutionalising and safeguarding democratic values, ensuring equal

rights, and promoting citizen participation. However, legislation represents just one avenue to actualise the objectives of the *Constitution*. For instance, laws addressing domestic violence are crucial in realising the principles outlined in Section 12 of the *Constitution*. Similarly, the *Children's Act* (RSA, 2007, Act 38/2005) serves as a mechanism to give effect to the provisions outlined in Section 28 of the *Constitution*, specifically focusing on safeguarding the rights of children (RSA, 1996, s28). In this regard, despite research showing that a restorative approach to discipline aligns with human rights, reduces recidivism, builds community, and offers educational benefits (Schiff, 2018:121; Fronius, Darling-Hammond, Persson, Guckenburger, Hurley and Petrosino, 2019), there is concern regarding legal consistency, victim preferences, implementation challenges, and the potential for inequity (Buth and Cohn, 2017; González, 2019). Nevertheless, a balanced approach to address learner ill-discipline that incorporates elements of restorative justice while recognising the need for legal consistency and victim rights may be a more viable solution. I believe by embracing transformative constitutionalism, (Braithwaite, 2016; Hailbronner, 2017; Fombad and Kibet, 2018), it could potentially provide a more balanced approach to address learner ill-discipline. Using constitutional principles for substantial social and political change aligns with restorative justice principles and promotes the fostering of sound learner discipline while improving nonviolent school environments.

Transformative constitutionalism not only provides a framework dedicated to applying constitutional principles for significant social and political change but in conjunction with restorative justice principles, which include repairing harm, restoring relationships, community engagement, fair responses to offences, empathy and understanding, accountability, and healing and transformation, offers a balanced approach to learner discipline in schools. By acknowledging human dignity and equality, encouraging participation and inclusivity, and advancing social justice and transformation, transformative constitutionalism lays the foundation for a comprehensive approach. Restorative justice principles further enhance this by stressing restoration and healing, community involvement, and just, proportionate reactions. These combined principles promote a holistic method that not only ensures discipline but also cultivates peaceful school environments and encourages the personal development and social responsibility of learners (Darling-Hammond and Cook-Harvey, 2018; Lodi et al. 2022).

The ongoing debates surrounding transformative constitutionalism's theoretical underpinnings highlight its complexity as a political and philosophical ideal.

3.2.2 Transformative Constitutionalism as a Political Ideal

Ideals are principles, values, or standards that are considered perfect, desirable, or morally right and often represent aspirational ideas, goals or a vision of what individuals or societies believe should be achieved (Shusterman, 2016; Bitzer, 2020). They serve as benchmarks or guides for behaviour and decision-making.

Given the origin of transformative constitutionalism, and the lack of a single definition (Barnard-Naudè, 2023:111), it is generally believed that transformative constitutionalism as a political ideal involves a commitment to social and political changes through the enactment, interaction, and enforcement of the *Constitution* (Venter, 2018; Sibanda, 2020; Pieterse, 2023). As such, this discussion addresses transformative constitutionalism as a political ideal in terms of enactment, interaction, enforcement, and interpretation, considering the perspective of legal scholars regarding these aspects.

3.2.2.1 Enactment

Enactment within the context of transformative constitutionalism refers to the process of giving “legal force and effect to constitutional principles” and values through legislative and executive action (Madlingozi, De Villiers and Freedman, 2022:193). It involves translating the broad aspirations and norms enshrined in the *Constitution* into concrete laws, policies, and practices that govern society.

Some legal scholars argue that transformative constitutionalism as a political ideal necessitates not only empowering judges (Waldron, 2021: 92) but also encouraging public engagement (Rodríguez-Garavito, 2021:3) and demonstrating political commitment to constitutional principles (Khaitan, 2022; Latham-Gambi, 2020). Many also advocate for active investment in legal education and awareness (Nicolson, 2018:49). Transformative constitutionalism as a political ideal also demands institutional reforms and engagement in international cooperation (Rodríguez-Garavito, 2021). However, the juridical meaning of transformation is highly contested, as achieving substantial justice through transformative constitutionalism remains an elusive goal (Sibanda, 2020; Sindane, 2021). Procedural authority and interpretive mandate are central to this discussion (Grove, 2019; Litman, 2022). Procedural authority refers to the judiciary's power to review and invalidate

laws conflicting with the *Constitution*, while the interpretive mandate involves interpreting laws to promote justice and equality (Levin, 2018:264).

Constitutional directives, like bills of rights, guide the interpretation and application of laws to promote equality and prohibit discrimination (RSA, 1996). They have been instrumental in challenging discriminatory laws and advocating for affirmative action (Khaitan, 2019). In South Africa, transformative constitutionalism aligns with constitutional directives, aiming to promote human rights, dignity, and equality, particularly for marginalised groups (Stetsenko, 2015). It involves the participation of various stakeholders in addressing historical injustices (Barnard-Naudé, 2022).

Enactment within the context of transformative constitutionalism involves giving legal force to constitutional principles through legislative and executive action (Madlingozi, et al. 2022:93). It translates constitutional ideals into tangible laws, policies, and practices that govern society (Farinacci-Fernós, 2019:533). Therefore, in education, enactment entails the translation of constitutional principles into specific laws, policies, and practices that promote social justice and human dignity (Farinacci-Fernós, 2019).

In this study, enactment implies the translation of constitutional principles into policies and governance structures that promote nonviolence, equity, and inclusion within educational settings (Farinacci-Fernós, 2019). As such, it requires ongoing engagement with stakeholders to ensure alignment with transformative goals of constitutionalism.

3.2.2.2 Interaction

Interaction involves the participation and engagement of various stakeholders, including lawmakers, government officials, civil society organisations, and ordinary citizens (Jansen and Kalas, 2020:9901). Jansen and Kalas (2020:9902) highlight the use of multi-stakeholder partnerships to achieve transformative governance through consistent enforcement.

In the context of education, interaction emphasises the importance of fostering inclusive dialogue, collaboration, and partnership-building among diverse stakeholders. It values participatory decision-making, promotes cultural sensitivity and respect for diversity, and seeks to leverage community resources and expertise to advance educational goals and promote social justice and human rights (Collins, Zhang and Sisco, 2020:486).

In the context of learner discipline and violence in schools, interaction may involve coordinating efforts to provide support services, implement prevention programmes, and strengthen community partnerships to create safer and more supportive learning environments for all learners (Keane and Evans, 2022:505).

3.2.2.3 Enforcement

Enforcement, as an aspect of transformative constitutionalism, ensures that the principles and values enshrined in the *Constitution* are not only established but also upheld and respected in practice (Shava and Mazenda, 2021:306). This implies that enforcement refers to the mechanisms and institutions responsible for ensuring compliance with these legal frameworks (Arsad, 2023:2). In the context of transformative constitutionalism, enforcement encompasses various elements, including the actions of law enforcement agencies, the judiciary, administrative bodies, and other institutions tasked with upholding the rule of law and safeguarding individual rights (Shava and Mazenda, 2021:307).

Enforcement within the context of education involves compliance with regulations, policies, and procedures to uphold the rights and well-being of learners, teachers, and education stakeholders (Scheba and Turok, 2020:77). This means the implementation of disciplinary measures, safeguarding protocols, and legal frameworks to maintain a safe and conducive learning environment.

In the context of this study enforcement efforts involve the establishment of disciplinary committees (Mathebula, Runhare and Marishane, 2021), the designation of responsible authorities, and the development of accountability mechanisms to ensure adherence to educational policies and legal requirements (Obadire and Sinthumule, 2021). It also includes providing training and resources to empower teachers and administrators to effectively enforce regulations (Padayachee, 2021). As such, it implies that in education enforcement efforts can ensure that teachers respond to disciplinary issues in a fair and consistent manner and contribute to positive behavioural outcomes (Williams III, Mallant and Svajda-Hardy 2023). In this regard fair enforcement guided by transformative constitutional principles contributes to meaningful societal change (Sibanda, 2020).

3.2.2.4 Interpretation

Legal scholars view transformative constitutionalism as a nonviolent political tool for societal transformation (Barnard-Naudè, 2022:112; Modi, 2024:52) by addressing

historical injustices and promoting social justice through juridical enactment (Hailbronner, 2017). Within democratic systems, transformative constitutionalism emphasises human dignity, equality, and rights (Braithwaite, 2016; Fombad and Kibet, 2018), which set the standard for constitutional interpretation, serving as a fundamental framework (Barnard-Naudé, 2022; Landau and Dixon, 2024). This interpretation of transformative constitutionalism presupposes that judicial activism, and legal mechanisms alone cannot drive constitutional transformation. It underscores the importance of educating the public about their constitutional rights and responsibilities, empowering citizens to advocate for social change (Rodríguez-Garavito, 2021). The relationship between interpretive mandate and individual rights is crucial, as it empowers the judiciary to safeguard these rights, especially in constitutional disputes (Grove, 2020:877). Theoretical frameworks of interpretation are influenced by constitutional law and institutional settings (Horowitz, 2023).

Research underscores the role of interpretation, constitutional law, and institutional contexts in safeguarding individual rights (Lustig and Weiler, 2018; Nedelsky, 2021; Teubner, 2022). Constitutional law establishes fundamental principles and limitations on government power, typically enshrined in bills of rights (Star and Bharadwaj, 2020). Institutional settings significantly shape the application of interpretive theories and their impact on safeguarding individual rights (Ahmed and Perry, 2023: 58). Courts, legislative bodies, and executive agencies all play pivotal roles in interpreting and implementing laws impacting individual rights (Bernstein, 2018; Grove, 2019; Litman, 2022).

Based on the above-mentioned, I concur that transformative constitutionalism as a political ideal envisaged legal and institutional changes at a societal level. Next, I discuss transformative constitutionalism as a philosophical ideal that underscores how these above-mentioned principles extend into transforming society.

3.2.3 Transformative Constitutionalism as a Philosophical Ideal

Transformative constitutionalism as a philosophical ideal reflects certain fundamental principles and values. When viewed through a philosophical lens, transformative constitutionalism encompasses a set of guiding ideas that transcend legal doctrines and encapsulate broader philosophical imaginations and aspirations (Stetsenko, 2015). Key aspects of transformative constitutionalism as a philosophical ideal include social justice, human dignity, ethical foundations and transformation, *ubuntu*, and communal values,

recognition of diversity, and human rights (Hailbronner, 2017; Albertyn, 2018:441). Some of these key aspects are discussed as follows:

3.2.3.1 Social Justice

Transformative constitutionalism is grounded in the principles of social justice. It not only seeks to rectify historical injustices and systemic inequalities but emphasises the moral imperative of creating a society where fairness and justice prevail (Hailbronner, 2017). *For example*, implementing policies and programmes aimed at providing equal educational opportunities for learners from historically disadvantaged backgrounds is crucial for fostering a more equitable society (Sefoka and Odeku, 2020; Amorim-Maia, Anguelovski, Chu and Connolly, 2022). These initiatives, such as scholarships, bursaries, and mentorship programmes, help level the playing field by removing barriers to education. By offering financial support and guidance, these efforts enable learners to pursue their academic goals regardless of their socio-economic status or background.

3.2.3.2 Human Dignity

Transformative constitutionalism as a philosophical ideal places a profound emphasis on human dignity. It sees everyone as inherently valuable and deserving of respect, and it aims to create a constitutional framework that safeguards and promotes the dignity of all members of society. Central to transformative constitutionalism is the recognition of the “inherent worth and dignity of every individual” within the educational system (Venter, 2018:143; Manthalu and Waghid 2019:25). It emphasises creating learning environments that uphold and respect the dignity of all learners and teachers. Creating safe and inclusive school environments where all learners feel respected and valued, regardless of their race, ethnicity, gender, or socioeconomic status. For example, incorporating human rights education into the curriculum to raise awareness and to empower learners to respect their rights and the rights of others (Robinson, Phillips and Quennerstedt, 2020; Russell, Sirota and Ahmed, 2019). This process often involves education about human rights, empathy-building exercises, and the promotion of a culture of respect and understanding within the learning environment. By educating learners about their rights and the rights of others, as well as the responsibilities that come with those rights, teachers can help cultivate a culture of respect and understanding (Robinson, et al. 2020).

Based on the above-mentioned, human dignity, aligned with RD practices that focus on the restoration of dignity for both the victim and the offender by addressing the underlying causes of behaviour and promoting understanding and empathy (Van Ness, Strong, Derby and Parker, 2022), creates opportunities for individuals to take responsibility for their actions while still affirming their inherent worth and potential for growth.

3.2.3.3 Ethical Foundations

Transformative constitutionalism is underpinned by ethical foundations that go beyond legal rules (Khaitan, 2022). It seeks to establish a constitutional order rooted in ethical principles that guide the behaviour of individuals, institutions, and the state toward morally sound and responsible conduct. In this regard, Avci (2017:125) argues that ethics education should be ongoing throughout an individual's life. By implication, incorporating ethical values and principles into education systems aligns with the ethos of transformative constitutionalism by recognising the importance of embedding ethical considerations within the fabric of society.

Transformative constitutionalism as a philosophical ideal in education underscores the necessity of ongoing moral development throughout an individual's life. This aligns with the idea that societal transformation requires continuous reflection, learning, and adaptation to changing circumstances. However, research warns us (Parks-Leduc, Mulligan and Rutherford, 2021:33) that values cannot be taught explicitly, because individual characteristics can influence ethical decision-making. Nevertheless, transformative constitutionalism as a philosophical ideal envisions not only legal and political change but a profound ethical transformation of society. Therefore, the development of ethical reasoning and behaviour among learners is important to foster a sense of responsibility towards oneself and others within the educational community (Parks-Leduc et al. 2021:30).

3.2.3.4 Ubuntu

In the South African context, transformative constitutionalism draws inspiration from the African philosophy of *Ubuntu*, emphasising communal values, interconnectedness, and the well-being of the community (Dube, 2023:1). *Ubuntu*, a concept deeply rooted in African philosophy, underscores the interconnectedness and interdependence of individuals within a community (Van Marle and Du Pless, 2024). Transformative

constitutionalism in education promotes *ubuntu* values such as compassion, empathy, and mutual support, fostering a sense of belonging and shared humanity among learners and teachers (Patel, Mohammed, and Koen, 2024:2). Moreover, incorporating *ubuntu* philosophy into classroom practices involves highlighting the significance of cooperation, mutual respect, and the collective well-being of all individuals involved (Mabunda and McKay, 2021; Padayachee, Maistry, Harris and Lortan, 2023; Mabaso, Lesabe and Govender, 2024). For example, schools can organise community outreach initiatives and cultural exchange programmes to promote understanding and appreciation of diversity.

The *Constitution* as a tool for social change involves interpreting constitutional provisions such as the right to education, freedom from discrimination, and the right to dignity in a way that requires schools to adopt practices that promote nonviolence. It provides opportunities for learners to develop empathy, conflict resolution skills, and a sense of collective responsibility for creating a positive learning environment (Davids, 2017:82). The *Constitution* provides a legal framework for protecting individuals from various forms of harm, including violence, abuse, and discrimination. This legal protection can lead to transformation by encouraging preventive measures, promoting cultural shifts in attitudes towards violence and discrimination (van der Merwe, 2023) and ensuring access to justice for those who have experienced violations of personal security (Peacock, 2023).

3.2.3.5 Diversity

Philosophically, transformative constitutionalism recognises and celebrates diversity. It acknowledges the plurality of identities, perspectives, and cultures within society, fostering a constitutional ethos that accommodates and respects human diversity. Transformative constitutionalism acknowledges the diverse backgrounds, experiences, and perspectives within the educational community. It advocates for inclusive educational practices that celebrate diversity and promote cultural understanding and respect (Engelbrecht, 2020:219; Albertyn, 2019:751). However, implementing multicultural education programmes requires professionally developed teachers to celebrate the cultural diversity of South Africa and to promote inclusivity and respect for different backgrounds. By providing professional development opportunities for teachers, they enhance their cultural competence and ability to address the diverse needs of learners (Purnell, 2016; Sdunzik, Johnson and Kong 2021).

Restorative Discipline Practices (RDPs) are “culturally responsive and inclusive”, recognising and respecting the diverse backgrounds, experiences, and perspectives of learners (Lustick, 2017:681; Lodi et al. 2022:96). RDPs represent a paradigm shift in how schools approach learner behaviour management and conflict resolution. Unlike traditional punitive approaches, which focus primarily on punishment and deterrence, restorative discipline emphasises repairing harm, restoring relationships, and fostering accountability (Lustick, 2020:556). Instead of isolating and stigmatising learners who misbehave, restorative discipline invites them to take responsibility for their actions and participate in the resolution process (Masinga, 2021).

Moreover, restorative discipline practices prioritise relationship-building and proactive intervention over reactive punishment. Teachers are encouraged to cultivate positive relationships with learners, getting to know their individual strengths, challenges, and needs. By building trust and rapport, teachers can create a supportive environment where learners feel valued and understood, reducing the likelihood of disruptive behaviour (Letuma, 2023).

Additionally, schools that implement RDPs often incorporate social-emotional learning (SEL) curriculum and provide opportunities for learners to develop conflict resolution, communication, and empathy skills. By equipping learners with life skills, such as conflict resolution, sound communication and empathy skills (Akan, 2020:226), schools will not only empower them to navigate conflicts constructively but assist learners to build healthy relationships. In this manner learners contribute positively to their communities.

3.2.3.6 Human Rights

Transformative constitutionalism fundamentally perceives human rights as interconnected and interdependent, rejecting a narrow understanding of rights and advocating for a holistic approach to human rights (Gilabert, 2024: 22). It acknowledges that fulfilling one right often relies on realising others, particularly emphasising the importance of education in empowering individuals to exercise their rights and participate fully in society (Barett, 2024: 370). This perspective necessitates judicial enforcement to ensure that educational systems foster inclusive, equitable, and democratic learning environments (cf. 3.2.2.3). Moreover, transformative constitutionalism philosophically views human rights as interconnected and interdependent and rejects a narrow and isolated understanding of rights. Moreover, transformative constitutionalism not only recognises that educational rights are interconnected with other human rights but also emphasises the importance of

education in equipping learners with knowledge, skills and empowering them to exercise their rights and participate fully in society (UN, 1989, Article 2(1)). By embracing these philosophical ideals of transformative constitutionalism, the education system in South Africa strives towards fostering an inclusive, equitable, and democratic learning environment that empowers learners to become active and responsible citizens (Olawale, Mncube and Harber, 2023:4).

In the context of school discipline, applying transformative constitutionalism requires schools to respect learners' constitutional rights throughout the disciplinary process and to ensure compliance with constitutional norms (Davids, 2022:2) through democratic governance. This approach aligns with the broader framework of transformative constitutionalism, which emphasises dynamic interpretation, social transformation, and a rights-based focus (Sari and Al Haddar, 2023; Madlingozi, et al. 2022). Promoting democratic values and practices, such as learner bodies and participatory decision-making processes, ensures that learners have a voice in shaping their educational experiences (Cook-Sather, 2020). However, Cook-Sather (2023:182) argues that learners' voice goes beyond merely giving them a platform to express their opinions and should instead be seen to empower learners and actively involve them in decision-making processes. Therefore, various strategies can be employed to promote learner agency, including collaborative decision-making and partnerships between learners, teachers, and administrators.

Considering all the above-mentioned, transformative constitutionalism manifests as both a political ideal and a philosophical ideal. The political ideal seeks societal transformation through legal and institutional changes, emphasising values like justice and equality. Simultaneously, the philosophical ideal guides individuals to embody these values in their personal lives and relationships, recognising the interconnectedness of personal and societal change (Heydenrych, 2022). Both ideals share a commitment to positive transformation, with the political ideal addressing systemic issues and the philosophical ideal fostering change at the individual and interpersonal levels.

3.3 VARIOUS PERSPECTIVES OF TRANSFORMATIVE CONSTITUTIONALISM

Transformative constitutionalism encompasses various dimensions beyond legal frameworks, including constitutional design, interpretation, and enforcement (Madondo,

2018). In South Africa, constitutional design aims to address historical injustices and promote inclusivity (Dixon, 2023). Constitutional interpretation involves multiple stakeholders and influences legal decisions and societal direction (Madondo, 2018:545). The legal perspective emphasises the role of *courts* in interpreting and applying constitutional provisions to address historical injustices (Osler and Skarra, 2025). However, debates exist over judicial overreach and the balance between individual rights and societal responsibilities (Ntlailane and Maseng, 2024).

Transformative constitutionalism holds that a constitution should do more than just govern; it should drive societal change, particularly in addressing injustices. This resonates with my study's aim to utilise transformative constitutionalism to foster nonviolence in schools. As such, this chapter briefly examines two key perspectives on transformative constitutionalism. *Firstly*, the legal and judicial perspective highlights the role of legal experts in shaping constitutional provisions, interpreting them, and enforcing constitutional rights through legal means. *Secondly*, the socio-political perspective stresses that transformative constitutionalism goes beyond the legal domain, necessitating participation from civil society, political leaders, and citizens to effect comprehensive societal and political transformation.

This brief overview explores how the legal and judicial perspective underscores the crucial role of *courts* in interpreting the *Constitution* to redress historical injustices and propel societies towards a more equitable and socially just future.

3.3.1 The Legal Perspective

The legal perspective emphasises the role of *courts* in interpreting and applying constitutional provisions to address historical injustices (Brett, 2018). However, at the core of transformative constitutionalism lies the belief that a constitution should not merely serve as a governance framework but should actively contribute to societal transformation, especially to address social injustices. This aligns closely with the focus of this study to use transformative constitutionalism to promote nonviolence in schools. However, debates exist over judicial overreach and the balance between individual rights and societal responsibilities (Van Heerden and Muswaka, 2020). Furthermore, the legal and judicial view of transformative constitutionalism emphasises the role of the legal system, indicating how the *courts*, and legal professionals interact with the law (Jain et al. 2021).

The constitutional framework/dispensation establishes the fundamental principles and structures governing a nation-state (Madondo, 2018). Chapter 9 of the *Constitution* establishes state institutions to support constitutional democracy. These independent bodies include the Public Protector, the South African Human Rights Commission (SAHR), the Commission for Gender Equality, the Auditor-General, the Independent Electoral Commission, and the National Youth Development Agency. *For example*, the Public Protector plays an important role in ensuring that individuals responsible for maladministration and other unlawful practices are held accountable for their actions (Rapatsa, 2014:894). These institutions play a crucial role in upholding and promoting constitutional principles such as human dignity, equality, and social justice.

3.3.2 Socio-Political Perspective

The socio-political perspective views judicial decisions as catalysts for societal change, requiring broader societal and political engagement (Woolman and Sprague, 2015:29). Socio-political perspectives underscore the importance of societal and political commitment to address structural inequalities (Theron and Liebenberg, 2015) and recognise the intricate interplay between judicial decisions and the broader socio-political dynamics (Van Kerkhoff and Pilbeam, 2017:30) that shape social transformation.

The impact of judicial decisions on the political landscape sparks debates among legal scholars. While some argue that courts serve as crucial checks on power, safeguarding marginalised groups (Lawrence, 2021:78; Denvir and Selvarajah, 2022:25), others express concerns about potential disruptions to democratic processes and encroachment on the policymaking role of elected representatives (Persson, 2021; Wegmann, 2022). Additionally, some scholars argue that achieving desired changes necessitates broader societal and political commitment to address structural inequalities (Liebenberg, 2015; De Vos, 2020). Thus, transformative constitutionalism is viewed not solely as a judicial endeavour but also as requiring active participation from civil society, political leaders, and citizens, reflecting a commitment to constitutional values. This is particularly evident in cases related to social and economic rights, such as access to housing, healthcare, and education. Relevant case laws on education, which frequently come before South African courts, is viewed in section 3.7 of this study.

Relevant to this study is the notion that the socio-political perspective extends beyond legal decisions (Heywood, 2020; Mańko, 2023) and emphasises the importance of

societal and political commitment in fostering human dignity, equality, and social justice in learner discipline within the education system. Based on these perspectives, the legal and socio-political perspectives are not mutually exclusive. Legal scholars recognise the interplay between legal and socio-political factors in realising transformative constitutionalism goals (Fombad and Kibet, 2017), which are inherently intertwined with the fundamental principles of human dignity, equality, and social justice.

Next, I briefly discuss human dignity, equality and social justice concerning transformative constitutionalism.

3.3.2.1 Human Dignity

The intrinsic humanity of every member of the human family is referred to as human dignity (Yermek, Zhanna, Dinara, Gulzhazira, Gulim and Lidiya, 2020). It adheres to every individual equally and acknowledges their inherent value, irrespective of their gender, race, social or political standing, abilities, merit, or any other distinguishing factor (Van der Walt, 2018: 83; Li and Singh, 2021). In other words, human dignity is not a characteristic or an interest to be preserved or advanced, like liberty, equality, a dwelling, or free speech. Human dignity is a foundational principle in most legal systems and political cultures and in international human rights instruments (Kleindienst and Tomšič, 2022:385). Aligned with the *Universal Declaration of Human Rights* (1948) human dignity functions as a universal and utilitarian ideal.

In the South African context, the *Constitution* places human dignity at the heart of its democracy, along with other fundamental values such as equality and freedom (Daly and May 2018; Matthews, 2019, Reyneke and Deacon, 2020). The *court* has described the rights to life and human dignity as the most important of all human rights (cf. 3.1). Section 3.7 of this study provides a brief discussion on the application of transformative constitutionalism principles/features that ensure that the legal system actively contributes to the realisation of human rights and social justice. In this regard, transformative constitutionalism advocates for substantive justice, responsive legal interpretation, and participatory democracy, aiming to create a legal framework that actively contributes to human rights, equality, and social justice.

3.3.2.2 Equality

Equality, as a foundational principle, advocates for the fair treatment and equal access to opportunities across social, economic, and political spheres (Alam and Mohanty, 2023). This principle underscores the importance of impartial treatment for all individuals, irrespective of their backgrounds or circumstances. Within the framework of transformative constitutionalism, equality extends to substantive equality and anti-discrimination measures aimed at rectifying historical injustices (Albertyn, 2018). Substantive equality goes beyond formal equality, recognising and addressing structural inequalities faced by certain societal groups. It acknowledges that treating everyone the same may not always result in fairness, especially in the presence of historical disadvantages or discrimination (Patel et.al. 2024).

Transformative constitutionalism embraces substantive equality by tackling underlying structural barriers and promoting inclusivity and justice (Ramalekana, 2021; Chopra, 2021). In South Africa, anti-discrimination measures are deeply embedded in transformative constitutionalism, as reflected in constitutional commitments and legislative initiatives like the *Employment Equity Act* (RSA, 1998) and *Broad-based Black Economic Empowerment* (RSA, 2003). These initiatives focus on promoting equal opportunities and fair treatment in employment for historically disadvantaged groups like Black South Africans, women, and people with disabilities.

The transformative constitutional notion emphasises substantive equality extends beyond legal rights. According to Oosthuizen and van der Walt (2023:171), the application of substantive equality might mean the invocation of affirmative action. Affirmative action aligns with transformative constitutionalism (Ramalekana, 2021:2). By addressing historical inequalities and discriminatory attitudes, it aims for the eradication of inequalities. In education, social equality entails providing equal access to quality education, resources, and extracurricular activities for all learners, regardless of their socioeconomic status (Hochfield, Schmid and Errington, 2022:1). Achieving this vision requires policies and practices that address disparities in funding, resources, and support services, while also promoting inclusivity and diversity within the educational framework.

This study underscores the importance of the need for schools to foster substantial equality and to ensure that every individual is treated with dignity and fairness.

3.3.2.3 Social Justice

Social justice serves as a multifaceted and contested umbrella term encompassing principles such as equity, equality, and diversity (Van der Walt, 2018:83; Teise and Gaillard, 2020:151). It involves the fair distribution of resources, opportunities, and privileges within society (Costanza, 2020; Artiles, Harris-Murri and Rostenberg, 2021). This can include addressing systemic inequalities leading to disparities in wealth, power, and human rights (Artiles et.al. 2021), as well as tackling discrimination and marginalisation to establish fairness and human dignity (Teise and Gaillard, 2020).

Social justice embodies principles of care and respect for human dignity, as enshrined in the *Constitution's* protection of rights like equality and personal freedom. Case law in this regard is discussed in section 3.7 of this study (cf. 3.7.6). In South African education, social justice aligns with the vision of a just society and the right to quality education for all (Shields and Hesbo, 2020:3). However, achieving social justice in education requires more than just policy implementation; it demands ongoing efforts to ensure fairness and equal treatment (Torres and Tarozzi, 2020:7; Papastephanou, 2021:10).

The above-mentioned underscore an integral aspect of transformative constitutionalism, hence the need to view the theoretical principles as the foundations for societal transformation.

3.4 THEORETICAL FOUNDATIONS

South Africa's legal system is a blend of Roman-Dutch, English common law, and indigenous customary law. It has been governed by a progressive constitution since 1996, which guarantees fundamental rights and freedoms through the *Bill of Rights*. The legal framework includes legislation passed by Parliament and is upheld by a hierarchy of courts, with the *Constitutional Court* as the apex. Post-apartheid transformation efforts aim to rectify historical injustices and promote equality and social justice. Transformative constitutionalism, situated within the broader field of constitutional law and political theory, serves as a distinctive theoretical foundation that departs from traditional constitutional theories (Hailbronner, 2017; Barnard-Naudè and Madlingozi, 2022).

3.4.1 Traditional Constitutionalism

Traditional constitutionalism often focuses on formal structures, separation of powers, and individual rights (Pech, 2020: 107; Grewal and Purdy, 2017:67) without necessarily addressing historical inequalities or the need for broader societal transformation. *For example*, key principles of *constitutionalism* include limited governance, the rule of law, separation of powers, due process, and protection of individual rights (Gutmann and Voigt, 2015:352; Lenaerts, 2017:491). In terms of limited governance, *for example*, educational policies and interventions are implemented within the framework of laws and regulations, with clear delineation of the government's role in education provision. Furthermore, the rule of law in a traditional constitution refers to the principle that all individuals, including government officials, are subject to the law and accountable for their actions (Brown, 2017; Pech, 2022; Giri, 2023). The *Constitution* is the highest law of the land, and all other laws and government actions must conform to its provisions. This ensures that no individual or institution is above the law, including government officials and agencies (Madlingozi and Field, 2022). This division of powers helps prevent the concentration of authority in any single branch and promotes checks and balances, ensuring that each branch operates within its prescribed limits. Moreover, due process ensures fair treatment and protection of individual rights in legal proceedings.

In brief, traditional constitutionalism safeguards individual rights through mechanisms such as the *Bill of Rights*, separation of powers, rule of law, judicial review, and limited government (Madlingozi and Field, 2022). However, unlike traditional constitutionalism, transformative constitutionalism emphasises the dynamic nature of constitutional law (Tamanaha, 2021:168).

3.4.2 Transformative Constitutionalism

Transformative constitutionalism represents a profound departure from traditional constitutional theories by emphasising the dynamic nature of constitutional law and its pivotal role in promoting social change, justice, and human dignity (Hailbronner, 2017; Madlingozi and Field, 2022). Transformative constitutionalism advocates for a more contextual and inclusive approach. Moreover, transformative constitutionalism extends beyond traditional constitutionalism by integrating principles of human rights and social justice. It places significant emphasis on human dignity and equality, aiming to ensure the

equal dignity of all individuals and rectify historical injustices (Gilbert, 2024:22). Transformative constitutionalism acknowledges the necessity of redistributing resources to address economic disparities and ensure the equitable distribution of development benefits to marginalised communities (Fombad and Kibet, 2018; Hailbronner, 2017).

Many perceive the *Constitution* as a "living document" (Davids and Klare, 2010; van Marie and du Plessis, 2024) that is evolving to meet the changing needs of society. This approach allows for a dynamic and contextual interpretation to address emerging challenges and evolving conceptions of justice (Klare, 1998). Transformative constitutionalism draws inspiration from critical legal studies and postcolonial legal theory, challenging formalistic and positivist legal approaches and aiming to dismantle colonial legacies (Barnard-Naudè and Madlingozi, 2022:54) while promoting inclusivity. As such, transformative constitutionalism signifies a profound paradigm shift in constitutional theory, highlighting the *Constitution's* transformative potential in advancing human dignity, equality, and social change. However, its theoretical underpinnings are multifaceted and subject to ongoing debates. Therefore, an understanding of transformative constitutionalism as a political and philosophical ideal necessitates considering its application within the governance framework of South Africa, where the legislature, executive, and judiciary play pivotal roles in effecting change.

3.4.3 Traditional Constitutionalism vs Transformative Constitutionalism

Traditional constitutionalism primarily focuses on formal structures, separation of powers, and individual rights (Grewal and Purdy, 2017:67). The key principles of traditional constitutionalism encompass limited governance, the rule of law, separation of powers, due process, and the protection of individual rights (Lenaerts, 2017:491; Barber, 2018:5). Limited governance in this context refers to the implementation of policies and interventions within the framework of laws and regulations, clearly defining the government's role in various domains, such as the provision of education.

Furthermore, the rule of law in traditional constitutionalism emphasises that all individuals, including government officials, are subject to the law and accountable for their actions (Daly, 2019:10; Scott, 2018:397). This system of checks and balances, established through the separation of powers, prevents the concentration of authority in any single branch, promoting accountability and adherence to prescribed limits.

Due process in traditional constitutionalism ensures fair treatment and protection of individual rights in legal proceedings. As such, traditional constitutionalism safeguards individual rights through mechanisms such as the *Bill of Rights*, separation of powers, the rule of law, judicial review, and limited government (Madlingozi and Field, 2022). In support, research supports the significant emphasis on human dignity and equality, aiming to rectify historical injustices and ensure the equal dignity of all individuals (Venter, 2018; Diala, 2019). Transformative constitutionalism acknowledges the need for redistributing resources to address economic disparities and ensure the equitable distribution of development benefits to marginalised communities (Kibet and Fombad, 2017; Hailbronner, 2017).

In brief, while traditional constitutionalism prioritises stability and limited government intervention, transformative constitutionalism signifies a paradigm shift by emphasising the dynamic, inclusive, and transformative potential of constitutional law in advancing human dignity, equality, and social change, particularly in the context of South Africa's governance framework. While transformative constitutionalism has achieved notable successes, it is not without challenges. To obtain a better understanding of what transformative constitutionalism entails, viewing the challenges might be of great value.

3.5 CHALLENGES IN TERMS OF TRANSFORMATIVE CONSTITUTIONALISM

Challenges inherent to transformative constitutionalism underscore its complexity, particularly within the South African context, where the *1996 Constitution* is hailed for its transformative provisions (Fombad and Kibet, 2017:341; Musavengane, 2019). Despite its promise, transformative constitutionalism faces several obstacles:

3.5.1 Interpretation and Definition

Transformative constitutionalism lacks a universally accepted definition, complicating its formulation and application. It demands a dynamic interpretation of constitutional principles to address evolving societal needs (News24, Maughan, 2023). As such, transformative constitutionalism presents a challenge in applying constitutional principles to evolving societal needs due to its dynamic nature. Unlike static interpretations, the *Constitution* as a living document, is responsive to changing circumstances and societal

expectations (cf. 3.4.2). This approach involves not only understanding the text but also considering underlying principles and objectives for transformative change and social justice (Brickhill, and Van Leeve, 2015:141; Hailbronner, 2017:528; Gienapp, 2021:322).

In education, transformative constitutionalism interprets constitutional provisions such as the right to education to address historical inequalities and promote inclusive education. This requires a nuanced understanding of concepts like human dignity, equality, and social justice, considering their implications for addressing structural injustices and systemic inequalities (cf. 3.3.2). Thus, the challenge lies in adopting a dynamic and context-sensitive approach to constitutional interpretation guided by principles of human dignity, equality, and social justice to promote transformative change.

3.5.2 Resistance from Traditional Institutions

Traditional power structures and legal conservatism can resist transformative constitutionalism's transformative agenda, challenging existing socio-legal orders and posing challenges in implementation amidst conservative legal cultures. Transformative constitutionalism often challenges entrenched power structures and traditional institutions that may resist change. Some authors attribute this to the conservative nature of South African legal culture (Maphosa and Nhlapo, 2020; Mudau and Mtonga, 2020). The inherent conservatism of South African legal culture can hinder the implementation of transformative constitutionalism, as it may resist changes to existing legal institutions and practices (du Plessis, 2019).

However, transformative constitutionalism not only seeks to both retain and disrupt the existing socio-legal order but aims to bring about change according to constitutional principles (Fombad and Kibet, 2017).

3.5.3 Implementation Gap

Despite legal mandates, there's often a gap between intended transformation and actual implementation due to resource constraints, bureaucratic inertia, and political will (Musabayana and Mutambara, 2022; Cohen, 2023). The slow pace of transformation and limited judicial capacity to address socio-economic issues hinders effective

implementation (Heywood, 2018). Striking the right balance between transformation and legal certainty remains a perpetual challenge.

South Africa's multicultural landscape poses challenges for implementing transformative constitutionalism principles, particularly in education, where inclusivity and cultural sensitivity are paramount (Ada Tchoukou, 2021; Roux, Bekker and Dalton 2022). Adapting educational policies and practices to diverse cultural contexts necessitates careful consideration of local languages, traditions, and values to ensure the empowerment and representation of all learners.

Within the context of school discipline and violence, transformative constitutionalism strives to mitigate socioeconomic disparities and injustices through the constitutional framework, yet certain issues are deeply entrenched, often demanding more than legal solutions for effective resolution. Critics argue that the concept's applicability varies significantly across diverse political, cultural, and historical contexts (Hassim, 2020; Brooks, 2023). Notably, what succeeds in one nation may not seamlessly transfer to another. The challenge lies in ensuring compliance with transformative constitutional principles, particularly in contexts lacking robust enforcement mechanisms.

3.5.4 Judicial Activism Versus Limitations

The role of the judiciary in advancing transformative constitutionalism is often debated. While judicial activism can help enforce constitutional rights and drive social change, it can also be criticised for overstepping its bounds and undermining democratic processes. The implementation of transformative constitutionalism presents challenges regarding the balance between judicial activism and restraint.

While this approach can facilitate progressive change, it may also encounter resistance from political actors and raise concerns about judicial overreach or the legitimacy of judicial decisions (Petersman, 2022:269). Conversely, judicial limitations within transformative constitutionalism advocates for a more cautious approach, deferring to elected branches of government and allowing democratic processes to address social and political issues. Some legal scholars argue that excessive judicial intervention may undermine democratic principles and popular sovereignty, potentially leading to backlash or political polarisation (Daly and Jones, 2020; Stiansen and Voeten, 2020). However, a

lack of judicial intervention may perpetuate systemic injustices and hinder progress towards transformative goals, particularly in contexts where marginalised groups face entrenched discrimination and inequality.

Finding the right balance between judicial activism and limitations in implementing transformative constitutionalism requires careful consideration of the specific context and objectives of constitutional transformation. While judicial activism may be necessary to challenge entrenched power structures and promote substantive equality, it must be tempered by respect for democratic institutions and processes. Conversely, judicial limitations should not be used as a pretext for preserving the *status quo* or perpetuating injustice but should instead complement efforts to promote social change through non-judicial means, such as legislative reform and public advocacy. Ultimately, achieving the goals of transformative constitutionalism requires a context-sensitive approach that harnesses the potential of both judicial activism and limitations to advance social justice and human rights (Aziz, 2023).

3.5.5 Political Opposition

Political stakeholders may resist transformative constitutionalism reforms, perceiving them as threats to their interests or the established order. Contestation from party-political figures and parliamentarians can challenge transformative constitutionalism's authority and implementation.

Political stakeholders may resist these reforms, perceiving them as threats to their interests or the established order. *For example*, Judge Mlambo, in his 16th Annual Human Rights Law Lecture at Stellenbosch University Law Faculty in March 2022, underscored how predominantly party-political figures, parliamentarians, and others openly contest transformative constitutionalism and question the authority of judges and courts (News24, 30 March 2022; Aziz, 2023). He also highlighted inadequate policies as hurdles for transformative constitutionalism.

3.5.6 Socioeconomic Realities

Transformative constitutionalism addresses socioeconomic realities by promoting social justice, addressing historical inequalities, and ensuring that socioeconomic rights are

justiciable and enforceable through legal mechanisms. The *Constitution* protects several socio-economic rights. Among others, it guarantees the right to adequate housing (section 26(1)), food and water (section 27(1)(b)), social security (section 27(1)(c)) and a basic education (section 29(1)). However, issues such as the right to housing, education, and healthcare, where the *court* plays a key role in interpreting and enforcing these rights, remain challenging. In practice, transformative constitutionalism experiences problems in terms of balancing competing interests (Jansen and Kalas, 2020:23), the risk of judicial overreach (Nyane, 2023:155), and the difficulty of implementing socioeconomic rights in the face of resource constraints (Tait, 2021:93).

Critics of a transformative constitutionalism approach to socioeconomic rights argue that it can lead to a lack of clarity and specificity in the interpretation and enforcement of these rights (Majiedt, 2022:19). Some critics argue that the open-ended and contextual nature of transformative constitutionalism can result in inconsistent and unpredictable judgments (van Staden, 2020:20), making it difficult for governments and other actors to plan and implement policies to address socioeconomic inequalities (Seopetsa, 2020:141).

Another criticism is that transformative constitutionalism 's focus on socio economic rights can lead to a neglect of civil and political rights, which are also essential for promoting social justice and addressing systemic inequalities. Critics argue that the emphasis on socioeconomic rights can lead to a "trade-off" between these different types of rights (Klug, 2022:188), which could undermine the broader goals of transformative constitutionalism. Furthermore, some critics argue that transformative constitutionalism 's emphasis on justiciability and legal enforcement of socioeconomic rights can lead to a neglect of other important strategies for addressing socioeconomic inequalities, such as political mobilisation and social movements (Omari, Rueda-Saiz and Wilson, 2024:49). Critics argue that legal enforcement alone is not sufficient to address the complex and multifaceted nature of socioeconomic inequalities (Khan, Usman and Riaz, 2021:500). This implies that transformative constitutionalism should be seen as part of a broader strategy for social transformation (Golla and Teuber, 2021:358; Kuenkel, Kuhn, Stucker and Williamson 2021:377).

Despite the above-mentioned challenges, transformative constitutionalism remains an important tool for promoting social transformation and addressing socioeconomic realities.

However, for the purpose of this study, it is important to recognise the limitations of transformative constitutionalism and to approach it as part of a broader strategy for social transformation. As such, it reflects a commitment to using constitutional law as a means of promoting social justice and addressing the legacy of historical inequalities.

3.5.7 Cultural and Contextual Challenges

Constitutional principles that work well in one cultural or societal context may not be easily applicable or accepted in another. Adapting transformative constitutionalism to diverse cultural contexts can be challenging, as it requires a nuanced understanding of the cultural, social, and historical contexts in which it is being implemented (Fombad and Kibet, 2017). *For instance*, culture may be a cause of division or conflict within a state (Dube, 2020; Forde, Kappler and Björkdahl, 2021), and there may be pressure for aspects of culture to be explicitly reflected in the terms of the *Constitution* (Dube, 2020; Zongwe, 2021). Moreover, transformative constitutionalism requires more than just the transformation of judiciaries and judicial culture.

Effective implementation of new constitutional arrangements might require cultural change on the part of constitutional actors and in the wider community (Saunders, 2021:253). However, culture, as an aspect of local context, is difficult for external observers and advisers to identify, understand, and evaluate for constitution-building purposes (Hunter-Parsonage, 2022:53). To adapt transformative constitutionalism to diverse cultural contexts, it is essential to engage in a practical dialogue that recognises the multiplicity of constitutional languages and institutions of the world (Golia and Teubner, 2021).

South Africa's transformative constitutionalism in education represents a commitment to building an inclusive, equitable, and quality education system that empowers all learners to reach their full potential. By addressing historical injustices, promoting diversity, and ensuring equal access to educational opportunities, South Africa strives to fulfil the promise of its *Constitution* and build a brighter future for all its citizens through education.

Challenges remain in fully realising the goals of transformative constitutionalism in education. Persistent disparities in educational outcomes, particularly between rural and urban areas, inadequate infrastructure, and teacher shortages in marginalised communities underscore the need for continued efforts to address systemic inequalities (Dann, Riegner and Bönnemann, 2020).

3.5.8 Enforcement Measures

Enforcement and compliance pose significant challenges for transformative constitutionalism, particularly in overcoming entrenched socioeconomic inequalities. However, persistent issues like poverty, unemployment, and spatial segregation undermine efforts to achieve substantive equality envisaged in the *Constitution* (Basson, 2022; Mathebula and Odeku, 2023). Land redistribution, a key constitutional promise, has been hindered by slow reform and property disputes. The misuse of governmental authority also encompasses the societal problem of poor governance. In this regard, Masuku and Jili, (2019:1935) ascribe corruption within government and public institutions as the reason for eroding public trust in the transformative agenda. The erosion of trust in political role players can spread to public institutions, undermining their effectiveness (Adeola, 2022:47). When people lose faith in politicians, they may become sceptical of the institutions they represent. This can lead to decreased cooperation, compliance, and increased polarisation. Rebuilding trust requires transparency, accountability, governance reforms, and leaders demonstrating integrity (Maganoe, 2023:1). In the pursuit of building nonviolent schools, rebuilding trust is pivotal. Furthermore, transparency fosters open communication and clarity in decision-making processes, ensuring that everyone feels informed and included (De Fine, Licht, 2014:309). Accountability reinforces the notion that misconduct is addressed fairly and consistently, promoting a sense of security among learners and staff. Governance reforms that prioritise inclusivity and fairness contribute to a sense of community, while leaders demonstrating integrity inspire trust and uphold ethical standards, fostering a positive school culture that discourages violence. Integrating these principles into the school framework proactively cultivates trust and promotes a nonviolent atmosphere where learners feel secure and valued.

While significant progress has been made since the end of apartheid in 1994, access to justice remains uneven, especially for marginalised communities, due to limited legal representation, language barriers, and prohibitive costs (McDonald, 2020:693). While South Africa boasts a progressive legal framework, realising socioeconomic rights such as housing, healthcare, and education demands substantial resources and political commitment. Budget constraints and competing priorities often impede progress in fulfilling these rights. When schools encounter limited resources and competing demands (Okeke and Mtyuda, 2017:57; Du Plessis and Mestry, 2019), it becomes challenging to

allocate sufficient funds and attention to initiatives aimed at promoting nonviolence. It is then difficult to address disciplinary issues effectively.

Aligned with this study, the implementation of restorative discipline in schools will not be without any challenges, including resistance from stakeholders, inadequate resources, and the need for training and capacity-building. Additionally, cultural sensitivity and responsiveness are essential to ensure that restorative practices are inclusive and respectful of diverse identities and experiences. Therefore, embracing transformative constitutionalism principles in schools provides an important avenue for advancing learner discipline by ensuring nonviolence in schools. Moreover, by embracing restorative practices, human rights, and nonviolent education principles, teachers can contribute to building a more equitable and inclusive society in line with the transformative goals of the *Constitution*. As such, these challenges demand thoughtful consideration and strategic approaches to ensure progress towards a more peaceful and just educational environment.

In short, transformative constitutionalism is an important vehicle for transforming learner discipline in schools. In this regard, this study underscores these profound challenges facing transformative constitutionalism. Therefore, by providing a deeper understanding of what transformative constitutionalism entails and highlighting the human rights of human dignity, equality, and social justice, transformative constitutionalism can promote nonviolence in schools by prioritising the implementation of human rights measures.

3.5.9 Interplay with Global Dynamics

The interaction between transformative constitutionalism and global dynamics is intricate and debated, as globalisation seeks to alter the landscape of constitutionalism, potentially questioning the legitimacy and legality of transformative constitutionalism within international systems (Hailbronner, 2017). While transformative constitutionalism gained prominence in post-apartheid South Africa, its relevance and discussions extend globally. This interaction poses challenges, including reconciling global human rights standards with local cultural contexts, ensuring effective enforcement and compliance, and addressing economic pressures.

The struggle for transformative constitutionalism in South Africa persists. Recently, the Department of Justice and Constitutional Development (DOJ&CD) organised a National

Conference on the *Constitution* to advance transformative constitutionalism, the rule of law, economic transformation, and respect for human rights and freedom (Aziz, 2023, online). The *Constitution* is more than the supreme law; it simultaneously rejects the past and envisions a just future, placing historical responsibility on all citizens and their respective leadership to participate in its realisation (Aziz, 2023, online).

As such, I discuss the complexity of transformative constitutionalism as a process, a goal, a tool, and approach.

3.6 TRANSFORMATIVE CONSTITUTIONALISM: A MULTIFACETED CONCEPT

Transformative constitutionalism is a rich and multifaceted concept that transcends traditional understandings of constitutional law. Since transformative constitutionalism, as a philosophy, has been discussed (cf. 3.2), I briefly discuss transformative constitutionalism as a process, goal, tool of change, and an approach.

3.6.1 Transformative Constitutionalism as a Process

Transformative constitutionalism as a process aims to transform a country's political and social institutions, power relationships, and societal norms towards a more democratic, participatory, and egalitarian direction (McEvoy, Todd and Walsh, 2022). Furthermore, transformative constitutionalism involves a dynamic process of constitutional interpretation, implementation, and reform aimed at advancing the principles of justice, equality, and human dignity. This process often entails engaging with historical injustices, confronting systemic inequalities, and promoting democratic participation. Moreover, transformative constitutionalism as a process involves a structured method of bringing about change adhering to the basic structure of the *Constitution* (Gomes, 2024:587). It is a process based on subjective interpretation and is not one that has a singular definition or understanding (McEvoy, Todd and Walsh, 2022:141). The major interpretations of transformative constitutionalism include transformation from colonial rule to self-governance and transformation as a process of continuous change (Zitzke, 2018; Fombad and Kibet, 2017).

In the South African context, transformative constitutionalism as a process is a fusion of transformation and constitutionalism. On the one hand, transformation is about bringing

societal change for the better in a structured way (Dann et al. 2020; Sibanda, 2020) and on the other hand constitutionalism is about adherence to a constitutional system of government that limits the power of the government and ensures the protection of human dignity, equality, and freedom (Pallavi, 2022).

In the education context, transformative constitutionalism emphasises the importance of viewing education as a tool for transformation. By enhancing the educational experience through a deeper comprehension of teaching and learning dynamics and embracing constitutional principles like human dignity and equality in educational practices, we can advance the quality and inclusivity of education while decolonising its foundations. Therefore, in terms of learner discipline, it means that teachers must approach disciplinary issues with a transformative mindset (King Lund, Hillis, and Mofield 2021) recognising the importance of addressing the root causes of misconduct and promoting social justice.

In brief, transformative constitutionalism as a process involves a structured method of bringing about change for the better guided by the *Constitution*. It is a continuous effort to transform political and social institutions, promote equality, and empower all members of society, guided by principles of democracy, participation, and egalitarianism. Judges, legal practitioners, and citizens all play crucial roles in this ongoing process of social and political transformation.

3.6.2 Transformative Constitutionalism as a Goal

Transformative constitutionalism as a goal seeks to bring about social transformation and address the injustices of the past by changing political and social institutions and power relationships in a democratic, participatory, and egalitarian direction. In this regard, the judiciary plays a crucial role as it is responsible for interpreting and enforcing the *Constitution* in a way that promotes social transformation and addresses the legacy of past injustices.

In the South African context, the *Constitution* has the goal of safeguarding human rights, promoting equality, and fostering a culture of transformative constitutionalism. It enshrines principles such as non-discrimination, the rule of law, and socio-economic rights, which are instrumental in driving transformation. In education, it involves a dynamic process of curriculum development, pedagogical approaches, and institutional practices aimed at

advancing the objectives of the *Constitution*. This process includes efforts to decolonise the curriculum, promote inclusive teaching methods, and ensure equal access to quality education for all learners, including historically marginalised groups.

In brief, the goal of transformative constitutionalism is to transform societal structures and attitudes to reflect the values enshrined in the *Constitution*, such as equality, human dignity, and social justice, to build a more inclusive and democratic society.

3.6.3 Transformative Constitutionalism as a Tool of Change

Transformative Constitutionalism views the *Constitution* as a powerful instrument for effecting social change and political transformation (Durojaye, Mirugi-Mukund, and Adeniyi, 2020; Prieto and Verdugo, 2021). By interpreting and applying constitutional provisions in a transformative manner, *courts*, legislators, and other state actors can catalyse systemic reforms and promote the realisation of constitutional rights and values. However, its implementation requires a judicial consciousness of the historical background that informs the present social and political situations (Tamanaha, 2021), as well as a less insistence on legal and procedural technicalities that often defeat the enforcement of rights (Baer, 2020; Heywood, 2021). It requires protection of civil and political rights, socio-economic rights, solidarity rights, and gender equality rights to shift the state-citizen relationship in an egalitarian direction (Hlatshwayo, Shawa and Nxumalo, 2020).

Considering the above-mentioned, transformative constitutionalism as a tool not only has been used to achieve substantive justice and substantive equality through judicial activism but it requires a psychological shift (Gready, 2022). This not only requires the pursuit of 'rights-friendly jurisprudence', or a philosophy that favours the enjoyment of fundamental rights but necessitates a preparedness to reject judicial deference to political arms where the law and the *Constitution* are violated or not being upheld (Cameron and Boonzaier, 2020; Dube, 2020).

As previously mentioned, learner discipline issues often stem from broader societal challenges such as poverty, violence, and trauma, disproportionately affecting marginalised communities (cf. 2). Therefore, by employing transformative constitutionalism principles within educational frameworks, such as promoting inclusivity, equity, and dignity, schools can address these root causes and foster environments that

align with the transformative aspirations of constitutionalism. Moreover, by addressing root causes, fostering inclusivity, and promoting collaboration among stakeholders, schools can move towards environments that uphold constitutional principles of equity, dignity, and respect. This requires an understanding of transformative constitutionalism as an approach to transform a society.

Hence, a brief overview of transformative constitutionalism as an approach to bring about societal change follows next.

3.6.4 Transformative Constitutionalism as an Approach

Transformative constitutionalism as an approach to constitutionalism is a long-term project of constitutional enactment, interpretation, and enforcement committed to transforming political and social institutions in a democratic, participatory, and egalitarian direction (Sibanda, 2020:401).

In the context of South Africa, transformative constitutionalism as an approach to constitutionalism constitutes a long-term endeavour to reshape political and social institutions towards a democratic, participatory, and egalitarian trajectory. The *Constitution* includes socio-economic rights that are considered justiciable rights, just as civil and political rights (Dann et al. 2020). Despite challenges like access to equal justice (Ameermia and Mhodi, 2020:12) and the continuing disparities of wealth and power (Fourie, 2024:823), transformative constitutionalism as an approach is committed to substantive equality and improving socio-economic conditions.

In the context of education in South Africa, transformative constitutionalism informs the approach to education policy, curriculum development, and learner discipline. It not only calls for a contextual and responsive approach to education (Motala and Pampallis, 2020) but encourages schools to consider the diverse needs and experiences of all learners (Groenewald and Mpisi, 2022). As such, transformative constitutionalism as an approach emphasises the importance of culturally relevant education and learner-centred teaching practices (cf. 3.2.3).

In this study, restorative approaches to discipline over punitive measures, guided by transformative constitutionalism, are of great significance to bring about change. transformative constitutionalism as a guiding framework encourages schools to align

educational practices with the principles and values enshrined in the *Constitution* so that stakeholders can work towards a transformative education system that empowers learners to become active and engaged citizens in a diverse and complex society.

Based on the above-mentioned, transformative constitutionalism as an approach that seeks to transform a country's political and social institutions and power relationships in a democratic, participatory, and egalitarian direction. As a long-term project of constitutional enactment, interpretation, and enforcement committed to transforming a country's political and social institutions and power relationships in a democratic, participatory, and egalitarian direction. Moreover, as an approach, transformative constitutionalism guides how constitutional law is interpreted, applied, and developed. It emphasises contextual, purposive, and rights-conscious interpretation of constitutional provisions, as well as active engagement with social and political realities. As such, it is an approach to constitutional governance that prioritises the transformative potential of constitutional norms and institutions in addressing societal challenges and promoting the common good.

At this stage, I want to formulate this study's understanding of what transformative constitutionalism entails:

It is my understanding that transformative constitutionalism involves the application of constitutional principles and values to adapt to evolving societal needs and drive social transformation. As established in this chapter, the *Constitution* serves as the foundational framework upon which transformative constitutionalism operates. While the *Constitution* provides the legal structure and principles for governance, transformative constitutionalism extends beyond mere compliance with legal norms. It calls for a deeper understanding and application of constitutional principles in ways that promote social transformation. As such, transformative constitutionalism challenges traditional interpretations of the *Constitution*, urging a more dynamic and contextually sensitive approach to constitutional law.

Schools, as institutions that are tasked with shaping the minds of future citizens, have a crucial role to play in embracing the principles of transformative constitutionalism. By integrating transformative constitutional principles into their curriculum, policies, and practices, schools can help cultivate a generation of citizens who are not only well-versed in legal doctrine but also deeply committed to promoting human dignity, equality, and

social justice in society. Moreover, implementing transformative constitutionalism in schools can foster a culture of active citizenship and social responsibility. Therefore, by equipping learners with the knowledge and tools to critically engage with constitutional issues and advocate for positive change, education becomes a transformative force. Through initiatives such as restorative practices, human rights education, and nonviolent education, schools can instil values that align with the transformative aspirations of constitutionalism, thus contributing to the realisation of a more just and equitable society.

Furthermore, I believe a brief overview of Human Rights Education guided by transformative constitutionalism would provide a better understanding of how the implementation of restorative discipline promotes social change and nonviolence in schools.

Next, I briefly discuss some case law that shows the dynamic play of transformative constitutionalism principles to achieve substantive equality and social transformation in schools.

3.7 CASE LAW ON SCHOOL DISCIPLINE AND TRANSFORMATIVE CONSTITUTIONALISM

Constitutional enactment, interpretation, and enforcement are necessary to achieve social change through the law, which gives the law and the courts a prominent place in the transformation process (Saunders, 2021:237; Heydenrych, 2022:81). Therefore, to achieve substantive equality and social transformation in schools, it is necessary for me to provide a brief discussion on some case law addressing learner misconduct and learner responsibility. As such, this section highlights the realisation of the constitutional imperatives in addressing learner discipline disputes, and their impact on the realisation of social change in a peaceful manner.

The legal basis for the ban on corporal punishment in South African schools is rooted in the *South African Schools Act*, 1996, which prohibits corporal punishment in schools. This *Act* empowers the Minister of Education to make regulations regarding the management and administration of schools, including the prohibition of corporal punishment. The *Act* also requires schools to establish codes of conduct that prohibit corporal punishment and other forms of abuse (Mofokeng, 2015; Reyneke, 2018). The prohibition of corporal

punishment in schools is based on the recognition of the rights of children and the need to protect them from physical and emotional harm.

In South Africa, public schools have juristic personality, which implies the legal capacity to sue and be sued in their own name (Alexander, 2023; Manamela, 2024). This means that individuals or schools can take a school to court. However, the *Department of Education* will be held vicariously liable for the damages caused by its employees (SASA, 1996, section 60). Legal grounds for taking a school discipline case to court in South Africa include cases where schools do not comply with the correct procedures when disciplining learners, as outlined in the *South African Schools Act* and policy regulations. These procedures include the requirement for a governing body to conduct disciplinary proceedings against a learner within seven school days of suspension, and to allow the learner to make representations or present their case before a decision is made on a suitable sanction (Matsebele, 2020). Learners have the right to request relevant documents as evidence, present their own evidence, call and question witnesses, and be represented at the hearing by their parents or a representative chosen by their parents. Suspension does not pause a learner's right to education, and academic support must still be provided to the learner by the school. If a school fails to follow these procedures, it may be in violation of the learner's rights and subject to legal action.

Furthermore, despite the 28-year ban, and important *court* rulings upholding the ban, the prevalence of corporal punishment remains exceptionally high in schools (Reyneke, 2018; Du Plessis, 2023). A report on corporal punishment published by Statistics South Africa (Stats SA, 2021) revealed that nearly half of the children who experienced violence in schools live in the Eastern Cape, Free State, KwaZulu, and Northwest (Stats SA, 2021). The report also shows that more than 50% of children across South Africa reported being subjected to corporal punishment by a teacher between 2009 and 2019.

The legal basis for the ban on corporal punishment in South African schools is rooted in the *South African Schools Act, 1996*, which prohibits corporal punishment in schools. The following cases related to learner discipline and corporal punishment in South Africa have highlighted significant issues of social change.

3.7.1 Christian Education South Africa v Minister of Education

Aligned with the previous section, the prohibition of corporal punishment was upheld in the case of *Christian Education South Africa v Minister of Education* (CCT4/00) [2000] ZACC 11; 2000 (4) SA 757; 2000 (10) BCLR 1051 (18 August 2000). Central to this case was whether the ban outlined in the *South African Schools Act* infringed upon the rights of parents in these Christian schools, who endorsed its use based on their religious convictions.

The issue originated from the enactment of the *South African Schools Act* (SASA, 1996), section 10 of which states,

“Prohibition of corporal punishment

(1) No person may administer corporal punishment at a school to a learner.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence which could be imposed for assault.”

The South African Schools Act, 1996, requires schools to establish codes of conduct that prohibit corporal punishment and other forms of abuse. The prohibition of corporal punishment in schools is based on the recognition of the rights of children and the need to protect them from physical and emotional harm. While acknowledging the importance of religious freedom and institutional autonomy, the *court* concluded that these rights must be balanced with broader societal goals, such as promoting equality and social cohesion (CCT4/00) [2000] ZACC 11; Woolman, 2015).

Although the court recognised that the prohibition encroached on the religious freedoms of these institutions, it deemed it a reasonable and justifiable restriction aimed at safeguarding the rights and dignity of children. The *court* emphasised that while legal and cultural diversity is respected under the *Constitution*, it cannot sanction anything that undermines fundamental rights such as human dignity (Mofokeng, 2015). In delivering its verdict, the *court* upheld the ban on corporal punishment in schools, including independent Christian schools, deeming it lawful and in harmony with the constitutional framework. This landmark ruling reaffirmed the court's unwavering commitment to championing children's rights and its role in mediating conflicting rights and interests within society.

The case underscored the pivotal role of transformative constitutionalism in shaping education policy and advancing the principles of justice and equality in South Africa's democratic framework. Consequently, the principles of transformative constitutionalism featured prominently in this case.

3.7.2 FEDSAS v Member of the Executive Council, Gauteng and Another

The Federation of Governing Bodies for South African Schools (FEDSAS) case revolves around the admission of children with disciplinary problems into schools. The case examined the balance between the rights of individual learners and the duty of schools to maintain discipline and provide a conducive learning environment for all learners. *Federation of Governing Bodies for South African Schools v Member of the Executive Council, Gauteng and Another* (CCT 209/15 2016] ZACC 14) is an important ruling in terms of the interpretation and enactment of the *Constitution* in case law.

FEDSAS brought the case to *court*, challenging a decision by Rivonia Primary School to exclude such children from mainstream schools. However, the *Constitutional Court* ultimately ruled against FEDSAS, determining that confidential reports may not be used in admissions and that schools should not be allowed to use the reports to deny access to a troubled learner. The *court* stated that schools must consider the best interests of all learners, including those with disciplinary issues, and should not discriminate against them based solely on past behaviour (Mofokeng, 2015; Reyneke, 2019).

This case highlights the complexities of managing disciplinary problems in schools while upholding principles of inclusivity and fairness. It underscores the importance of finding alternative solutions that prioritise rehabilitation and support for learners with disciplinary issues, rather than outright exclusion, to ensure access to education for all children.

In the context of this study, the *court's* ruling that the regulations were rational, reasonable, and justifiable and not at odds with section 5(5) of the *SASA*, underscores the importance of transformative access to schools (Darling-Hammond and Fronius, 2022). Considering transformative constitutionalism and social justice, this case presents a critical examination of the balance between individual learners' rights and schools' duty to maintain discipline and foster an inclusive learning environment. The *court's* ruling furthermore underscores the importance of embracing alternative approaches that

prioritise rehabilitation and support for troubled learners, ensuring equitable access to education for all children (Soudien, 2023:103; Walton and Engelbrecht, 2024: 2138). By affirming the rationality and justifiability of regulations, the *Court* highlighted the need for transformative access to schools, particularly for disadvantaged learners, by addressing discrimination and promoting inclusive educational practices.

3.7.3 Centre for Child Law and Section 27 v SACE

In 2020, two mothers, supported by the Centre for Child Law and the lobby group Section27, took the South African Council of Educators (SACE) to *court* for failing to address corporal punishment by teachers (Du Plessis, 2021, Sefolo, 2023; Mahaye, 2023a). The case highlighted instances of lenient sanctions against teachers who physically abused learners, causing trauma and medical issues. In one incident, the teacher used a pipe to hit a learner across the cheek (Broughton, 2024) leading to the learner requiring emergency surgery.

SACE was criticised for imposing lenient sanctions on teachers found guilty of assaulting learners, which perpetuated the use of corporal punishment in schools. The case ensured that teachers are properly sanctioned for misconduct and that the ban on corporal punishment is enforced effectively. The *court* ruling compels SACE to take effective and transparent disciplinary action against teachers who commit acts of violence against learners (Mnini, 2023). In this regard, the *Supreme court of appeal* upheld the best interest of the child in cases involving corporal punishment and underscored social justice embodies principles of care and respect for human dignity, as enshrined in the *Constitution's* protection of rights like equality and personal freedom (cf. 3.1).

3.7.4 Tshona v Principal, Victoria Girls' High School and Others 2007 (5) SA (66)

The *Tshona v Principal, Victoria Girls' High School and Others 2007 (5) SA (66)* case centred around a 16-year-old girl who initiated an urgent application against the principal and SGB chair of Victoria Girls High School, as well as the MEC and the HoD. The girl claimed that the principal harboured personal animosity towards her due to a previous disagreement with her mother over her hairstyle (Deacon, Colditz, Mellet, and Van der Merwe, 2016). In 2006, the girl breached hostel regulations, resulting in a suspended

expulsion from the hostel. However, she admitted to violating the terms of this suspension with another offence in the same year, which led to her expulsion from the hostel. Subsequently, a legal dispute ensued, prompting the school to retract its decision and readmit the girl to the hostel under a court-ordered agreement.

Later the same year, the girl committed another offence, prompting her and her mother to be summoned to a disciplinary hearing, which they failed to attend. Consequently, the girl was once again dismissed from the hostel. In response, the girl and her mother sought to overturn the school's decision, claiming it as a breach of a court order. Their attorney argued that the learner's expulsion from the hostel fell under the provisions of section 9 of the *SASA*, regarding learner expulsion from school. Moreover, they contested the principal's alleged fabrication of evidence from the previous hearing, presenting recordings and transcripts that contradicted the principal's claims.

Ultimately, the *court* ruled against the application, stating that expulsion from the hostel did not equate to expulsion from the school and thus did not infringe upon the learner's constitutional right to basic education under section 29. The *court* affirmed the SGB's authority, as outlined in section 20(1)(g) of the *SASA*, to manage school property, including the hostel, and maintain discipline within it, thereby allowing them the right to impose hostel expulsion sanctions.

The case underscores the importance of maintaining meticulous records during disciplinary proceedings involving learners. It clarifies that disciplinary hearings can proceed in the absence of the learner and her mother if reasonable attempts have been made to notify them. Furthermore, expulsion from the school hostel does not necessarily imply expulsion from the school itself. Therefore, accurate record-keeping is imperative for ensuring the efficacy and fairness of disciplinary processes in educational institutions.

This case exemplifies transformative constitutionalism through its emphasis on procedural fairness and accountability in disciplinary proceedings. It highlights the significance of meticulous record-keeping and transparent procedures to uphold the efficacy and fairness of disciplinary actions.

3.7.5 Le Roux and Others v Dey, 2011

In the *Le Roux and Others v Dey (Freedom of Expression Institute and Restorative Justice Centre as Amici Curiae) 2011 (3) SA 274 (CC)*, (Deacon et.al. 2016:91-97) recount a case originating from a high school in Pretoria in February-March 2006. Mr Le Roux, a learner at the school, created a computer-generated image depicting the deputy principal, Dr Dey, and the principal, both naked and with their genitals covered by the school crest, suggestive of sexual activity. Mr Le Roux shared this image with his friend, Mr Geldenhuys, via cell phone, who subsequently disseminated it to numerous other learners. Another learner, Mr Janse Van Rensburg exacerbated the situation by printing the image and displaying it on the school notice board for approximately 30 minutes before it was removed. Consequently, disciplinary proceedings were initiated against the involved learners, resulting in their admission of guilt and subsequent penalties. While two of the three boys issued apologies, Dr Dey pursued legal action. The matter escalated to the Supreme Court of Appeal and subsequently to the *Constitutional court*. The *Supreme court* ruled that the boys were guilty of defamation, imposing fines of R45,000 each based on their failure to prove absence of intention to harm.

The *Constitutional court* upheld the ruling, viewing the learners' actions as an attempt to degrade Dr Dey's image and subject him and the principal to ridicule and contempt among their peers. The *court* emphasised that even if the learners intended their actions as a joke, there are limits to acceptable behaviour, particularly concerning the dignity of teachers. Consequently, the *court* reduced the fine imposed on the learners to R25,000.

This case underscores the importance of recognising boundaries when making jokes about teachers, highlighting that teachers also possess inherent rights to dignity that must be upheld and respected by learners. Learners must understand the limits of humour and refrain from actions that may compromise the dignity of teachers.

This case demonstrates the complexities of applying transformative constitutionalism in practice, particularly in balancing rights, adapting legal approaches to children's issues, and navigating potential resistance to change within the legal system. It aligns with transformative constitutionalism by advocating for a cultural shift towards greater respect and dignity for all individuals, fostering a more inclusive and egalitarian society by emphasising the recognition of teachers' inherent rights to dignity. By promoting

awareness of boundaries and encouraging learners to refrain from actions that compromise teacher's dignity, the case contributes to the broader goal of social transformation and the promotion of human dignity as enshrined in the constitutional framework.

3.7.6 MEC for Education, Kwazulu-Natal, and others v Pillay 2008 (1) SA 47

In the case of *KwaZulu-Natal MEC for Education v Pillay*, the *Constitutional court* was tasked with determining whether a Hindu learner had the right to wear a nose stud to school as an expression of her Tamil culture and Hindu faith (Mofokeng, 2015:44). The school had denied her request, arguing that wearing the stud did not align with the core beliefs of Hinduism. However, the *court* ruled that the school's dress code was not neutral but rather favoured mainstream and historically privileged forms of adornment, thereby excluding minority and historically marginalised practices. The *court* emphasised that both voluntary and obligatory religious and cultural practices deserved equal protection under the law.

The *court* further highlighted the importance of allowing learners to freely express their religious and cultural identities in school, arguing that promoting diversity and inclusivity in schools aligns with the vision of the *Constitution*. The *court* viewed the display of religion and culture not as something to be feared but as a celebration of diversity that enriches both schools and society at large (Mofokeng, 2015:44). Additionally, the *court* outlined that a school seeking to enforce a dress code must demonstrate that granting an exemption would likely cause significant disruption to school activities. In the absence of such evidence, the *court* concluded that the learner should have been granted the exemption she requested. Ultimately, the ruling underscored the *court's* commitment to upholding the rights of learners to express their religious and cultural identities without fear of discrimination or undue restriction (Mofokeng, 2015:45).

The case highlights exceptions regarding cultural rights and school discipline, emphasising the need for societal transformation. While school discipline contributes to social change, it is crucial to balance accommodating learners with maintaining discipline and educational standards.

In the context of this study, this case is an important example of how public perception, legitimacy, and judicial decisions resonate with the values of a diverse society (cf. 3.5.4; cf. 3.5.9).

3.7.7 Jacobs v Chairman of the Governing Body of Rhodes High School and Others

Jacobs v Chairman of the Governing Body of Rhodes High School and Others (7953/2004) [2010] ZAWCHC 213 (4 November 2010) case revolves around an incident at Rhodes High School involving a learner, Kunene, his teacher, Tania Jacobs, and the principal. The learner coming from a disadvantaged background, exhibited behavioural issues leading to his expulsion from the school. The incident in question occurred when he attacked his teacher with a hammer during a class test, causing her serious physical and psychological injuries that led her to abandon her teaching career. Kunene had a history of disciplinary problems, including various infractions and incidents of defiant behaviour, ultimately culminating in his expulsion (Deacon et al. 2016). Prior attempts at intervention, including counselling with the school counsellor, had failed to prevent the escalation of his behaviour. This case highlights the challenges faced by teachers in managing learner discipline and underscores the need for effective intervention strategies and support systems to address behavioural issues early on (Mofokeng, 2015:51). The Department of Social Services was expected to assess Kunene's situation and provide essential support and counselling for his serious social issues (Reyneke, 2019:165).

These court cases underscore the ongoing challenges in enforcing discipline in South African schools, particularly regarding corporal punishment and teacher accountability. Moreover, they emphasise the importance of upholding ethical and professional standards in education, protecting learners from harm, and aligning with social justice principles of care and respect for human dignity, as enshrined in the *Constitution's* protection of rights like equality and personal freedom (cf. 2.5.3; cf. 3.11).

Fundamental to this study is the idea of societal change through education, especially in promoting human rights via transformative constitutionalism. By aligning with principles of transformative constitutionalism, schools can prioritise restorative practices that emphasise reconciliation and cultivate a culture of respect and understanding. This ultimately contributes to creating safer and more inclusive learning environments.

The above-mentioned cases not only underscore the importance of discipline guided by transformative constitutionalism but also contribute significantly to the broader goal of social transformation and the promotion of human dignity, as enshrined in the constitutional framework. Next, I discuss transformative constitutionalism in relation to human rights education.

3.8 HUMAN RIGHTS EDUCATION AND TRANSFORMATIVE CONSTITUTIONALISM

The concept of human rights is partly a legal concept and has evolved over time to establish a framework for protecting and promoting the inherent dignity and rights of individuals (Valentini, 2017; Lawson and Beckett, 2021; Freeman, 2022; Drazenowich and Stroink, 2024). Human rights encompass a set of moral and ethical principles that recognise the fundamental entitlements and freedoms that every person should enjoy by virtue of their humanity. While the origins of human rights can be traced back to philosophical and ethical traditions, the legal recognition and codification of these rights have become a cornerstone in shaping modern societies.

From a legal perspective, human rights find expression in international and domestic legal instruments, such as the Universal Declaration of Human Rights (*UDHR*), adopted by the United Nations in 1948. The *UDHR* serves as a foundational document outlining a broad spectrum of rights, ranging from civil and political rights to economic, social, and cultural rights. In this regard, the United Nations was determined “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women, and of nations, large and small.” Subsequent international treaties and conventions, such as the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (Moeckli, 2017:54), have further solidified the legal framework for human rights protection on a global scale.

At the domestic level, many countries incorporate human rights into their constitutions and legal systems. In modern times, international human rights law has been enforced on nations. *For example*, during Apartheid, South Africa was an outcast for many years, subjected to tremendous external pressure and coercive mechanisms. Transformative constitutionalism underscores the gradual process of political transformation that South

Africa underwent (Bundy 2020; Mawere, 2020). However, human rights within constitutional frameworks and in the global context are a complex and multifaceted concept that spans centuries and is deeply intertwined with the development of political, philosophical, and legal thought (Wolhuter and Niemczyk, 2023). Moreover, constitutional provisions, bills of rights, and statutory laws define and protect the rights and freedoms of individuals within a particular jurisdiction.

The legal concept of human rights serves as a powerful tool for holding governments and institutions accountable for respecting and protecting the rights of individuals. Legal frameworks provide a basis for adjudicating disputes, establishing standards for government conduct, and ensuring that individuals have avenues for recourse in the face of human rights violations. The legal enforcement of human rights contributes to the development of a just and equitable society, promoting the principles of equality, justice, and human dignity. Therefore, *courts* play a crucial role in interpreting and enforcing these legal guarantees, providing individuals with mechanisms to seek redress when their rights are violated (Bhat, et.al. 2023:698).

While the concept of human rights has moral and philosophical underpinnings, its legal dimension adds a critical layer of enforceability and accountability. The convergence of moral principles with legal mechanisms creates a comprehensive framework that seeks to safeguard the well-being and freedoms of individuals on both a national and global scale.

3.9 THEORIES OF HUMAN RIGHTS

Several key theories have significantly contributed to the understanding and conceptualisation of human rights. These theories have evolved over time, shaping human rights discourse and influencing the development of legal and moral frameworks. Some key theories that have contributed to the understanding and conceptualisation of human rights are briefly discussed below:

3.9.1 Natural Law Theory

The *Natural Law theory*, rooted in ancient philosophy, particularly in the works of Aristotle, posits that certain rights and principles are inherent in human nature (Barnard-Naudè and

Madlingozi, 2022:51) and are discovered through reason and moral reflection. In legal studies, this theory is taught as the opposite of legal positivism.

3.9.2 Social Contract Theory

The Social Contract Theories, as articulated by thinkers such as John Locke, Jean-Jacques Rousseau, and Thomas Hobbes, proposes that individuals enter a societal contract to secure protection and mutual benefits (Seabright, Stieglitz and Van der Straeten, 2021:1). In this context, human rights emerge as 'essential conditions agreed upon within the social contract' (Madlingozi and Field, 2022:3). Individuals surrender certain freedoms in exchange for the protection of their fundamental rights by the governing authority.

3.9.3 Utilitarianism

Utilitarianism, associated with philosophers such as Jeremy Bentham and John Stuart Mill, focuses on the maximisation of overall happiness and well-being (Garcia, 2017). According to Garcia (2017:359), human rights within a utilitarian framework are viewed as instrumental to the overall happiness of society. The protection of individual rights is justified because it contributes to the greater good and societal welfare.

3.9.4 Capability Approach

Developed by economist and philosopher Amartya Sen and philosopher Martha Nussbaum, the Capability Approach focuses on the freedoms and opportunities that individuals must lead valuable lives (Svensson and Levine, 2017:906). Human rights within this framework are seen as enabling people to achieve certain capabilities, such as the ability to participate in society, access education, and enjoy good health. In contrast, research shows that postmodern and critical theories challenge traditional human rights discourse, questioning the power structures and cultural biases inherent in the formulation and application of rights (Brown, 2015; Tai, 2023). Nevertheless, these theories highlight the importance of considering diverse perspectives and acknowledging the influence of historical, social, and political contexts on the realisation of human rights.

3.9.5 Marxist Theory

Grounded in the work of Karl Marx, Marxist theory views rights in the context of social class struggle (Fuchs, 2020:335). The theory argues that true human rights can only be realised in a classless, communist society. Marx's critiques of capitalism and focus on socioeconomic conditions are foundational to Marxist perspectives on human rights. Marxist theory has influenced discussions on economic, social, and cultural rights, (Block, 2021), emphasising the need to address systemic inequalities.

Against the above-mentioned brief background, this section explores the connection of human rights in transformative constitutionalism, examining how constitutional principles and legal mechanisms can be leveraged to promote social justice and uphold human dignity. The role of human rights and transformative constitutionalism is discussed next.

3.10 THE ROLE OF HUMAN RIGHTS AND TRANSFORMATIVE CONSTITUTIONALISM

Human rights play a crucial role in transformative constitutionalism, particularly in the context of the Global South. In the Global South, transformative constitutionalism aims not to only establish a rule-of-law order but also to bring about significant social change and reform by reflecting the people's aspirations for a more democratic, participatory, egalitarian, and multicultural society (Gebrihet and Eidsvik, 2024:2).

The connection between human rights and transformative constitutionalism reflects a commitment to using constitutional principles to advance social transformation and uphold human dignity. It involves incorporating international human rights standards by adopting a rights-based approach to governance by emphasising social and economic rights, thus empowering marginalised groups. In this regard, judicial activism is used to enforce these principles, especially in achieving substantive equality (Fredman, 2016; Albertyn 2018).

Transformative constitutionalism incorporates international human rights standards into domestic law and directly influences the interpretation and application of constitutional provisions by domestic courts and other state institutions. As such, it adopts a rights-based approach to governance. Research underscores the importance of judicial activism in interpreting and enforcing laws to uphold substantive equality, ensuring that education

policies and practices promote fairness and inclusivity (De Vos, 2020; Madlingozi and Barnard-Naudè, 2022).

Human rights, as fundamental liberties inherent to every individual, find a natural ally in transformative constitutionalism, a legal and philosophical framework that seeks to rectify historical injustices and reshape societal structures (Madlingozi, et al. 2022). Therefore, the complex relationship between human rights and transitional justice, in their pursuit, reinforcement, and mutual enhancement, suggests that for transitional justice to hold significance, it must be firmly rooted in safeguarding and advancing individual rights.

Research shows that transformative constitutionalism recognises the historical context of oppression that often led to the violation of basic human rights; therefore, addressing these violations is central to achieving true societal transformation (Linnér, and Wibeck, 2020; Benatar, 2024; Moser, 2024). In this regard, the transformative constitutionalism approach to nonviolence ensures that every individual is treated with dignity, given equal opportunities, and aligns with the core principles of human rights. Furthermore, the development of human rights leading up to transformative constitutionalism in South Africa considers the historical context of apartheid (cf. 3), the transition to democracy, and the adoption of a progressive constitution in 1996. Transformative constitutionalism emerged as a response to apartheid, emphasising the active role of the *Constitution* in societal transformation, particularly in promoting nonviolence. This approach has influenced constitutional thinking beyond South Africa, inspiring discussions about the transformative potential of constitutional law in addressing systemic injustices and promoting human rights globally (Murcott, 2022; Landau and Dixon, 2024). While the term may not be universally adopted, the underlying principles of using constitutional frameworks for societal transformation resonate globally (Ndweni and Sibanda 2020; Klaaren, 2023). Transformative constitutionalism 's universal applicability is reflected in its influence on constitutional discussions and practices globally, although its specific adoption may vary depending on the context (Golia and Teubner, 2021; Sharma and Tyagi, 2023).

Furthermore, the global perspective of human rights complements transformative constitutionalism's national context, contributing to a broader dialogue on constitutionalism and justice. Next, I briefly discuss human rights in relation to transformative constitutionalism in promoting and protecting human rights on the educational level.

3.11 HUMAN RIGHTS EDUCATION (HRE)

Human Rights Education (HRE) is a comprehensive approach aimed at fostering respect for human rights, equality, and dignity among all individuals (Kirchschläger, 2020; Osler and Skarra, 2025). This educational endeavour includes teaching fundamental human rights principles such as fairness, justice, non-discrimination, and the inherent dignity of every individual (Tibbits, 2018; Gilabert, 2023). HRE seeks to empower individuals to recognise and address human rights violations, advocate for their own rights and those of others, and contribute to the creation of a more just and peaceful society (Tibbits, 2018:65).

Central to HRE is the recognition of the importance of understanding and respecting diverse cultures, values, and perspectives. It emphasises developing the skills and knowledge necessary to engage with individuals from different backgrounds (Kahu and Nelson, 2018; van Werven, Coelen, Jansen and Hofman 2023). Education is viewed as a primary catalyst for societal renewal and transformation (UNESCO, 2018:10), particularly within the framework outlined by the *United Nations Convention on the Rights of the Child* (1989, Article 29(1)(b)). This convention underscores the role of education in the holistic development of children's personalities, talents, and abilities while instilling an understanding of their own rights and respect for the rights of others. Additionally, it aims to equip children with the skills and values necessary to lead peaceful lives and contribute to environmental protection.

In the South African context, HRE aligns with the transformative vision embedded in the *Constitution*, which mandates not only academic enrichment but also the creation of environments that safeguard children from harm (Letwala, 2021; Mdluli and Odeku, 2022). The *Bill of Rights*, enshrined in the *Constitution*, emphasises the rights to dignity, education, and freedom from cruel, inhuman, or degrading treatment, highlighting the state's responsibility to promote and protect human rights (RSA, 1996, Chapter 2). HRE in South Africa requires sensitivity to cultural backgrounds, inclusivity, contextualisation, and recognition of intersectionality (Robinson, Phillips and Quennerstedt, 2022; Ndlovu, Schlebusch and Makola, 2023). By reaching learners from diverse backgrounds, HRE fosters a more inclusive and equitable society. Addressing disciplinary issues and violence in schools is crucial, as they impact various human rights of the school community, such as the rights to education, safety, dignity, and freedom from discrimination (Motseke,

2020: 22; Mduli and Odeku, 2022:29). Punitive disciplinary measures or violent behaviour undermine learners' dignity and self-worth, underscoring the need for inclusive and supportive approaches like restorative practices.

Grounded in the constitutional guarantees of human dignity, equality, and social justice (Becker, De Wet and Van Vollenhoven, 2015; Mestry and Du Plessis, 2020), schools must ensure that learners are not only aware of their rights but also understand the legal and moral foundations of these rights. Munongi and Pillay (2018:48) highlight the need to empower learners and equip them with knowledge about their rights and responsibilities. This approach aligns with restorative justice principles and contributes to the transformation of social norms and structures envisioned in the *South African Constitution*. Ultimately, HRE empowers learners to understand their rights and responsibilities within a constitutional framework, promoting a more inclusive and equitable society. Through collaborative efforts with stakeholders and communities, South Africa can build nonviolent schools that uphold human dignity, promote reconciliation, and embody the spirit of transformative constitutionalism.

In this regard, HRE resonates with this study as it instils values of dignity, equality and respect for diversity and aligns with restorative practices that focus on repairing harm rather than punishment. A transformative constitutionalism approach supports nonviolent conflict resolution, empowers learner participation, and promotes cultural sensitivity; thus, integrating HRE into disciplinary practices will enhance inclusive, rights-respecting school environments.

3.11.1 Human Rights and Nonviolent Education

Human rights and Nonviolent Education are intricately connected, particularly in South Africa, given its history of apartheid and ongoing social justice struggles. Human Rights Education (HRE) focuses on understanding and respecting diverse cultures and values, while Nonviolent Education aims to foster peace, understanding, and nonviolent conflict resolution (Hallward and Norman, 2015). Nonviolent Education principles, influenced by Dr Martin Luther King Jr, advocate for nonviolence as a way of life, striving to foster harmony and address root causes of injustice (Wang and Lee, 2019; Evans, 2023).

In Canada and Norway, innovative approaches to HRE emphasise indigenous rights, reconciliation, and participatory learning methods (Cowan and Billaud, 2015; Nielson and Simmons, 2015). These approaches reflect a commitment to fostering a culture of human rights and social justice tailored to specific historical and cultural contexts. In South Africa, integrating HRE into the national curriculum aligns with transformative constitutionalism, promoting human rights awareness and social justice (Osler and Skarra, 2021:192). Initiatives led by institutions such as the South African Human Rights Commission (SAHRC) play a pivotal role in addressing human rights violations, raising awareness, fostering dialogue, and empowering individuals to advocate for their rights (Liebenberg and Slade, 2023).

Despite efforts, challenges persist in addressing school violence and ill-discipline, including resource constraints and inadequate teacher training (Tsanwani and Juta, 2015). Inconsistent application of HRE principles and punitive disciplinary measures may exacerbate tensions, highlighting the need for holistic approaches (Payne and Welch, 2022). Research underscores the significance of coordinated efforts to support learners' well-being and create safer, inclusive learning environments (Osler and Skarra, 2021; Ferguson-Patrick, 2023).

The integration of HRE into the South African curriculum aligns with educational policies guided by transformative constitutionalism, promoting nonviolence and social justice. However, challenges persist due to socio-economic disparities and inadequate resources, necessitating a whole-school approach to HRE (Nhambura, 2020; Ndlovu et.al. 2023). By leveraging the *Bill of Rights* and institutions like the SAHRC, South Africa aims to equip citizens with the knowledge and values necessary to uphold human rights and contribute to a more equitable society.

These approaches highlight diverse methods to deepen understanding of the link between human rights and transformative constitutionalism, emphasising curriculum integration and interdisciplinary collaboration. This groundwork sets the stage for discussing principles and best practices in Nonviolent Education. Next, I will briefly discuss the principles of Nonviolent Education.

3.12 THE PRINCIPLES OF NONVIOLENT EDUCATION

Nonviolent principles, as articulated by Dr Martin Luther King Jr, form the foundation of Nonviolent Education and have been integrated into various educational programmes worldwide to promote a culture of peace, understanding, and nonviolent conflict resolution (Wang and Lee, 2019; Evans, 2023:3).

First and foremost, nonviolence is not merely a tactic but a way of life, guiding every action and interaction. It aims not only to avoid physical harm but also to foster harmony and understanding among individuals and communities. Moreover, nonviolence principles imply that the true adversary is injustice itself, not the individuals perpetuating it. By targeting systems of oppression rather than demonising individuals, nonviolent initiatives seek to address root causes and bring about lasting change (Branagan, 2022; Svensson and Nilsson, 2023). Additionally, nonviolence acknowledges the transformative power of suffering, viewing it not as a defeat but as an opportunity for growth and enlightenment (Sellick, 2020). Central to this philosophy is the choice to respond with love and compassion rather than succumbing to hatred and bitterness - in other words, to resist violence to promote nonviolence (Chenoweth, 2023:55). Nonviolence is underpinned by a profound belief in the inherent justice of the universe, instilling in practitioners a steadfast belief that, despite present challenges, justice will ultimately prevail.

Nonviolent Education is rooted in the principles of nonviolence, compassion, and respect for human dignity (Kuo and Stanley, 2022). It seeks to cultivate individuals who are empowered to resolve conflicts peacefully, promote social justice, and foster a culture of understanding and cooperation (Misra, 2020:9). Below are some key principles of nonviolent education:

3.12.1 Respect for Human Dignity

Nonviolent Education begins with the recognition of the inherent worth and dignity of every individual. Nonviolent Education not only emphasises treating others with respect, empathy, and compassion, but does so regardless of differences in race, ethnicity, religion, gender, or other characteristics (Misra, 2020; Kleindienst, 2024). To promote the culture for peace, it is important to note that peace means not absence of wars, but also violence in forms such as conflicts, threats of life, poverty, discrimination, oppression,

exploitation, injustice and so on. Peaceful co-existence implies the capacity to live together in harmony and it calls for non-violent ways of resolving conflict (Alfoqahaa and Jones, 2020). It begins with the individual and spreads to the family, school, community, nation and to the global community. Research shows that education is a powerful tool for building peace, tolerance, justice, intercultural understanding, and civic responsibility (Hossain, 2024:487; Kleindienst, 2024:66).

Nonviolent Education ensures equal access to educational opportunities and resources while addressing learners' unique needs and challenges, fostering inclusivity and dignity. In the context of South Africa, Nonviolent Education not only holds the implication to prioritise equity in education, but it can also rectify historical injustices and systemic barriers faced by marginalised communities (Haque and Sharifi, 2024; Luoma and Moore, 2024), empowering learners as agents of change (Maspul, 2024:12).

In terms of learner discipline, Nonviolent Education offers a holistic approach to addressing issues and violence in South African schools, focusing on understanding root causes like poverty and inequality. Moreover, Nonviolent Education fosters inclusive and supportive environments by prioritising empathy and understanding to cultivate a culture of mutual respect and compassion. This approach aims to create safe spaces where learners can thrive without the threat of violence or intimidation. This aligns with transformative constitutionalism's objectives of promoting social justice and equality. By prioritising empathy, respect, and understanding among all stakeholders, Nonviolent Education contributes to realising transformative constitutionalism's goals, mitigating instances of bullying, aggression, and violence, and fostering a culture of mutual respect and solidarity within schools.

3.12.2 Conflict Resolution

Nonviolent Education equips individuals with constructive conflict resolution skills, emphasising principles of nonviolent communication, negotiation, and mediation to promote understanding and respect among learners and teachers. By fostering empathy, respect, and collaboration, Nonviolent Education empowers schools to address underlying factors contributing to discipline problems, creating safe environments (cf. 2.2; cf. 2.6.2). Moreover, addressing these factors through inclusive policies and support structures

enables schools to foster positive behaviour and resolve conflicts effectively (Lodi et al. 2020).

In South Africa, Nonviolent Education offers a robust framework for addressing discipline problems and violence, grounded in principles of empathy, respect, and cooperation, crucial for navigating the complexities of a diverse society (cf. 3.11). In schools where tensions may arise due to cultural or socioeconomic differences, negotiation and mediation are helpful techniques to resolve conflict. Furthermore, the transformative principles enshrined in the *Constitution* should discipline policies and practices towards restorative and transformative justice (Odell, Molthan-Hill, Martin and Sterling, 2020). In support, schools can create inclusive environments where conflicts are resolved peacefully, fostering trust, and strengthening relationships within the school community (Mpuangnan, Ntombela, 2023:1). Through collaborative efforts involving all stakeholders, schools can build a culture of understanding and cooperation, ensuring that every learner feels valued, respected, and empowered (Leithwood, 2021:377).

3.12.3 Promotion of Social Justice

Nonviolent Education aims to address underlying social injustices and inequalities, enabling learners to work towards positive social change. When learners are encouraged to question assumptions, challenge stereotypes, and examine the root causes of violence and injustice in society, it promotes social justice.

Nonviolent Education, rooted in principles of equality, dignity, and respect, serves as a catalyst for challenging systemic injustices and fostering inclusive learning environments. These principles recognise the inherent worth and dignity of every individual, irrespective of their background or identity. In a country with a history marred by apartheid and ongoing socioeconomic disparities, this recognition is paramount for dismantling oppressive structures and promoting a more equitable society. Moreover, central to Nonviolent Education is the empowerment of learners as agents of change. By equipping learners with knowledge of social issues and tools for civic engagement, Nonviolent Education fosters a sense of agency and responsibility (Kleindienst, 2024:66). Through dialogue and reflection, learners are encouraged to challenge injustices and advocate for systemic change for countering ill-discipline and violence in schools (Jamshaid et.al. 2024:74). Research shows that Nonviolent Education celebrates diversity and promotes inclusion, recognising the value of different perspectives, experiences, and identities (Eden et.al.

2024: Kurian, 2024). Similarly, Yilmaz and Argon (2020:26) assert that by creating learning environments that embrace diversity and challenge stereotypes and prejudices, Nonviolent Education cultivates empathy, understanding, and solidarity among learners. In this regard, Nonviolent Education paves the way for a more just and compassionate society.

In the context of South African schools, Nonviolent Education offers a comprehensive approach to addressing learner discipline problems and violence while simultaneously promoting social justice (Diko, 2023:43). This approach implies that a nonviolent method addresses the root causes of misbehaviour and promotes accountability. Through dialogue and nonviolent practices, learners are empowered to take ownership of their actions and learn from their mistakes (Lodi et al. 2022:96). Moreover, Daly (2024:6) maintains that when teachers are equipped with effective communication skills, negotiation techniques, and mediation strategies to de-escalate conflicts and promote positive behaviour in the classroom. Furthermore, Nonviolent Education aligns with social justice principles by challenging systemic inequalities and discrimination.

As such, by embracing the transformative potential of the *Constitution*, Nonviolent Education promotes social justice through inclusive and participatory processes in decision-making and conflict resolution. The literature review indicates that through dialogue, mediation, and collaborative problem-solving, schools can address the root causes of learner discipline problems and violence, fostering a culture of accountability, empathy, and mutual respect (Daly, 2024). Nonviolent Education offers a transformative pathway for addressing learner discipline and violence in South African schools (Mongale, 2021; Mlambo and Kiyala, 2024). Guided by the principles of transformative constitutionalism and the promotion of social justice, Nonviolent Education offers an effective approach to address learner ill-discipline and violence, creating safer learning environments.

3.12.4 Cultivation of Empathy and Understanding

Nonviolent Education promotes empathy and understanding as foundational for creating inclusive learning environments, aligning with transformative constitutionalism to promote nonviolent schools. Through literature, history, and experiential learning, learners develop a deeper understanding of others' experiences, fostering tolerance and cooperation (Wolhuter, Janmaat, van der Walt and Potgieter, 2020). Moreover, the cultivation of

empathy through interaction fosters cooperation among individuals not only fosters tolerance and mutual respect but underscores the importance of understanding and valuing of other's feelings and experiences. This lays the groundwork for learners to become agents of positive change in their schools and communities.

In the context of learner discipline issues and violence, transformative constitutionalism underscores the importance of empathy and understanding, rooted in principles of equality, dignity, and social justice. Furthermore, transformative constitutionalism calls for fundamental shifts in societal norms and structures to address historical injustices and promote reconciliation, recognising the diverse backgrounds and experiences of learners (Walker, 2024:45). Therefore, by embracing transformative constitutionalism principles, schools must involve stakeholders in decision-making processes related to discipline and conflict resolution (Lodi et al. 2020: Ko, Bal and Artiles 2024).

3.12.5 Active Citizenship

By embracing constitutional principles of equality and dignity, schools can create inclusive environments that empower learners to be active citizens. Nonviolent Education not only promotes empathy, respect for diversity, and civic engagement, but prepares learners to address real-world issues (Dal Magro, Pozzebon and Schutzel 2020; Velez, 2021). Nonviolent Education fosters conflict resolution skills, contributing to peaceful school environments and preparing learners to promote nonviolence in their communities. Guided by transformative constitutionalism, schools must prioritise restorative justice practices that uphold learners' rights and promote accountability. As indicated in the previous section, Nonviolent Education, through transformative constitutionalism, encourages learners to participate in their communities, advocate for causes they believe in, and work collaboratively to address societal challenges.

Transformative constitutionalism promotes transparency, trust, and respect, fostering a culture of civic engagement and mutual responsibility among learners and teachers. By embracing principles of equality, dignity, and social justice, enshrined in the *Constitution*, schools can create environments that celebrate diversity and empower learners to become active participants in building a nonviolent school. In this regard, Nonviolent Education emphasises the importance of active citizenship and civic engagement (Eden, et.al. 2024). Thus, Nonviolent Education serves as a cornerstone for fostering active citizenship within South Africa, empowering learners to engage meaningfully in shaping

their communities and society at large. This approach not only emphasises critical thinking, empathy, and social awareness but also provides learners with the tools and perspectives necessary to navigate complex societal issues (Waghid, 2024:76). Through discussions, debates, and critical analysis of historical injustices and contemporary challenges, learners develop a deep understanding of the socio-political landscape of South Africa and their role within it.

Within the context of this study to build nonviolent schools using a restorative discipline approach, guided by transformative constitutionalism, schools must address learner discipline issues with the aim of fostering active citizenship.

3.12.6 Global Awareness and Solidarity

Nonviolent Education promotes global citizenship and solidarity by encouraging learners to explore diverse cultures, histories, and worldviews, fostering understanding and appreciation for humanity's complexities (Normore and Jarret 2021:2019). To explore diverse cultures not only instils values of peace, justice, and nonviolence, but empower learners to advocate for positive change locally and globally (El Massoudi, 2024). Through learning about nonviolent movements and leaders, learners are inspired to stand against injustice. Community service-learning projects and advocacy campaigns cultivate solidarity with those striving for a better world.

In the context of transformative constitutionalism, building nonviolent schools with a restorative approach to discipline shapes both legal frameworks and educational practices, fostering human dignity and equality (Eden et.al. 2024:140). Upholding these values in disciplinary processes encourages empathy and understanding among learners, promoting global citizenship. This approach informs disciplinary practices, emphasising fundamental values such as equality and social justice, fostering a sense of global citizenship (El Massoudi, 2024). Furthermore, by emphasising the worth and dignity of every individual, schools can resolve conflicts while upholding learners' rights (Tuhuteru, 2023:1252). This approach encourages empathy and understanding in dispute resolution, fostering global solidarity. Addressing violence in schools involves proactive measures to prevent violence and promote positive behaviour, contributing to peace and justice locally and globally.

Transformative constitutionalism encourages active citizenship, urging learners to engage with global issues like human rights violations and poverty (Owen, 2020:416). In support, Tijsma, Urias and Zweekhorst (2021:2) suggest that community service-learning projects to address complex societal problems can be a-win-win situation. By implication, it empowers learners not only to be aware of societal challenges but also promote peace and social justice.

3.12.7 Modelling Nonviolence

Nonviolent Education emphasises the importance of teachers and schools modelling nonviolent principles in their interactions and practices. By creating a supportive and inclusive learning environment, teachers can inspire learners to embody the values of peace, justice, and compassion in their own lives.

In the context of this study, embracing nonviolence as a way of life within schools underscores the importance of fostering a culture of respect, empathy, and constructive conflict resolution. By fostering friendship and understanding, schools can cultivate an environment where learners, teachers, and staff feel valued and supported. Many authors believe that Nonviolent Education seeks to educate and transform people's behaviour and attitudes towards violence and conflict resolution (Bajaj, 2015; Wang, 2018; Evans, 2023). According to Wang (2018:17), nonviolence as an educational concept generally cultivates body/mind unity within an individual person and promotes compassionate relationships between the self and the other. Wang (2018) further explains that in such cultivation, violence must be curbed; however, nonviolence is also a positive force for individual and communal integration.

3.13 NONVIOLENT EDUCATION PRACTICES

Nonviolent Education Practices (NEPs) encompass strategies promoting conflict resolution, social justice, and nonviolence (Wang, 2018; Nadhirah and Adiputra, 2023). These methods equip individuals with skills in peaceful conflict management and foster active citizenship (Nadhirah and Adiputra, 2023). NEP incorporates community engagement, grassroots initiatives, and creative expression to inspire social transformation and global citizenship (Waters, 2019). Implementing NEP in schools requires a systematic approach, considering cultural contexts and best practices

(Chenoweth, 2020; Kleindienst, 2024). It aims to create inclusive learning environments, prioritising peace, empathy, and constructive conflict resolution (Payne and Welch, 2022). NEP also fosters empathy, constructive conflict resolution, and community engagement, celebrating diversity and promoting inclusivity (Nadhirah and Adiputra, 2023). However, implementing NEP faces challenges within the framework of transformative constitutionalism.

3.14 CHALLENGES OF NONVIOLENT EDUCATION INITIATIVES

While principles such as collaboration, empathy, and conflict resolution are promoted (Slim and Reuter-Yuill, 2021; Khan, Noreen and Hussaini, 2024), their comprehensive implementation in schools may be hindered by factors such as inconsistent application, insufficient teacher training, and inadequate resources (Fritzon, 2022; Shoko and Dwarika, 2023). Additionally, schools in disadvantaged communities face unique challenges related to poverty, trauma, and lack of access to support services, which can exacerbate behavioural issues and contribute to a cycle of violence within schools (Blitz, Yull and Clauhs, 2020; Damons and Cherrington, 2020; Christian and Sayed, 2023). Furthermore, cultural norms, societal attitudes towards violence, such as xenophobia (Dube and Setlalentoa, 2024), and exposure to violence in the media can shape learners' behaviour and attitudes towards conflict resolution, highlighting the need to address broader cultural influences to create a more peaceful school environment. Moreover, learners may experience underlying trauma or adverse childhood experiences that manifest as behavioural problems in school, underscoring the importance of addressing these underlying factors through trauma-informed approaches.

The absence of positive role models and mentors within schools and communities can contribute to the normalisation of negative behaviours (Spicksley and Watkins, 2020:94). Consequently, the lack of positive role models and mentors within schools can undermine efforts to promote nonviolence. Furthermore, punitive discipline policies that focus on punishment rather than restorative practices may exacerbate tensions and contribute to a culture of fear and resentment within schools (Kim, Smith, Cordes and Wohlstetter, 2024:530). To address these challenges effectively, a multi-faceted approach is required—one that goes beyond the implementation of nonviolent education principles alone. It involves addressing systemic inequalities, providing support for learners' social and emotional well-being, fostering positive relationships within school communities, and

engaging families and communities as partners in promoting a culture of nonviolence and respect.

3.15 HUMAN RIGHTS EDUCATION, NONVIOLENT EDUCATION AND TRANSFORMATIVE CONSTITUTIONALISM

In the context of the abovementioned, this section provides a brief overview of how HRE and Nonviolence Education align with transformative constitutionalism.

Human Rights Education (HRE) aligns with transformative constitutionalism by fostering an educational environment that promotes respect for human rights, equality, and dignity. As transformative constitutionalism aims for social justice and the transformation of societal norms and structures, education is regarded as a primary catalyst for societal renewal (UNESCO, 2018). HRE empowers individuals with knowledge about their rights, focusing on fairness, justice, and non-discrimination, directly supporting transformative constitutionalism's objective of a just and equal society (Roux and Bekker, 2022).

Moreover, HRE encourages the recognition and respect of diverse cultures and perspectives, essential for transformative constitutionalism's inclusive and equitable societal transformation (Allen, 2016; Mills, 2017). In South Africa, HRE aligns with the *Constitution's* vision by promoting academic enrichment and creating safe environments for children (Letwala, 2021; Mdluli and Odeku, 2022). This approach ensures that education not only protects individuals from harm but also promotes their well-being, a core principle of transformative constitutionalism.

Addressing school violence and disciplinary issues through HRE involves supportive approaches like restorative practices, which uphold human dignity and foster nonviolent conflict resolution (Motseke, 2020; Mdluli and Odeku, 2022). HRE teaches learners their rights and responsibilities within the constitutional framework, promoting an inclusive and equitable society (Becker et al. 2015; Yermek et al. 2020; Mestry and Du Plessis, 2020). This foundation supports transformative constitutionalism's vision of a society based on dignity, equality, and social justice.

Institutions like the South African Human Rights Commission (SAHRC) are crucial in promoting HRE, addressing human rights violations, and fostering dialogue (Liebenberg

and Slade, 2023). The involvement of such institutions ensures HRE is backed by strong legal and institutional frameworks, which is a key aspect of transformative constitutionalism. Furthermore, HRE's focus on nonviolent education (NE) aligns with transformative constitutionalism by promoting peace, understanding, and nonviolent conflict resolution (Hallward and Norman, 2015; Waters, 2019; Wang and Lee, 2019; Evans, 2023).

By integrating HRE into the national curriculum and aligning it with transformative constitutionalism principles, South Africa aims to create a more inclusive, equitable, and nonviolent society. This involves collaborative efforts with stakeholders and communities to build nonviolent schools that uphold human dignity, promote reconciliation, and embody the spirit of transformative constitutionalism.

3.16 CONCLUSION

This chapter underscores the imperative for proactive measures to foster safe and disciplined learning environments, especially in addressing learner discipline and violence prevalence, particularly within the South African educational context. The *Constitution*, 1996 mandates the creation of safe and conducive educational environments, emphasising the protection of children from maltreatment and ensuring their right to education in an enabling atmosphere. It also highlights the role of the state in implementing policies to achieve these objectives. The principles of transformative constitutionalism were highlighted as guiding educational transformation towards social change, with international law providing a framework rooted in human rights, sustainability, and peace. These concepts were explored in terms of their relevance to nonviolent education initiatives. Moreover, case law addressing learner misconduct and learner responsibility highlighted the realisation of the constitutional imperatives in addressing learner discipline disputes and their impact on the achievement of social change in a peaceful manner.

This study strived to define transformative constitutionalism as the application of constitutional principles and values to adapt to evolving societal needs and drive social transformation. As elucidated in this chapter, the *Constitution* provides the foundational framework for transformative constitutionalism. However, transformative constitutionalism transcends mere compliance with legal norms, advocating for a deeper understanding and

application of constitutional principles to foster social change. Thus, transformative constitutionalism challenges conventional interpretations of the *Constitution*, advocating for a more dynamic and contextually sensitive approach to constitutional law. Moreover, this chapter concurs that to effectively integrate nonviolence and human rights into education, a careful and systematic approach is necessary. Hence, the following chapter explores restorative justice as an approach to learner discipline, infused with the principles of transformative constitutionalism.

CHAPTER 4: RESTORATIVE JUSTICE: AN APPROACH TO LEARNER DISCIPLINE AND CONCEPTUAL FRAMEWORK

4.1 INTRODUCTION

This chapter explores restorative justice as an approach to learner discipline, beginning with its broad contexts and universal applicability before focusing on educational applications. Unlike a fixed programme or blueprint, restorative justice processes can be customised to suit the specific circumstances of each case. The restorative justice approach can be tailored to fit different settings, such as schools, communities, workplaces, and the criminal justice system, and can take various forms, including victim-offender mediation, restorative circles, family group conferencing, and community restorative boards. This flexibility allows restorative justice to be effective in a wide range of situations, from minor conflicts in schools to serious criminal offences. As learners have complex needs, teachers must empower and embrace them with restorative practices that not only change behaviours but transform learners into productive citizens, accountable for their own actions. Moreover, restorative justice addresses fundamental human needs for connection and understanding across diverse contexts.

In criminal justice, restorative justice brings together offenders, victims, and community members to repair harm. Workplaces also use it to resolve conflicts and improve organisational culture (Hopkins, 2015:19). Schools implement restorative justice as an alternative to zero-tolerance policies (Gregory et al. 2021:147), addressing issues like bullying and classroom disruptions while emphasising keeping learners in school and teaching social-emotional skills. Marder (2019) discusses how restorative justice has been integrated into different policing practices, demonstrating its adaptability to different institutional contexts and needs.

The criminal legal system is being reconsidered through a restorative justice lens, emphasising repairing harm to victims (Nascimento et al. 2023). In education, restorative justice offers a transformative approach to learner discipline, focusing on repairing harm, rebuilding relationships, and fostering accountability (Brookes, 2023:46).

This chapter provides an overview of restorative justice, explores its conceptual framework, and examines its application in education. It contrasts punitive discipline with restorative approaches and discusses the basic features of a restorative approach to learner discipline.

Finally, the chapter addresses misconceptions and challenges in implementing restorative justice in educational settings. Throughout, it emphasises the importance of restorative justice in education, particularly in relation to punitive discipline and nonviolent education, highlighting its potential to create safer and more supportive schools. As established earlier, disciplinary measures such as corporal punishment and violence can significantly impact various human rights, particularly those related to human dignity and freedom from harm (Obadire and Sinthumule, 2021:3).

4.2 RESTORATIVE JUSTICE: AN OVERVIEW

Restorative justice is a paradigm that emphasises repairing harm caused by misconduct rather than focusing solely on punishment. It involves all affected parties - victims, offenders, and community members - in addressing the aftermath of an offence (Olson and Sarver, 2022:942; Zawadzki, 2024:1). This approach aims to promote accountability, healing, and the rebuilding of relationships through facilitated dialogue and active participation.

In educational settings, restorative justice offers a transformative method for addressing learner discipline. Unlike traditional punitive measures, it focuses on understanding the impact of actions, encouraging empathy, and collaboratively developing solutions that promote learning and growth (Wadhwa and Wadhwa, 2022). This approach aligns with human rights principles, particularly those related to human dignity and freedom from harm (Obadire and Sinthumule, 2021).

Originating from ancient and indigenous practices, restorative justice re-emerged in the 1970s and 1980s as a formal concept in contemporary justice systems (Simons, 2022, Hiebert, 2022). Its application has since expanded to various fields, including education, where it offers a promising framework for creating safer, more inclusive school environments.

This study found Zehr's (2015) definition perhaps the most useful: "Restorative justice is an approach to achieving justice that involves, to the extent possible, those who have a

stake in the specific offence or harm to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible." Moreover, this implies that restorative justice is an alternative method of pursuing justice (Agnihotri and Veach, 2017:323), entailing, as much as feasible, involving those affected by a particular offence or harm to collaboratively recognise and tackle the harms, needs, and responsibilities, with the aim of healing and restoring things as much as possible.

This chapter explores the principles of restorative justice and their application in educational settings. It examines its importance in education, compares it to traditional punitive discipline approaches, and analyses its potential to create safer, more inclusive school environments.

4.2.1 The Origin of Restorative Justice

Restorative justice is rooted in ancient and indigenous practices that emphasise community involvement, reconciliation, and restoration (Frampton, 2023:78). In the 1970s and 1980s, restorative justice re-emerged as a formal concept in contemporary justice systems, aiming to address the limitations of retributive approaches (Johnstone, 2017; Cohen, 2019). Restorative justice seeks to understand the harm caused by an offence and find constructive ways to repair it (Zehr, 2015:95). It involves all affected parties - victims, offenders, and community members - in addressing the aftermath of misconduct. This process often begins with acknowledging the harm inflicted, enabling open communication between all parties, facilitated by trained mediators.

Central to the restorative justice approach is the concept of community involvement. By engaging various stakeholders, including community members, in addressing the impact of offences, restorative justice fosters a sense of collective responsibility and promotes healing on a broader scale. This community engagement not only supports the healing process but also promotes solidarity and shared responsibility, helping to reintegrate offenders back into society in a positive and constructive manner (Smith, 2021:43).

4.2.2 Restorative Justice as a Political Ideal

Restorative justice represents a transformative approach to criminal justice, emphasising accountability, community involvement, and harm repair over traditional punitive

measures. This philosophy advocates for a holistic, relational model that engages victims, offenders, and the community in the justice process, promoting empathy, responsibility, and rehabilitation. As Smith and Johnson (2020:515) note, this approach has gained traction in various jurisdictions, influencing legislative changes towards restorative principles. Conversely, Evans, (2023:1) argues that restorative justice seeks to address the root causes of crime, foster healing, and encourage community responsibility in addressing wrongdoing.

In South Africa, restorative justice principles have been incorporated into national legislation, including the *Probation Services Act of 1991* and the *Child Justice Act of 2008*, which marked an early step towards integrating restorative approaches into the legal framework. Moreover, the *Truth and Reconciliation Commission* (TRC) exemplified a large-scale application of restorative justice principles at a political level (Kirkwood, 2022; Tutu, Encyclopaedia Britannica, 2024).

The restorative justice approach extends into the educational settings, offering a transformative method for addressing conflicts and disciplinary issues in schools. Unlike traditional punitive measures, this approach involves facilitated dialogues among learners, teachers, and sometimes parents or guardians to understand the impact of actions, encourage empathy, and collaboratively develop solutions that promote learning and growth (Reimer and Parker-Shandal, 2023).

In the context of learner discipline, restorative approaches actively involve learners in repairing harm, rebuilding relationships, and preventing future misconduct through dialogue, negotiation, and problem-solving (Wachtel, 2016; Burns and Sinko, 2023). This inclusive approach not only addresses immediate behavioural issues but also empowers learners to take responsibility for their actions and contribute positively to the school community's values of respect and understanding.

Politically, restorative justice principles translate into policies and practices within legal and institutional frameworks, including alternatives to punitive justice, community-based approaches, and institutional support for restorative justice programmes. The implementation of these principles in education and broader societal contexts aligns with political aspirations of creating just and equitable communities. It is crucial to consider restorative justice as both a political and philosophical ideal, as the philosophical principles

inform policy creation, while effective political implementations reinforce these ideals in practice (Van Ness and Strong, 2022).

Therefore, this section discusses restorative justice as a philosophical ideal since philosophical principles inform the creation of restorative justice policies, and effective political implementations reinforce philosophical ideals in practice.

4.2.3 Restorative Justice as Philosophical Ideal

Restorative justice as a philosophical ideal diverges from traditional punitive approaches by emphasising the repair of harm caused by criminal behaviour rather than solely focusing on punishing offenders (cf. 4.1). In other words, restorative justice, as a philosophical ideal, envisions a society where harm is addressed through dialogue, healing, and community reintegration rather than punishment alone. This approach has gained traction in various jurisdictions, influencing legislative changes towards restorative principles. Restorative justice seeks to address the root causes of crime, foster healing, and encourage community responsibility in addressing wrongdoing (Johnstone and Brennan, 2019).

The South African government has recognised the value of restorative justice in building safer communities and has been incorporating it into legislation and policies since 1991 (van der Walt and Oosthuizen, 2021:89). For example, the *National Policy Framework on Restorative Justice* (RSA, Department of Justice and Constitutional Development, 2015) has yet to be formally adopted. According to the then Minister of Justice and Correctional Services, in his foreword to the framework, *"it has been necessary not only to increase institutional capacity to enable a more accessible justice system in order to better serve all our people, but also to be better aligned with the country's own indigenous justice systems to leverage our common objectives... By adopting this National Policy Framework, the South African government aligns itself with international thinking in recognising the value that the notion of restorative justice can play in building safer communities."* This statement highlights the government's strategic vision to enhance justice accessibility, integrate indigenous perspectives, and promote restorative justice to foster safer and more cohesive communities in South Africa. Accordingly, this framework, as discussed by Llewellyn (2021) and Mokomane (2023), seeks to establish uniform practices, enhance coordination among stakeholders, and encourage greater adoption of

restorative justice principles. Thus, the integration of restorative justice practices into education, the impact of such approaches on learner behaviour is significant to this study.

Restorative justice in education creates a more equitable and inclusive school culture by prioritising restoration over punishment. It fosters learner-led activism and addresses implementation challenges through collaboration, advocacy, professional development, and policy changes (Lodi et al. 2022:14). These practices not only aim to resolve conflicts but also empower learners to actively participate in shaping their educational environment. In South Africa, implementing social justice principles in education has played a crucial role in post-apartheid transformation by prioritising access to quality education for all and dismantling barriers that historically marginalised certain groups (Teise and Gaillard, 2020:153). In this regard, culturally sustaining pedagogy and sustainable equity, aligned with restorative practices, are emerging trends in social justice education that recognise and value learners' cultural backgrounds, languages, and experiences, creating inclusive learning environments (Archibold, 2016:119). These approaches aim to create a more inclusive and equitable learning environment by addressing systemic barriers and inequalities.

The significance of restorative justice holds promise as a political ideal for addressing learner discipline and violence in South African schools, but realising its transformative potential requires clear policies and high-level commitment to shift away from punitive approaches and build a culture of accountability, empathy, and restoration. However, with the right implementation, it can help create more positive, supportive school environments and reduce the high levels of violence that currently plague many South African schools (cf. 2). For this study, the *Constitution*, as the supreme law of South Africa should play a decisive role in transforming South African society in general and school discipline in particular, to give effect to the constitutional imperatives such as human dignity, equality, and personal freedom (cf. 2.5.3).

Having examined restorative justice as both a political and philosophical concept, it is crucial to distinguish between these two aspects and understand how they interconnect to drive societal transformation. Next, I briefly explore the differences and synergies between restorative justice as a political ideal and as a philosophical ideal.

4.2.4 Political Ideal Versus Philosophical Ideals

Restorative justice embodies both political and philosophical ideals, which, while interconnected, have distinct focuses and applications (Zawadzki, 2021:2). As a political ideal, restorative justice aims to transform traditional criminal justice systems by emphasising accountability, community involvement, and the repair of harm caused by offences (cf. 4.2.1). In seeking to implement practical changes in legal and institutional frameworks, it also promotes alternatives to punitive justice and community-based approaches (Pali and Maglione, 2023). On the other hand, as a philosophical ideal, restorative justice represents a paradigm shift in how we conceptualise justice itself. It challenges retributive notions of justice and proposes a more holistic view that prioritises healing, accountability, and the restoration of relationships (Braithwaite, 2016:79). This philosophical perspective informs the ethical foundations and guiding principles of restorative practices, emphasising concepts such as human dignity, interconnectedness, and the inherent worth of all individuals (Van Ness and Strong, 2019).

While the political ideal focuses on systemic changes and policy implementation, the philosophical ideal provides the theoretical underpinning and moral justification for societal changes. Together, these ideals complement each other, with philosophical principles informing the creation of restorative justice policies, and effective political implementations reinforcing philosophical ideals in practice (Schiff, 2018). Thus, it is my understanding that restorative justice integrates these dual ideals by translating philosophical principles into actionable policies, thereby ensuring that political implementations reflect and uphold the underlying moral framework.

Building on my understanding of restorative justice as both a political and philosophical ideal, I now examine its conceptual framework specifically in relation to learner discipline. This discussion illuminates how restorative justice principles inform disciplinary practices and contribute to the promotion of social justice in educational settings.

4.3 CONCEPTUAL FRAMEWORK OF RESTORATIVE JUSTICE

Restorative justice, as both a political and philosophical ideal, offers a transformative approach to addressing conflicts and disciplinary issues within educational settings. This analysis aims to illuminate how restorative justice principles inform disciplinary practices

and contribute to the promotion of social justice in schools, with a particular focus on the South African context.

The principles of restorative justice are guided by five key concepts, often referred to as the "Five Rs": repairing harm, restoring relationships, responsibility, respect, and reintegration (Evans and Vaandering, 2022). Unlike traditional punitive measures that focus on punishment and exclusion, restorative justice emphasises healing, fostering responsibility, and building relationships within the school community (Gregory and Evans, 2020). This innovative approach to discipline can be more precisely understood by defining restorative justice in education.

4.3.1 Defining Restorative Justice in Education

Restorative justice in education can be defined as an approach that prioritises repairing harm, fostering empathy, and promoting inclusive dialogue among all affected parties when addressing conflicts and disciplinary issues (Lyubansky and Barter, 2019; Gregory and Evans, 2020; Lodi et al. 2022). Key aspects include voluntary participation, face-to-face encounters between offenders and those harmed, and collaborative problem-solving to address underlying issues (Winn, 2022).

This approach aims to cultivate a sense of belonging and mutual respect within school communities, ultimately reducing disciplinary incidents and improving school climate (Gregory and Evans, 2020). By focusing on relationships and shared responsibility, restorative justice seeks to transform how schools approach conflict and misbehaviour, moving away from exclusionary practices towards more equitable and supportive environments (Lodi et al. 2022; Brookes, 2023). Research shows that "zero tolerance" discipline policies are falling out of favour; more schools are turning to restorative justice practices (White and Young, 2020:2472; McNeal, 2021:663). Moreover, recent research shows that when implemented effectively, restorative programmes can help transform a school culture (Lodi et al. 2022; Lustick, 2020; Lyubansky and Barter, 2019). For example, experienced teachers can mentor and support their colleagues in the implementation of Restorative Discipline, sharing best practices and strategies for navigating challenges.

To understand how this transformation occurs, it is essential to examine the core principles that underlie restorative practices.

4.3.2 Core Principles of Restorative Justice

As established, restorative justice in education is founded on principles that prioritise healing, responsibility, and building relationships over punitive measures (Mansfield et al. 2018:304). This approach emphasises repairing harm, fostering empathy, and promoting inclusive dialogue among all affected parties (Lyubansky and Barter, 2019). Key aspects include voluntary participation, face-to-face encounters between offenders and those harmed, and collaborative problem-solving to address underlying issues (Winn, 2022). Central to restorative justice approach is the concept of repairing harm.

4.3.2.1 Repairing Harm

Repairing harm is a central tenet of restorative justice, seeking to understand the damage caused by misconduct or crime and find constructive ways to address it, promoting healing and reconciliation (Evans and Vaandering, 2022). Thus, the primary focus is on understanding and addressing the harm caused, rather than simply punishing the offender. According to Smith (2021:43), the aim of restorative justice is to rebuild trust and connections within the community affected by the misconduct. Offenders are not only encouraged to take active responsibility for their actions and participate in making amends, but all parties involved are also encouraged to treat each other with dignity.

In the South African context, this principle is deeply rooted in post-apartheid reconciliation efforts and draws significantly from indigenous African concepts of *ubuntu* and community healing (Henkeman, 2018:77). The Truth and Reconciliation Commission (TRC) set a precedent for addressing historical injustices in different settings within a community (Reyneke and Reyneke, 2020:83). Although the South African education system has made significant strides toward adopting principles of non-violent and non-punitive justice, particularly following the abolition of corporal punishment, reports indicate that many schools still engage in corporal punishment (Kubeka, 2018:92), which suggests a gap between policy and practice.

The South African education system is encouraged to adopt non-punitive disciplinary practices that align with the values of justice, equality, and respect for human rights. However, the reality on the ground shows a mixed response, with teachers seeking effective alternatives to maintain discipline while fostering a positive learning environment (Sekhwama, 2019:1). While there is a legislative and philosophical shift towards non-violent and non-punitive justice in South African schools, the practical application of these

principles faces significant challenges. The journey towards fully realising these ideals continues as educators and policymakers seek effective strategies for discipline that respect the rights and dignity of all learners.

In education, schools are implementing restorative practices to address both historical and current harms, aiming to create more inclusive and equitable learning environments (Payne and Welch, 2018:224). These practices often involve community conferences, where offenders, victims, and community members come together to discuss the impact of harmful actions and collaboratively develop solutions (Nxumalo and Mncube, 2019). In terms of learner discipline, repairing harm involves addressing the immediate consequences of violent or disruptive behaviour through facilitated dialogues between offenders and victims, allowing for direct accountability and understanding of the impact of actions (Mampane et al. 2020). Moreover, addressing learner discipline and violence, restorative practices facilitate dialogues between offenders and victims, aiming for accountability and empathy (Payne and Welch, 2018). Circle processes involve the broader school community in conflict resolution, although implementation obstacles include teacher training and community violence (Abdulrahman, Adebisi, Mwako and Walton 2021; Mampane et al. 2020).

Nevertheless, evidence suggests that integrating restorative justice with social-emotional learning and trauma-informed care can reduce violence and improve school climate (Gxubane, 2020; Mampane et al. 2020). By teaching conflict resolution and accountability, schools contribute to restoring relationships that contribute to societal healing and peacebuilding (Forde, Kappler and Björkdahl, 2021; Zehr, MacRae, Pranis and Amstutz, 2022).

4.3.2.2 Restoring Relationships

The focus on relationships is crucial in restorative justice, emphasising the importance of rebuilding trust and connections within the community affected by misconduct (Gregory et al. 2016; Smith, 2021). It is well documented that South Africa's history of apartheid and racial segregation has deeply fractured communities and damaged relationships. Restorative justice approaches aim to heal these divides and restore a sense of community (Gxubane, 2020, Peacock, 2023:191). Gregory et al. (2016) highlight the potential of restorative practices to transform teacher-learner relationships and achieve equity in school discipline. This aligns with South Africa's post-apartheid goals of creating

inclusive educational environments. Moreover, the authors emphasise that restorative approaches can address racial disparities in discipline, which resonates with South Africa's efforts to overcome historical inequalities. They argue that these practices foster stronger connections between teachers and learners, particularly those from marginalised groups.

In education, restorative approaches can lead to a change in the whole school culture, resulting in calmer and more manageable environments (Augustine, Engberg, Grimm, Wang, Christianson and Joseph, 2018:11). For learner discipline, this principle is particularly important in addressing issues such as bullying, helping to rehabilitate and reintegrate offenders while also providing support for victims (Acosta et al. 2019). Moreover, according to Gregory et al. (2016), the promise of restorative practices could transform teacher-learner relationships and implies that it can achieve equity in school discipline. When incidents of violence or serious misbehaviour occur, schools implementing this approach can bring together the offender, the victim, and other affected parties to discuss the impact of the actions and collaboratively develop solutions. This method not only addresses immediate disciplinary issues but also aims to prevent future incidents by tackling root causes of violence and disruptive behaviour and largely contributes to fostering sound relationships.

While the restorative approach emphasises healing and understanding, it also places a strong emphasis on personal and collective responsibility in addressing school discipline.

4.3.2.3 Responsibility

Restorative justice encourages learners to take responsibility for their actions and understand the impact of their behaviour on others (Zehr et al. 2022).

Key aspects of taking responsibility include:

- *Acknowledgement*, where the offender must first acknowledge their actions, and the harm caused. According to Zehr et al. (2022), this step is crucial in breaking down denial and defensiveness.
- *Understanding the impact*, through facilitated dialogues, offenders are encouraged to listen to those they have harmed, gaining a deeper understanding of the consequences of their actions (Morrison, 2019).

- *Expressing genuine* remorse can be a powerful tool in healing relationships. However, facilitators must be careful not to force or fake this step (Thorsborne and Blood, 2019).
- *Making amends* involves concrete actions to repair the harm caused. In schools, this might include community service, repairing damaged property, or engaging in peer mentoring programmes (Payne and Welch, 2018).
- *Commitment to change* happens when the offender is encouraged to make specific commitments to change their behaviour and prevent future harm (Zehr et al. 2022).

The abovementioned aligns with broader South African government efforts to address historical injustices and promote accountability (Abdulrahman et al. 2021). However, taking responsibility is not just a procedural step but a transformative psychological process. It requires genuine self-awareness, empathy, and a commitment to personal and collective healing. Restorative Discipline succeeds when participants approach it with authentic intentions of understanding, repairing, and growing.

The prerequisite of responsibility transforms disciplinary processes from punitive approaches to opportunities for meaningful personal and communal development. Restorative Justice approaches can lead to a change in the whole school culture, resulting in calmer and more manageable environments. Before meaningful restoration can occur, individuals must first acknowledge their direct role in creating harm and demonstrate a genuine understanding of their actions' impact. Responsibility begins with honest self-reflection and a willingness to be emotionally vulnerable. It requires individuals to move beyond defensive mechanisms of denial or blame, and instead openly recognise the consequences of their behaviour on others and the broader community.

The psychological readiness to take responsibility involves several key elements. Firstly, there must be a clear acknowledgment of the specific behaviour that caused harm. Secondly, the individual must demonstrate empathy by understanding the emotional and practical consequences of their actions. Thirdly, they must express genuine remorse and a commitment to preventing similar incidents in the future.

This process is not about punishment, but about personal growth and community healing. By taking responsibility, individuals transform disciplinary interactions from punitive

encounters into opportunities for learning, understanding, and meaningful repair. Age and individual developmental stages significantly influence one's capacity to take responsibility. Younger individuals may require more guided support and scaffolding to develop accountability skills, while adults are expected to have more sophisticated emotional intelligence and self-awareness.

Critical to this process is creating a safe, non-judgmental environment that encourages open dialogue. Reflective questioning, supportive guidance, and normalised conversations about personal accountability can help individuals move toward genuine responsibility. For Restorative Discipline to be effective, participation must be voluntary. Forcing responsibility or coercing acknowledgment undermines the entire process. True restoration happens when individuals are intrinsically motivated to understand their actions, repair relationships, and grow from their experiences. The goal is not to shame or isolate, but to build stronger, more empathetic communities where individuals understand the interconnected nature of their actions and are committed to collective well-being. In section 4.6.1, I discuss in detail the implications that these principles hold for restorative discipline in education.

Expanding on the concept of learner responsibility, the cultivation of respect within the educational environment plays a fundamental role in fostering positive behaviour and interpersonal relationships.

4.3.2.4 Respect

The principle of respect is fundamental to restorative justice, shaping how conflicts are approached and resolved. In restorative practices, respect extends to all participants involved—offenders, victims, and community members—acknowledging their inherent dignity and worth (Evans and Vaandering, 2022). This means treating everyone involved in a conflict with dignity and valuing their perspectives (Payne and Welch, 2018).

In the South African context, this principle aligns with the constitutional values of human dignity and equality (Reyneke, 2020). Restorative justice processes in South Africa aim to repair harm and restore relationships while upholding the rights and dignity of all participants. Therefore, it should reflect a broader goal of transformative justice to promote and unify societies (Ndonga-Kanga, Van der Merwe and Hartford, 2020:23).

In the education context, promoting respect through restorative practices is crucial in preventing bullying and violence among learners. By teaching learners to understand and value each other's experiences, they develop empathy and tolerance, which are foundational to respectful interactions (Gonzalez, 2019). Schools that emphasise respect address underlying issues contributing to harmful behaviours, fostering a culture of mutual understanding. This approach aligns with educational goals of social-emotional learning and building a positive school climate, equipping learners with essential life skills like communication, empathy, and conflict resolution (Gonzalez, 2019).

Regarding learner discipline, the principle of respect within restorative justice encourages a shift from traditional punitive measures to a more balanced approach centred on mutual understanding (Gregory et al. 2020). While traditional disciplinary methods often focus on punishment, restorative justice aims to address the root causes of misbehaviour and repair harm to relationships and the school community. This approach reinforces positive behaviour by teaching conflict resolution skills and encouraging learners to take ownership of their actions. Embracing respect within restorative justice practices empowers teachers to adopt more holistic and effective strategies for managing discipline, fostering a supportive school climate where learners feel valued and understood (Zyzda, 2024:4; Gregory et al. 2020).

Building upon the supportive climate fostered by respect, the principle of reintegration emerges as a crucial component in maintaining a cohesive school community, especially when addressing disciplinary issues and their aftermath.

4.3.2.5 Reintegration

The principle of reintegration focuses on bringing offenders back into the community with trust and respect, rather than stigmatisation (Zehr et al. 2022). This process involves reintroducing individuals who have caused harm back into the community or school environment in a constructive and supportive manner. In South Africa, this aligns with post-apartheid efforts to build an "inclusive society" (Chikadzi, 2017:289). It echoes the spirit of the Truth and Reconciliation Commission and resonates with the African philosophy of ubuntu, emphasising interconnectedness and collective well-being (Lesabe and Govender, 2024).

Reintegration practices support broader goals of social cohesion by focusing on bringing offenders back into the community rather than isolating them. They acknowledge that harmful behaviour often stems from systemic issues, aligning with efforts to address root causes of social problems. In education, reintegration approaches contribute to creating more inclusive and equitable learning environments, helping to overcome historical disparities (Mampane et al. 2020). For learner discipline, this principle ensures that disciplinary measures do not alienate learners but instead support their continued engagement in the school community (Winn, 2022).

In schools, reintegration practices help create more inclusive learning environments and reduce recidivism (Morrison, 2019). By prioritising reintegration, restorative approaches seek to repair harm, restore relationships, and provide offenders with the opportunity to take responsibility for their actions and rebuild trust. This holistic, relationship-centred approach stands in contrast to more traditional punitive models and has the potential to foster more just, equitable, and inclusive communities.

By focusing on the five Rs - repairing harm, restoring relationships, responsibility, respect, and reintegration - this approach has the potential to create more just, inclusive, and effective educational environments. In the South African context, these principles align well with broader societal goals of reconciliation and social cohesion (Chikadzi, 2017:289). However, successful implementation requires ongoing training, resources, and a commitment to transforming school cultures. As research in this field continues to evolve, it is crucial to monitor and evaluate the long-term impacts of restorative practices on learner discipline and overall school climate.

While the restorative justice approach holds promise for creating more inclusive and effective educational environments, there are still common misconceptions that can hinder its successful implementation. These misconceptions often stem from a lack of understanding about the principles and goals of restorative practices.

4.4 MISCONCEPTIONS ABOUT RESTORATIVE JUSTICE

Misconceptions about restorative justice often stem from a lack of understanding of the restorative justice process (Wood and Suzuki, 2016:149). Addressing common misconceptions about restorative justice is crucial to preventing misunderstandings,

addressing potential resistance, ensuring appropriate application, and maintaining the integrity of restorative principles in schools. By clarifying what restorative justice is and is not, schools can create a clearer understanding of its true nature and potential, paving the way for more successful and meaningful implementation.

Next, I briefly discuss misconceptions about restorative justice and their implications for education.

4.4.1 Restorative Justice is About Forgiveness and Reconciliation

The misconception that restorative justice is primarily about forgiveness and reconciliation oversimplifies the broader goals and processes of restorative justice. While forgiveness and reconciliation can occur, they are not mandatory or the main objectives of the process. Schiff (2018:121) argues that restorative justice processes are designed to repair harm and address the needs of victims and communities, not necessarily to foster forgiveness. The emphasis is on accountability and making amends.

Since restorative justice is fundamentally victim-centred, the focus is on what the victim needs to recover and move forward. This can include receiving answers, an apology, restitution, or simply being heard. The victim's needs and wishes would guide the process, and forgiveness is neither required nor expected. In support, Armour, Windsor, and Volkan (2021) emphasise that restorative justice's primary concern is to provide victims with a voice and a sense of closure, rather than pushing for forgiveness or reconciliation. The success of restorative justice is measured by the extent to which it meets the needs of the victim, not by whether the victim forgives the offender.

Restorative justice processes can lead to various outcomes based on the participants' needs and circumstances. These outcomes can include personal healing, restitution, community service, and the establishment of a safer environment. Forgiveness and reconciliation are potential, but not necessary, byproducts. Gavrielides (2020) highlights that the success of restorative justice should be evaluated on its ability to address harm and promote justice, rather than achieving forgiveness. His research shows that participants often value the opportunity to express their feelings and have their suffering acknowledged more than they seek reconciliation.

The above-mentioned, suggests that the processes and success of restorative justice are measured by how effectively they repair harm and fulfil the needs of all parties involved, rather than whether they result in forgiveness or reconciliation.

4.4.2 Restorative Justice is an Easy Way Out

The misconception that *restorative justice is an easy way out* is widespread but unfounded. This perception stems from the misunderstanding that restorative justice allows offenders to evade accountability and meaningful consequences for their actions. However, restorative justice processes are often more challenging and demanding than traditional punitive measures. Research debunks this misconception by highlighting that restorative justice requires offenders to take responsibility for their actions in a direct and personal way (Kirkwood, 2022:3). Unlike traditional punitive systems, where offenders may passively receive punishment, restorative justice engages them in active dialogue with their victims. This can be more challenging and confronting than serving a sentence removed from those affected by their actions. Research by Strang (2017:783) demonstrates that restorative justice processes demand high levels of offender accountability, often resulting in greater victim satisfaction and lower recidivism rates compared to traditional justice systems.

Moreover, participating in restorative processes can be emotionally demanding for offenders. They must face their victims, listen to the impact of their actions, and often express genuine remorse. This can be a profound and transformative experience, which some offenders find more difficult than undergoing traditional punitive measures. Furthermore, Gavrielides (2018:355) highlights the emotional labour involved in restorative justice, noting that offenders often find the process of facing their victims and making amends to be more challenging than conventional punishments.

By addressing the root causes of behaviour and fostering empathy and community support, restorative justice helps prevent future offences. This long-term impact demonstrates that restorative justice is not about letting offenders off easily but about creating meaningful change. Moreover, Wong, Cheng Ngan and Ma (2016:657) found that implementing restorative justice in schools led to significant reductions in bullying, highlighting the rigorous and impactful nature of these practices. These practices typically involve addressing harm caused by misbehaviour rather than resorting to punitive

measures. Moreover, recent research has offered new insights: a study by Hulvershorn and Mulholland (2018) found that restorative practices not only reduced bullying incidents but also improved the social skills and emotional regulation of learners who had previously engaged in bullying behaviour. This suggests that restorative approaches can have a transformative effect on the bullies themselves, potentially breaking cycles of negative behaviour (Rainbolt, Fowler and Mansfield, 2019).

4.4.3 Restorative Justice Focuses on Preventing Reoffending

The misconception that restorative justice is primarily designed to reduce recidivism or prevent transgressions oversimplifies the multifaceted objectives of restorative justice. While reducing recidivism and preventing future offences are important outcomes, they are not the sole or primary goals of restorative justice.

Restorative justice as a framework not only seeks to address the harm caused by criminal behaviour, but also aims to promote offender accountability, and meet the needs of victims (cf. 2.5.1). Reducing recidivism and preventing future transgressions are beneficial byproducts of a successful restorative process, but they are not the focus. Schiff (2018) emphasises that restorative justice processes are designed to repair harm and address the needs of victims and communities, with accountability being a core component of the process. Additionally, the author emphasises how restorative justice in educational settings focuses on repairing harm and promoting accountability, contributing to a supportive environment that naturally leads to reduced recidivism as a secondary benefit.

In the school context, repairing relationships is crucial because learners typically must continue attending the same school. A hostile or unfriendly environment hinders learning, making reconciliation vital. Furthermore, preventing the formation of cliques or long-term labelling of learners is essential to maintain a positive school atmosphere throughout their school journey.

As restorative justice is fundamentally victim-centred (cf. 4.2.1), it prioritises the needs and healing of the victim. This can include receiving answers, an apology, restitution, or simply being heard. The victim's needs and wishes would guide the process, ensuring that the harm is addressed in a meaningful way. Armour et al. (2021) highlight that restorative

justice's primary concern is to provide victims with a voice and a sense of closure, rather than focusing primarily on preventing future crimes by the offender.

Restorative justice seeks to restore relationships and rebuild trust within the community. This broader social aim includes, but is not limited to, reducing future offences. The process involves community members in addressing the impact of the crime and working towards collective healing and reconciliation. Gavrielides (2019) discusses how restorative justice processes aim to restore community harmony and support social reintegration, which can contribute to reducing recidivism but is not the primary objective. Moreover, Gavrielides (2020) highlights how restorative justice in educational settings focuses on repairing harm and promoting accountability, contributing to a supportive environment that naturally leads to reduced recidivism as a secondary benefit.

Considering the above-mentioned, it is noteworthy that while restorative justice reduces recidivism and prevents future offences as important outcomes, they are not the primary goals. The success of restorative justice is measured by how effectively it repairs harm and meets the needs of all parties involved, with reduced recidivism being a secondary benefit of a well-executed restorative process.

4.4.4 Restorative Justice is a Particular Programme or Blueprint

The misconception that restorative justice is a particular programme or blueprint oversimplifies the flexible and adaptable nature of restorative justice. Restorative justice is a principle-based approach that can be tailored to fit various contexts, needs, and types of harm. It encompasses a range of practices that can be customised to meet the specific needs of the participants and the situation. Studies underscore the adaptability of restorative justice, demonstrating that it is not confined to a single programme or method but is a versatile framework that promotes healing, accountability, and community restoration in diverse settings (Bolito, 2015; Schiff, 2018; Gavrielides, 2019).

The misconception that restorative justice is a particular programme or blueprint fails to capture the flexible and adaptable nature of restorative justice. It is *a framework or philosophy* that can be applied in various ways depending on the context, needs of the participants, and specific circumstances of the harm or conflict. Restorative justice is a philosophical approach (cf. 4.2.3) to justice and is based on principles of accountability,

reparation, and healing. The restorative justice approach can take various forms, including victim-offender mediation, restorative circles, family group conferencing, and community restorative boards.

Restorative justice is guided by core principles rather than a set of prescribed steps. These principles include voluntary participation, inclusivity, respect, and a focus on repairing harm. How these principles are put into practice can vary widely, allowing for creativity and responsiveness to the unique dynamics of each situation. Gavrielides (2019) emphasises that restorative justice should be evaluated and understood through its guiding principles rather than a strict procedural blueprint, highlighting its adaptable nature. The author argues that restorative justice should be understood through its guiding principles and adapted to meet the needs of victims, rather than being implemented as a rigid programme.

There are numerous practices within the restorative justice framework, such as victim-offender dialogues, restorative circles, community reparative boards, and restorative conferences. Each practice can be adapted to the needs of the participants and the specifics of the harm done. Bolitho (2015:248) explores the psychological processes involved in restorative justice, suggesting that its effectiveness is linked to its adaptability and the personalised nature of the interactions, rather than a standardised programme. This variety ensures that restorative justice is not limited to a single programme or method. Additionally, Schiff (2018) points out that restorative justice practices in schools can range from informal restorative conversations to formal restorative circles, each tailored to the context and needs of the learners involved. This study highlights the various ways restorative justice can be applied in educational settings, demonstrating its flexibility and the range of practices that fall under the restorative justice umbrella.

4.4.5 Restorative Justice is Limited to Minor, and first-time offenders

The misconception that restorative justice is only for minor transgressions and first-time offenders overlooks its broad applicability and effectiveness. In reality, restorative justice is used for a wide range of offences, including serious crimes and cases involving repeat offenders (Bolitho, 2015:249). Bolitho (2015) demonstrates restorative justice's effectiveness in cases of violent crime, highlighting its capacity to transform the emotional impact on victims and foster genuine accountability from offenders. This approach can

address deep-seated issues, provide meaningful resolutions for victims, and promote offender accountability.

Restorative justice is also effective for repeat offenders. Armour, Windsor, and Volkan (2021) discuss its role in rehabilitating incarcerated individuals, including those with a history of repeat offences. By addressing underlying social, emotional, or psychological issues, restorative justice can facilitate long-term behavioural change and reintegration, helping to break the cycle of reoffending.

In the school context, restorative justice is particularly effective as it allows for the reintegration of misbehaving learners into the school community. This approach prevents the permanent labelling of learners as 'troublemakers' and can be employed alongside other disciplinary measures for more severe infractions. By focusing on healing and reintegration, restorative justice can lead to improved outcomes for learners who might otherwise be marginalised by traditional disciplinary systems.

4.4.6 Restorative Justice is a New Concept

The misconception that restorative justice is a new concept overlooks its deep historical and cultural origins. Recent studies by Frampton (2023) and Rasmussen (2024) highlight the long-standing nature of restorative justice, illustrating its historical continuity and modern evolution as a response to the limitations of retributive justice systems. Restorative justice practices are rooted in ancient and indigenous justice traditions. Many indigenous cultures, including the Māori in New Zealand, the Navajo in the United States, and various African communities, have long used restorative approaches to resolve conflicts and address harm. Braithwaite (2016) emphasises these ancient roots, while other scholars (Anyon et al. 2016; Lustick, 2017; Van Ness and Strong, 2019) provide well-documented evidence of restorative justice's historical foundations.

The re-emergence and formalisation of restorative justice in contemporary justice systems began in the 1970s and 1980s. Van Ness and Strong (2019) discuss how the modern restorative justice movement has adapted and formalised earlier practices to fit contemporary legal and social frameworks globally. Studies by Marshall (2020), Llewellyn (2021), and Peacock (2023) document this global spread, while recent research (González and Schiff, 2023; Marder, Maglione and Pali, 2024) examines how different

societies have integrated these principles into their justice systems, reflecting both historical continuity and modern innovation.

The misconception that restorative justice is a new concept fails to recognise its deep historical and cultural origins (Frampton, 2023; Rasmussen, 2024).

4.4.7 Restorative Justice is not Necessarily an Alternative to Holding Someone Responsible for Their Actions

A common misunderstanding is that restorative justice practices avoid holding offenders accountable. This misconception stems from the belief that restorative approaches are "soft" on offenders or prioritise reconciliation over responsibility. However, this view fails to grasp the true nature and goals of restorative justice.

Restorative justice does not avoid responsibility or accountability (Rasmussen, 2024). The key difference is in how that accountability is achieved and expressed. It reframes accountability through direct confrontation with harm, accepting responsibility, and making amends. This approach seeks deeper, more meaningful accountability than traditional punitive measures alone. By addressing this misconception, we can promote a clearer understanding of restorative justice as a nuanced approach that does not shy away from accountability but rather seeks to achieve it in a more comprehensive and potentially transformative way (Suzuki and Yuan, 2021). According to Suzuki and Yuan (2021:1347) restorative justice creates opportunities for humanisation and learning; it places emotions of both victims and offenders at the core conflict resolution; it establishes support networks and communication channels and initiates a transformative journey focusing on healing.

All the above-mentioned misconceptions largely contribute to the challenges schools face in successfully implementing restorative discipline, as schools often look for a quick fix for all discipline problems (Kervick, Garnett, Moore, Ballysingh and Smith, 2020:155).

4.5 RESTORATIVE JUSTICE IN EDUCATION

Restorative justice in education offers an alternative to traditional disciplinary measures, addressing root causes of misbehaviour and yielding numerous benefits. These include improved school climate and safety, reduced disciplinary incidents and recidivism,

enhanced social-emotional skills, and stronger relationships between learners, teachers, and the community (Reyneke and Reyneke 2020:57).

Restorative justice, often referred to as restorative practices in schools, aims to prevent and constructively address conflict, build community, and maintain healthy relationships. By fostering strong relationships, restorative processes play a crucial role in understanding each learner's individual needs, creating a more equitable experience and outcomes (Vorwerk, 2019:1; Reyneke and Reyneke, 2020:92).

4.5.1 Defining Restorative Practices

Restorative practices are a comprehensive approach derived from restorative justice principles, adapted for educational and community settings (Reyneke and Reyneke, 2020:92). They encompass proactive and reactive strategies aimed at building community, maintaining relationships, addressing conflicts, and fostering a positive environment (Gregory and Evans, 2022; Evans, 2023). While restorative justice typically focuses on repairing harm after incidents, restorative practices in education extend to creating a positive school climate, promoting healthy relationships, and addressing individual learner needs for equitable outcomes (Mansfield et al. 2018; Lustick et al. 2020). These practices involve practical applications such as facilitated dialogues, collaborative problem-solving, relationship restoration, and community-based approaches to prevention and accountability (Reyneke and Reyneke, 2020).

4.5.2 Restorative Practices in Education

In alignment with the previously mentioned, restorative practices encompass various positive behavioural support approaches. In education, these approaches foster communication, mutual respect, and understanding between all individuals (Morris, 2016). Implementing restorative practices requires a significant shift away from how schools and districts have traditionally approached discipline and school culture. For many, this requires unlearning harmful practices and perspectives, not only in schools but in society at large. Studies have shown that schools that adopt restorative justice approaches tend to experience reduced rates of suspension, expulsion, and behavioural incidents (Romer, von der Embse, Eklund, Kilgus, Perales, Splett, Sudlo and Wheeler, 2020; Weaver and Swank, 2020). Restorative practices are rapidly gaining popularity in schools worldwide.

For example, the University of Chicago Education Lab conducted a groundbreaking study analysing data from 239 Chicago high schools over eleven years, providing unique insights into the causal effects of restorative practice programmes on learner outcomes. These practices promote a positive school climate, linked to improved academic achievement, increased learner engagement, and enhanced teacher satisfaction (Walsh et al. 2021).

Another key aspect is the importance of incorporating restorative practices both formally and informally within the educational framework. Formal practices involve structured instruction on conflict resolution, while informal learning occurs beyond academic lessons, emphasising the cultivation of peace and positive relationships (Lustick et al. 2020). This dual approach allows for a comprehensive integration of restorative principles into the fabric of school culture. Moreover, the significance of considering equity and inclusion in the implementation of restorative practices has shown promise in reducing the need for suspension and promoting positive behaviour. However, challenges related to racial disproportionality and the need for cultural responsiveness training have been identified (Skrzypek, Bascug, Ball, Kim and Elze, 2020). Addressing implicit bias and fostering trust among teachers and learners are crucial for the successful adoption of restorative approaches.

Restorative practices provide a holistic method for managing conflicts and fostering peace, the following approaches are invaluable for understanding their implementation, challenges, and effects on learners and school environments.

4.5.2.1 Restorative Circles

Restorative circles are a facilitated dialogue process rooted in indigenous traditions, where individuals affected by conflict or harm come together to share perspectives and work towards resolution. These circles focus on building understanding and healing relationships among participants, with the potential to improve school climate by supporting conflict resolution and community building (Wang and Lee, 2019:181).

By promoting inclusive dialogue, accountability, and healing, restorative practices contribute to creating a school environment where conflicts are addressed peacefully, relationships are strengthened, and all community members feel valued and respected (Lustick, 2022:7). This approach fosters a positive school climate by creating a sense of

belonging and empowerment among learners, encouraging them to resolve disputes through communication rather than aggression or retaliation (Gibson et al. 2021).

Restorative circles provide a safe, respectful, and equal environment for people to speak and listen to one another (Wachtel, 2016:2). When learners feel heard, valued, and supported, they are more likely to engage positively in their academic pursuits and contribute to a positive school climate. Furthermore, restorative practices have been shown to reduce disciplinary issues by shifting the focus from punishment to accountability and healing, offering effective alternatives to punitive measures (Mas-Expósito et al. 2022).

Incorporating restorative practices within the educational framework helps address issues of equity and inclusion by considering diverse perspectives and experiences of all stakeholders (Lustick et al. 2020). This aligns with the principles of transformative constitutionalism, emphasising equality, dignity, and social transformation (Noremore and Jarrett, 2021:1211). Moreover, restorative practices have the potential to transform not only individual behaviour but also the broader culture of schools, fostering social-emotional skills, building peer-based relationships, and creating a safe and secure learning environment (Walsh et al. 2021). By integrating learners' perspectives and adopting an intersectional lens, schools can enhance the impact of restorative practices and promote positive development among learners (Skrzypek et al. 2020).

Restorative circles underscore an inclusive approach to addressing harm and conflict that promotes positive relationships and fosters a culture of peace and respect within educational settings. Building upon this foundation, restorative conferences offer a more structured process for addressing specific incidents of harm or misconduct, involving a wider range of stakeholders in the resolution process.

4.5.2.2 Restorative Conferences

Restorative conferences are similar to circles but often involve a larger group, typically including community members, to address more serious conflicts or harm. Moreover, restorative conferences serve as a tool for addressing conflicts and repairing harm which typically involves bringing together those directly impacted by an incident (Wood, 2020:169), including victims, offenders, and relevant stakeholders, to discuss the harm caused and collectively determine how to move forward. One of the primary benefits of

restorative conferences is their emphasis on dialogue and understanding (Suzuki, 2020:356). By providing a structured space for all parties to share their perspectives and experiences, restorative conferences foster empathy, promote active listening, and encourage participants to take responsibility for their actions. This process helps humanise those involved in the conflict, breaking down barriers and facilitating the building of relationships based on mutual respect and understanding. Moreover, restorative conferences provide opportunities for all voices to be heard, including those traditionally marginalised or silenced. By ensuring that everyone affected by an incident has a say in the resolution process, restorative conferences promote inclusivity and empower individuals to actively participate in shaping their school environment. Additionally, restorative conferences offer a proactive approach to conflict resolution, addressing underlying issues and preventing future conflicts from arising. By identifying and addressing the root causes of conflicts, schools can create environments where disputes are resolved peacefully, and learners feel safe and supported (Canter, Osher, Berg, Steyer and Rose, 2019:307).

Restorative conferences also prioritise accountability and healing, aligning with the principles of transformative constitutionalism. Participants are encouraged to acknowledge the impact of their actions on others and work collaboratively to address the harm caused. This focus on repairing relationships and restoring dignity not only benefits individual participants but also contributes to creating a more just and equitable school community.

The above is significant to this study, promoting dialogue, accountability, and healing. These practices contribute to creating school communities where conflicts are addressed in a fair and constructive manner, relationships are strengthened, and all individuals are valued and respected. One key component of restorative practices that exemplifies these principles is victim-offender mediation, a process that brings together those harmed by an offence and those responsible for causing the harm.

4.5.2.3 Victim-Offender Mediation

Victim-offender mediation is a significant aspect of restorative practices in schools and can significantly contribute to the development of nonviolent school environments. In victim-offender mediation, both the victim and the offender come together, often facilitated

by a trained mediator, to discuss the harm caused by the offender's actions and to explore ways to repair that harm (Normore and Jarret, 2021:1211).

One of the primary goals of victim-offender mediation is to provide the victim with a platform to express the impact of the offence directly to the offender. This process fosters empathy and understanding on the part of the offender, helping them to recognise the consequences of their actions and take responsibility for the harm they have caused. Similarly, it allows the victim to voice their feelings and concerns, empowering them in the resolution process and facilitating their healing journey.

Victim-offender mediation also emphasises accountability and restitution, which aligns with the principles of transformative constitutionalism. Through dialogue and negotiation, participants in the mediation process work together to develop a mutually acceptable agreement that addresses the harm caused and outlines steps for restitution or repair. This collaborative approach promotes a sense of ownership and accountability on the part of the offender, while also providing the victim with a tangible means of redress. Moreover, victim-offender mediation offers an opportunity for both parties to move beyond the incident and to focus on repairing their relationship and building trust. By engaging in constructive dialogue and working together towards a resolution, participants can begin to rebuild broken connections and foster a sense of closure and reconciliation.

Additionally, victim-offender mediation can serve as a preventive measure, helping to address underlying issues and prevent future offences (Reyneke and Reyneke, 2020). By addressing the root causes of the conflict and providing support and resources to both parties, schools can create an environment where conflicts are resolved peacefully and where learners feel empowered to address issues constructively.

Victim-offender mediation is a valuable tool that is significant to this study by promoting empathy, accountability, and reconciliation. This practice contributes to creating school communities where conflicts are addressed in a restorative and constructive manner. Not only are relationships strengthened, but all individuals are valued and respected. At the heart of this approach lies restorative dialogue, a structured communication process that facilitates understanding, empathy, and resolution between parties.

4.5.2.4 Restorative Dialogue

Structured conversations between those involved in a conflict or harm should be guided by trained facilitators to promote understanding and empathy among parties involved in conflict. One of the key aspects of restorative dialogue emphasises not only open communication but also involves active listening (Brown, 2017:53). Participants are encouraged to express their feelings, experiences, and perspectives in a safe and respectful environment. Through dialogue, individuals can share how they have been impacted by the conflict and gain insight into the experiences of others involved. Moreover, restorative dialogue not only promotes empathy and understanding among participants, but it also helps them recognise the humanity in each other and develop a deeper appreciation for their shared humanity (Lauridsen and Munkejord, 2022:139). By fostering empathy, restorative dialogue encourages individuals to acknowledge the harm they have caused and take responsibility for their actions, laying the groundwork for accountability and reconciliation. Through honest and respectful communication, participants can work together to address underlying issues, build trust, and strengthen connections, fostering a sense of belonging and cohesion within the school community (Schmidt, Porter, Rivera-Amill and Appleyard, 2023:919).

4.5.2.5 Trauma-Informed Discipline Approaches

Trauma is increasingly recognised as an important factor in school discipline. Exposure to traumatic experiences, such as abuse or violence, can significantly impact a learner's physical and emotional health (Dutil, 2020:171). For example, trauma can manifest in various ways, such as difficulty focusing, disruptive behaviour, and emotional outbursts. Recognising and addressing the underlying causes of these behaviours is essential in providing appropriate support and promoting a positive learning environment (Bellamy, Krishnamoorthy, Ayre, Berger, Machin and Rees, 2022).

Strategies for implementing trauma-informed discipline policies and practices include training teachers on the effects of trauma, creating safe and predictable classroom environments, and employing individualised support for learners affected by trauma (Dutil, 2020:172). According to Bellamy, Krishnamoorthy, Ayre, Berger, Machin and Rees (2022:3997), by adopting a trauma-sensitive approach, schools can foster resilience and help learners develop coping skills to overcome their challenges.

4.5.2.6 Culturally Responsive Discipline Practices

Incorporating culturally responsive strategies into the classroom can lead to a more inclusive and positive learning environment. These strategies may include using culturally relevant materials and resources, creating opportunities for learners to share their cultural experiences, and adapting discipline practices to better align with learners' cultural values and beliefs. For example, teachers might consider using restorative justice approaches that emphasise repairing harm and rebuilding relationships, rather than punitive measures that may disproportionately affect learners from marginalised backgrounds (Bellamy et al. 2022).

Cultural competence plays a critical role in effective discipline practices. It involves understanding and respecting the diverse backgrounds, experiences, and perspectives of learners, allowing teachers to create a more inclusive and supportive environment. As such, culturally responsive discipline practices recognise the importance of addressing cultural differences and biases in the classroom to ensure that all learners feel valued, respected, and fairly treated. To implement culturally responsive discipline policies and practices, teachers should begin by examining their own beliefs and biases about learners from different cultural backgrounds. This self-reflection can help identify areas where unintentional bias may be affecting disciplinary decisions (Rogerson, Prescott and Howard, 2022:1035).

Teachers can also seek to learn about the cultural backgrounds of their learners, allowing them to better understand and address the unique needs and challenges faced by each learner. Cultural competence plays a critical role in effective discipline practices. It involves understanding and respecting the diverse backgrounds, experiences, and perspectives of learners, allowing teachers to create a more inclusive and supportive environment. Moreover, culturally responsive discipline practices recognise the importance of addressing cultural differences and biases in the classroom to ensure that all learners feel valued, respected, and fairly treated (Lustick, 2020:555).

To implement culturally responsive discipline policies and practices, teachers should begin by examining their own beliefs and biases about learners from different cultural backgrounds. This self-reflection can help identify areas where unintentional bias may be affecting disciplinary decisions. Teachers can also seek to learn about the cultural backgrounds of their learners, allowing them to better understand and address the unique

needs and challenges faced by each learner. This aligns with the celebration of diversity and preparing children to live in a diverse country.

4.5.2.7 Social and Emotional Learning (SEL)

Social and emotional learning (SEL) is regarded as a key element of restorative practice, which has shown positive results in supporting positive learner behaviours and self-perception (Jagers, Rivas-Drake and Williams, 2019:164). However, it is important to note that SEL programmes must be culturally affirming, not another form of policing learners. This often happens when SEL is used as a mechanism for schools to regulate learner behaviour and conform to cultural and gender norms and values, instead of encouraging learners to exercise agency and interrogate systems of oppression (Wood, 2020:6). To avoid this, schools should take a transformative approach to SEL that is grounded in a social justice framework and orients traditional SEL competencies (e.g., self-awareness, responsible decision-making, relationship skills) to critically examine racial inequities and transform systems of oppression in schools, communities, and the broader social system.

The benefits of SEL are well-researched, with evidence demonstrating that an education promoting SEL yields positive outcomes for learners, teachers, and school communities. Well-implemented school programmes designed to foster SEL are associated with many positive outcomes, ranging from better test scores and higher graduation rates to improved social behaviour and mental wellness (Greenberg, 2023:7).

Various studies across multiple fields and sources show SEL leads to beneficial outcomes related to social and emotional skills, academic performance, mental wellness, healthy behaviours, school climate and safety, and lifetime outcomes (Jagers et al. 2019; Greenberg, 2023).

4.5.3 Creating Safer Schools Through Restorative Approaches

Creating a positive learning environment through these disciplinary characteristics is not just beneficial—it is essential for fulfilling the educational and developmental needs of learners (Lodi et al. 2022; Darling-Hammond and Fronius, 2022). It aligns with constitutional imperatives, promotes democratic values, and prepares learners for success both in and beyond the classroom. As such, striving to embody these

characteristics should be a priority for all educational institutions seeking to provide quality education in a safe, nurturing, and productive environment.

Building on these essential characteristics of a positive learning environment, restorative justice approaches offer a promising framework for transforming school culture and enhancing safety in educational institutions.

In the following section, I briefly explore how restorative practices can contribute to safer schools and a shift in overall school culture:

4.5.3.1 Shifting School Culture

Restorative approaches have the potential to transform school culture by prioritising relationships, accountability, and healing over punitive measures. Gregory et al. (2021:15) found that schools implementing restorative practices experienced improved school climate and reduced disciplinary referrals. However, Helling-Christy (2022:7) cautions that, without proper implementation and staff buy-in, restorative approaches may struggle to create lasting change.

4.5.3.2 Addressing Learner Ill-Discipline and Violence

Restorative approaches offer promising strategies for addressing school violence and bullying. A meta-analysis by Acosta et al. (2019) showed that restorative practices led to significant reductions in bullying incidents. However, Weare (2019) argues that, while restorative approaches can be effective, they must be part of a comprehensive school-wide strategy to truly impact school safety.

4.5.3.3 Improving Learner-Teacher Relationships

Restorative practices can enhance teacher-learner relationships, contributing to a safer school environment. Mansfield et al. (2018) found that schools using restorative approaches reported improved trust between learners and teachers. However, Vaandering (2021) notes that power imbalances between teachers and learners can complicate the implementation of truly restorative relationships (cf. 2.2.4.1).

4.5.3.4 Reducing Disciplinary Disparities

Disciplinary disparities in education refer to unequal punishment of learner groups based on race, ethnicity, gender, socioeconomic status, or disability (Little and Welsh, 2022:564).

These disparities occur when certain groups face harsher or more frequent disciplinary actions than peers for similar offences. Learners of colour and those with disabilities often experience more severe and frequent discipline than their white or non-disabled counterparts (Chatzitheochari and Butler-Rees, 2023:1157). Causes include implicit bias (Chatzitheochari and Butler-Rees, 2023:1166), cultural misunderstandings, lack of teacher cultural competence (Babb, 2022:23), zero-tolerance policies, and systemic racism (Hernandez, 2024:2). Consequences can include the school-to-prison pipeline, lower academic achievement, higher dropout rates, and long-term negative life impacts (Sing and Maringa, 2020). Addressing these issues involves implementing restorative justice, cultural competency training, policy revision, and data-driven monitoring. Tackling disciplinary disparities is essential for creating equitable educational environments and ensuring fair treatment for all learners (Tariqu, 2024:155).

Restorative approaches have shown promise in addressing racial and other disparities in school discipline. Augustine et al. (2018) found that restorative practices led to significant reductions in suspensions, especially among marginalised groups. However, González (2022) cautions that, without addressing systemic racism, restorative practices alone may not be sufficient to eliminate disciplinary disparities.

4.5.3.5 Fostering Emotional and Social Skills

Restorative approaches can contribute to safer schools by helping learners develop crucial emotional and social skills. Hulvershorn and Mulholland (2018) found that learners in schools with restorative practices showed improved empathy and conflict resolution skills. However, Green et al. (2019) argue that these skills must be explicitly taught and reinforced to achieve maximum impact. In other words, fostering emotional and social skills must be taught for achieving the most significant and positive outcomes possible. This means fostering deep learning, where learners internalise the skills, not just superficially understand them (Kehoe, Bourke-Taylor and Broderick, 2018:189).

By prioritising the explicit teaching and reinforcement of emotional and social skills, schools can create a more comprehensive educational experience. This approach recognises that schools have a responsibility not just for academic instruction, but also for fostering personal growth and interpersonal capabilities that serve learners well throughout their lives. In doing so, schools can better fulfil their role in shaping well-

rounded, emotionally intelligent individuals prepared for success in an increasingly complex world.

4.5.3.6 Long-Term Impact on School Safety

While short-term studies show promising results, the long-term impact of restorative approaches on school safety is still being evaluated. A longitudinal study by Anyon et al. (2023) suggests that sustained implementation of restorative practices can lead to lasting improvements in school safety. However, Fronius et al. (2019) note that more rigorous, long-term studies are needed to fully understand the impact of these approaches.

Based on the above-mentioned, the implication of this section is the substantial promises of restorative approaches in creating safer school environments by addressing root causes of conflict, improving relationships, and fostering important social-emotional skills. As schools continue to grapple with issues of discipline, violence, and equity, restorative approaches offer a compelling alternative to traditional punitive measures, with the potential to create more positive, inclusive, and ultimately safer learning environments.

Given the promising potential of restorative approaches, it is crucial to examine the specific benefits of restorative justice in schools.

4.5.4 Transformative Potential of Restorative Justice in Schools

Restorative justice practices have expanded significantly with the aim of improving school safety (Martinez, Villegas, Hassoun, Jensen and Miller, 2022:190). In the context of the prevalence of ill-discipline and violence in South African schools, restorative justice holds significant relevance. Recent research shows that transformative constitutionalism driven by the need to address historical injustices and systemic inequalities, aligns with the mission to create safe and dignified learning environments (Kibet and Fombad, 2017; Venter, 2018; Dugard, 2021). However, in the context of South Africa, despite some hopeful signs, the transformation of South Africa's system of basic education 'has not yet yielded the desired impact in terms of average achievement or achieving equality' (Alexander, 2016:118; Mestry, 2019:94; Barrett, 2024).

As restorative justice in relation to learner discipline offers a practical framework to tackle violence by emphasising dialogue, empathy, and community involvement, it resonates with South Africa's cultural values of *ubuntu* and empowers marginalised communities (cf.

3.2.3.4). By integrating these principles, schools can promote healing, accountability, and active participation, contributing to a holistic transformation of both educational institutions and society at large.

Restorative justice, with its focus on repairing harm through dialogue and community involvement (González and Buth, 2019:242), resonates with transformative constitutionalism. The connection lies in how restorative practices, by addressing underlying issues and promoting rehabilitation, contribute to the realisation of human rights (Van Ness, 2017:122; Lodi et al. 2022:96). By being respectful of the needs of all the involved parties, restorative practices, and human dignity are linked in their shared focus on addressing underlying issues and promoting rehabilitation (High, 2017:525). For example, by emphasising rehabilitation over punitive measures, restorative practices foster an environment where personal growth and positive change are prioritised (Ward and Heffernan, 2017:42). As such, it recognises the inherent worth and dignity of individuals (Kirkwood, 2022). In this way, the promotion of human dignity aligns with restorative principles, creating an environment where personal growth and positive change are prioritised, contributing to the realisation of human rights by emphasising understanding, accountability, and a commitment to positive transformation. It is worth noting that the effectiveness of the interconnectedness depends on how these concepts are implemented within a specific legal and social context, emphasising the need for practical integration and adherence to human rights principles.

The *Constitution*, including the *Bill of Rights*, aligns with the principle of defeating injustice rather than people, aiming to address underlying issues rather than simply punishing misconduct. Instilling a belief in the inherent justice among learners and staff can empower them to advocate for positive change within their school and broader society (Gregory et al. 2016:325). Moreover, guided by the principles of transformative constitutionalism, school culture and discipline policies can contribute to building a more peaceful and just society. Chapter 2 in the *Bill of Rights of the Constitution* (RSA, 1996) entrenches the right of every person to human dignity, equality and to freedom and security. It imposes a duty on the government to take appropriate steps to ensure that the human rights of persons are respected (RSA, 1996).

Aligned with the aim of this study, the impact of transformative constitutionalism on the realisation of human rights resonates profoundly with the implementation of restorative approaches to discipline in nonviolent educational initiatives. transformative

constitutionalism characterised by a commitment to human dignity, equality, and social justice, provides a philosophical underpinning for educational practices that prioritise respect, reconciliation, and the restoration of relationships. By embracing restorative approaches to discipline, schools could embody the principles of transformative constitutionalism to address harm and conflict through dialogue, empathy, and accountability rather than punitive measures. Moreover, by incorporating restorative practices into disciplinary procedures not only aligns with the principles of transformative constitutionalism but also fosters a culture of nonviolence within schools. By focusing on repairing harm and promoting understanding, restorative approaches empower both learners and teachers to resolve conflicts peacefully and constructively. This implies that by fostering a sense of community and mutual respect contributes to a safer and more inclusive learning environment where human rights are upheld and valued.

In the South Africa African context, the promotion of nonviolent and inclusive learning environments is essential for fostering academic success, personal growth, and societal harmony. Emphasising the importance of transformative constitutionalism, this study proposes a protocol for implementing restorative discipline in South African schools.

4.5.5 Benefits of Restorative Justice in Education

As previously mentioned, restorative justice practices in schools offer a promising alternative to traditional disciplinary approaches, focusing on repairing harm and rebuilding relationships rather than solely punishing offenders. By emphasising accountability, communication, and community-building, restorative justice programmes can create a more positive and inclusive school environment. These practices have been shown to reduce suspensions and expulsions, improve learners' behaviour, and foster a greater sense of belonging among teachers, learners and staff (administrative and non-administrative).

Mas-Expósito et al. (2022:1) found that whole-school restorative approaches can be used across all educational stages to deal with diversity and inclusion while promoting a school culture of peace based on the positive management of relationships and conflicts. In support, Lodi et al. (2021:96) concluded that restorative practices can improve the school climate, discipline, and positive conflict management through actions that aim to prevent suspensions, exclusions, conflicts, and misbehaviour.

Additionally, restorative justice can help address systemic inequities in school discipline, particularly for marginalised learners. Some benefits of implementing restorative justice in schools include:

4.5.5.1 Reduce Exclusionary Discipline

Restorative practices help reduce the use of exclusionary discipline methods like suspensions and expulsions, leading to a more inclusive and supportive school environment (Darling-Hammond, 2022, vi; Samimi, Han, Navvab, Sedivy and Anyon, 2023:28). Implementing restorative practices in schools has been shown to reduce learners' arrests both within and outside school, whether for violent and non-violent offences. Schools that adopted restorative practice policies saw a reduction in learners' arrests on-campus and off-campus (Darling-Hammond and Fronius, 2022).

One of the primary benefits of implementing restorative justice in schools is its potential to significantly reduce exclusionary discipline practices such as suspensions and expulsions (Samimi et al. 2023:28). Traditional punitive measures often remove learners from the learning environment, leading to lost instructional time and increased risk of academic failure. In contrast, restorative approaches address misconduct through dialogue, mediation, and collaborative problem-solving, keeping learners engaged in the school community. By focusing on understanding the root causes of behaviour and fostering accountability, restorative justice programmes have been shown to decrease repeat offences and lower overall suspension rates (cf. 4.5.5). This shift not only benefits individual learners but also contributes to a more stable and productive learning environment for the entire school population.

While reducing exclusionary discipline is a crucial benefit, restorative justice practices also have a profound impact on overall school climate.

4.5.5.2 Improve School Climate

Restorative justice fosters a positive school climate. Unlike punitive systems that often create adversarial relationships between learners and teachers (Sopcak and Hood, 2022:553), restorative practices encourage open communication and collaborative problem-solving. This approach helps build trust and strengthen relationships among all members of the school community. By providing opportunities for learners to take

responsibility for their actions and make amends, restorative justice cultivates a sense of accountability and empowerment.

Moreover, it promotes emotional literacy and conflict resolution skills, equipping learners with valuable tools for navigating social interactions both in and out of school. As a result, schools implementing restorative practices often report decreased bullying incidents, improved learner-teacher relationships, and a more positive, inclusive atmosphere conducive to learning and personal growth over time (Darling-Hammond and Fronius, 2022:229).

Building on the improvements to school climate, restorative justice practices also play a crucial role in enhancing learner engagement and attendance.

4.5.5.3 Enhancing Learner Engagement and Attendance

Restorative approaches have been associated with enhanced school connectedness and a more positive overall school atmosphere (Garnett et al. 2020). By focusing on repairing harm and restoring relationships, restorative practices improve learners' engagement, attendance, and overall academic achievement (cf. 2.4.3; cf. 4.7). Some studies suggest that restorative practices can lead to improved academic performance and reduced dropout rates (Fredricks, McColskey and Schmitt, 2021; Anyon et al. 2022).

Restorative practices encourage learners to take ownership of their behaviour and its impact on others, fostering a sense of belonging and investment in the school community. This increased connection often translates to improved attendance rates, as learners are less likely to avoid school due to conflicts or feelings of alienation. Furthermore, by addressing underlying issues that may contribute to disengagement or truancy, such as peer conflicts or academic struggles, restorative approaches can help remove barriers to regular school attendance. The emphasis on repairing relationships and finding constructive solutions also helps create a more positive association with school, motivating learners to engage more fully in their educational journey (Darling-Hammond and Fronius, 2022).

Another significant benefit of restorative justice in schools is its ability to foster positive relationships throughout the educational community.

4.5.5.4 Fostering Positive Relationships

Restorative justice in schools prioritises building and maintaining positive relationships among learners, teachers, and the school community, leading to a more caring and supportive atmosphere that reduces incidents of bullying and disruptive behaviours (Darling-Hammond and Fronius, 2022). Restorative practices create a fair and safe space for learners to learn and grow, shifting the focus from blame and negativity to understanding, reparations, and prevention, ultimately leading to sustainable positive changes in behaviour and relationships (Lustick, 2020:12).

Restorative justice practices excel at building and strengthening positive relationships among learners, teachers, administrators, and even parents. Teachers who implement restorative practices often report improved relationships with their learners, leading to more effective classroom management and a more positive learning atmosphere. Moreover, these strengthened relationships extend beyond immediate conflicts, creating a network of support that can prevent future issues and contribute to a more harmonious school culture overall. The skills learned through restorative practices—such as active listening, perspective-taking, and constructive problem-solving—also equip learners with valuable tools for building and maintaining healthy relationships in their personal lives and future careers (Greenberg, 2023:7). By fostering positive relationships, restorative justice contributes to developing social and emotional competency in learners.

4.5.5.5 Developing Social and Emotional Competency

The development of learners' social and emotional competencies is crucial for success both in school and in life (Farniok, 2023:20). By engaging learners in reflective dialogues and collaborative problem-solving, these approaches provide practical opportunities to enhance self-awareness, self-management, social awareness, relationship skills, and responsible decision-making. For example, restorative circles and conferences encourage learners to identify and express their emotions, consider the perspectives of others, and take responsibility for their actions—all key components of emotional intelligence. Through guided discussions about the impact of their behaviour, learners develop empathy and learn to regulate their emotions more effectively (cf. 4.5). These experiences contribute to learners' overall social and emotional growth, equipping them with the tools to navigate complex social situations (cf. 4.4.2.7). As a result, learners learn how to manage stress, and make ethical decisions.

4.5.5.6 Reduce Recidivism

Restorative justice has been shown to reduce repeat offending or repeated instances of harm by addressing the root causes of behaviour, promoting understanding of actions and their impact, and fostering empathy and accountability among learners (Wilson, Olaghere and Kimbrell, 2018; Bouffard, Cooper and Bergseth, 2016). Wilson et al. (2018:3) indicates that restorative justice programmes for youth show potential, though not definitive, positive outcomes. While the impact on reducing future delinquent behaviour and other non-criminal outcomes among young participants remains unclear, the researchers note more concrete benefits for victims. Specifically, victims who participate in restorative justice programmes report higher satisfaction levels compared to traditional juvenile justice approaches and experience various advantages (Maryfield, Przybylski and Myrent, 2020).

While victim satisfaction is a notable outcome, restorative justice programmes also show promise in reducing disciplinary actions within schools themselves. For example, a study of a pilot restorative justice programme launched in 2007 at Cole Middle School in West Oakland, California, showed a reduction in suspension rates from 50 suspensions per 100 learners to only six suspensions per 100 learners, an 87% reduction (Frampton, 2023:79). Frampton (2023:82) also reported significant policy change and widespread acknowledgement that zero tolerance policies were ineffective, suspensions were declining, particularly between 2011 and 2015 when the average rate fell from 5.8 to 3.8%.

Restorative justice in educational settings offers comprehensive benefits and has the potential to create significant positive change in schools and beyond. However, it is important to remember that implementation requires time, and schools should persist even without immediate results. Policymakers should allocate sufficient time for implementation to see changes, as this is not a quick fix. Schools must distinguish between short-term and long-term solutions, focusing on positive outcomes in the long run. Despite the time-consuming nature of the process, this approach has a transformative impact on school environments.

4.5.5.7 Transformative Potential of Restorative Justice in Schools

Restorative justice practices have expanded to improve school safety (Martinez et al. 2022:190). This approach is particularly relevant in South Africa, where schools face prevalent ill-discipline and violence. Recent research links transformative

constitutionalism, aimed at addressing historical injustices, with creating safe learning environments (Kibet and Fombad, 2017; Venter, 2018; Dugard, 2021). However, South Africa's basic education system has yet to achieve desired impact in average achievement or equality (Alexander, 2016:118; Mestry, 2019:94).

The principles of restorative justice (González and Buth, 2019:242) resonate with transformative constitutionalism by addressing underlying issues and promoting rehabilitation (Van Ness, 2017:122; Lodi et al. 2022:96). This approach prioritises personal growth and positive change (Ward and Heffernan, 2017:42), recognising individual dignity (Kirkwood, 2022) and aligning with human rights principles.

Restorative justice in learner discipline offers a framework to address violence through dialogue, empathy, and community involvement, aligning with South African *ubuntu* values (cf. 3.2.3.4). It contributes to holistic transformation of educational institutions and society by promoting healing, accountability, and participation. The *Constitution* and *Bill of Rights* support addressing underlying issues rather than merely punishing. Schools can contribute to a just society by instilling belief in inherent justice (Gregory et al. 2016:325) and adopting transformative constitutionalism principles in their policies.

Aligned with the transformative nature of restorative justice, this study proposes a protocol for implementing restorative discipline in South African schools, emphasising the importance of transformative constitutionalism in promoting nonviolent and inclusive education.

4.6 RESTORATIVE DISCIPLINE AND ITS IMPLICATIONS FOR EDUCATION

Defining restorative discipline requires an understanding of restorative justice (cf. 4.3; 4.3.1; 4.3.2), a concept that lacks a uniform definition despite general agreement on its basic principles. Zehr (2015) contends that a single definition might impose an undesirable rigidity on this evolving concept (cf. 4.1). However, the absence of a universal definition does not diminish the approach's applicability. Instead, it underscores the importance of its various essential elements. Multiple definitions exist, each emphasising different aspects of this multifaceted approach to justice and discipline. This diversity in definition

reflects the adaptability and holistic nature of restorative practices, allowing for contextualised application in various settings, including educational environments.

For this study, I define restorative discipline as a learner behaviour-management approach that prioritises repairing harm and rebuilding relationships. It holds learners accountable while teaching them to understand the impact of their actions. This method involves all affected parties in conflict resolution, aiming to restore community bonds. Unlike traditional punitive measures, restorative discipline emphasises dialogue, problem-solving, and making amends. It fosters a positive school climate by promoting mutual respect, responsibility, and social-emotional skill development.

Building on this understanding of restorative discipline and its foundation in restorative justice, I now examine the key elements of restorative discipline in education. This exploration highlights how restorative practices function within learner discipline and why they have gained traction as a promising alternative in modern educational settings.

4.6.1 Elements of Restorative Discipline in Education

The key principles of restorative justice as discussed in section 4.3.2, encompass a range of interconnected practices and principles, including dialogue, communication, responsibility, community involvement, skill-building, repairing harm, and reintegration (Katic, Alba and Johnson 2020: 579; Winn, 2018). Each element plays a crucial role in creating a more supportive and equitable approach to managing learner behaviour, contributing to the effectiveness of restorative justice in addressing misconduct, reducing recidivism, and improving the overall school climate (Anyon, 2016:89; Green, Willging, Zamarin, Dehaiman and Ruiloba, 2019:168).

By examining these key elements, we can gain a comprehensive understanding of how restorative justice operates within the context of learner discipline and why it has emerged as a promising alternative to punitive discipline in schools (Gomez, Rucinski, and Higgins-D'Alessandro, 2020).

4.6.1.1 Dialogue and Communication

Dialogue and communication form the cornerstone of restorative discipline in education, offering a transformative approach to managing conflicts and behavioural issues. This

method prioritises open communication among all parties involved, aiming to repair relationships and address underlying problems rather than simply administering punishments. By creating an environment where learners, teachers, and administrators can engage in meaningful conversations, restorative discipline fosters mutual understanding, empathy, and collaborative problem-solving (Lustick, 2020; Katic et al. 2020).

The implementation of this approach in educational settings has far-reaching implications. It contributes to the development of a more positive and supportive school climate, where conflicts are viewed as opportunities for growth rather than mere infractions to be penalised. By understanding the complex interplay between academic performance, family situations, and individual behavioural patterns, teachers can develop more targeted interventions. This shift in perspective can lead to reduced recidivism rates, as the root causes of behavioural issues are addressed, potentially decreasing the likelihood of repeat offences. Moreover, the emphasis on dialogue and understanding aligns closely with social-emotional learning objectives (Gonzalez, 2019; Calupa, 2023), promoting the development of crucial life skills such as empathy, self-awareness, and effective communication (Mampane et al. 2020; Kohm, 2021).

Recent research has expanded our understanding of restorative practices in education. The incorporation of trauma-informed communication, as advocated by Crosby, Howell and Thomas (2018), adds a crucial layer to the restorative approach by addressing underlying traumas that may contribute to behavioural issues. Cultural responsiveness in restorative justice communication, emphasised by Gregory and Evans (2020), ensures that diverse perspectives are respected and understood, contributing to a more equitable and supportive school climate.

The focus on amplifying learner voices and promoting their agency, as discussed by Garnett et al. (2019), further empowers learners and enhances the effectiveness of restorative practices. Additionally, the exploration of digital platforms for restorative dialogues, as examined by Macfarlane and Macfarlane (2022), reflects the evolving nature of education and discipline in the modern era. Moreover, restorative discipline represents a paradigm shift in how educational institutions approach discipline. By moving away from purely punitive measures and towards a model that emphasises learning and growth, schools can create more inclusive and equitable environments. This approach gives

learners a voice in resolving conflicts and shaping their educational experience, potentially leading to increased engagement and a stronger sense of community within the school.

Building upon the foundation of effective dialogue and communication, the next crucial element in restorative discipline is the concept of responsibility. This aspect shifts the focus from blame to taking responsibility for one's actions, encouraging learners to understand and address the consequences of their actions within the supportive framework of restorative practices.

4.6.1.2 Responsibility

Responsibility remains a crucial element of restorative justice practices in educational settings, but its conceptualisation has evolved in recent years. Rather than punitive measures, taking responsibility for one's actions and actively participating in repairing harm contributes to a positive school climate. While avoiding punitive measures, restorative justice still holds offenders accountable for their actions. Learners are encouraged to take responsibility for their behaviour and actively participate in making amends (Payne and Welch, 2018).

There is a structured process for addressing the harm that meets the needs of those hurt while promoting accountability and responsibility for wrongdoers. Employing positive discipline models builds a stronger community that resolves wrongdoing favourably. Using conflict resolution and creating an opportunity to strengthen relationships helps create a positive community (Costello, Wachtel, and Wachtel, 2022:8).

Anfara et al. (2018) highlight the importance of restorative approaches in helping learners understand the impact of their behaviour and take steps to make amends. This shift from passive punishment to active responsibility encourages learners to reflect on their actions and develop empathy for those affected. The authors note that this approach not only addresses the immediate issue but also promotes long-term behavioural change and social-emotional growth. Building on this, Winn (2018) introduces the concept of transformative justice in education, which extends the idea of accountability beyond individual incidents to address systemic issues. This approach encourages schools to examine and transform the underlying conditions that contribute to disciplinary problems.

The implementation of measures for learners to take responsibility for their actions in restorative justice practices has also seen innovations. González et al. (2019) discuss the use of *circles* in schools, where learners who have caused harm meet with those affected, supported by trained facilitators. These circles provide a structured environment for learners to take responsibility for their actions, hear about the impact of their behaviour, and collaboratively develop plans for making amends. In addition, González et al. (2019) found that this approach led to higher rates of compliance with agreed-upon resolutions compared to traditional disciplinary methods. However, implementing the element of responsibility in restorative justice is not without challenges. Lyubansky and Barter (2019) caution against what they term "shame-based accountability," where learners are made to feel bad about themselves rather than their actions. They argue for an approach that separates the deed from the doer, allowing learners to take responsibility for their behaviour without internalising negative self-perceptions. This nuanced understanding of responsibility aims to promote genuine remorse and a desire to change, rather than resentment or defensiveness.

Recent research has also explored the role of community in fostering responsibility and accountability. Vaandering and Reimer (2019) emphasise the importance of creating a "*culture of care*" within schools, where responsibility is shared. The entire school community plays a role in supporting both those who have caused harm and those who have been harmed, creating a network of accountability that extends beyond individual incidents. Moreover, when implemented with cultural sensitivity and awareness of systemic biases, it can help address these disparities and promote more equitable outcomes.

As the above-mentioned indicates, responsibility in restorative justice for learner discipline emphasises a shift towards learners taking active accountability. Therefore, by focusing on understanding, empathy, and collaborative problem-solving, these approaches contribute to the creation of a more meaningful and lasting accountability that supports learner growth and fosters a positive school climate. Building upon this foundation of dialogue and responsibility, the next crucial element in restorative discipline is community involvement, which expands the scope of restorative practices beyond individual interactions to encompass the broader school ecosystem.

4.6.1.3 Community Involvement

Community involvement has emerged as a critical component of effective restorative justice practices in educational settings. Vaandering and Reimer (2019) emphasise the importance of creating a "culture of care" within schools, where accountability is seen as a shared responsibility. This approach recognises that discipline issues affect and are affected by the broader social context (Gregory and Evans, 2020).

Gomez et al. (2020) found that engaging the wider school community - including teachers, staff, parents, and uninvolved learners - leads to more sustainable outcomes. Lustick (2020:556) explores whole-school approaches to restorative justice as a means of reducing suspensions and transforming punitive mentalities in schools. This comprehensive approach involves teaching conflict resolution skills to all community members and addressing root causes of behavioural issues.

Payne and Welch (2022:62) highlight the importance of 'cultural competence in community involvement', emphasising that restorative practices are most effective when culturally responsive. Acosta et al. (2019) examined the effectiveness of peer-led restorative circles, finding that they increase capacity for addressing conflicts and promote learner leadership. In addition, digital technologies have opened new avenues for community involvement. Finkelhor et al. (2021) discuss how online platforms can facilitate broader participation in restorative processes. Green et al. (2019) explore "community conferencing," which brings together a wider circle of community members affected by an incident.

Anyon (2022) emphasises the importance of learner voice in community involvement, showing that meaningful learner roles in shaping and implementing restorative practices lead to greater buy-in and more effective outcomes. Community building activities may include team-building exercises, cross-grade mentoring programmes, and collaborative projects that foster cooperation. Furthermore, this community-centred approach to discipline provides valuable opportunities for skill-building, which has significant implications for the broader educational landscape.

4.6.1.4 Skill-Building

Restorative justice practices in schools foster crucial skill-building for learners. These approaches develop conflict resolution abilities, enhancing problem-solving, active listening, and perspective-taking skills (Acosta et al. 2019). Emotional literacy also

improves, with learners developing a more nuanced emotional vocabulary and better self-regulation (Parameswaran, Molloy, and Kuttner, 2024:187). Additionally, these practices cultivate empathy, leading to improved relationships and a more positive school climate (Gregory and Evans, 2020:18; Zyzda, 2024:17).

Communication skills are central to restorative justice, providing opportunities for learners to express themselves clearly and engage in constructive dialogue (Winn, 2018; Daly, 2024:164). Leadership qualities are also developed when learners are trained as peer mediators or circle facilitators (Lustick, 2020). Furthermore, participation in diverse restorative processes enhances cultural competence (Payne and Welch, 2018).

Recent research has expanded to include digital literacy in restorative practices, addressing online conflicts and promoting responsible digital citizenship (Finkelhor et al. 2021). Advocacy and civic engagement skills are also fostered, preparing learners for active citizenship (Anyon, 2022). Moreover, involving learners in community initiatives promotes peace, democracy, and global literacy (Cummins, 2024:255).

While skill-building is a crucial component of this approach, it is equally important to consider how the focus on repairing harm in restorative discipline practices reshapes educational environments and outcomes.

4.6.1.5 Repairing Harm

Repairing harm in restorative discipline focuses on addressing the damage caused by misconduct and rebuilding relationships within the school community. This approach shifts from punitive measures to a constructive resolution process, bringing together the offender, affected parties, and sometimes community members to discuss the incident's impact and ways to make amends. By emphasising accountability and empathy, learners learn to take responsibility for their actions and understand their effects on others. This process develops crucial conflict resolution skills and often leads to reduced recidivism, creating a more positive school climate (Gregory and Evans, 2020:18; Zyzda, 2024:17; cf. 4.5.2; cf. 4.6.1).

As an alternative to zero-tolerance policies, this approach offers a nuanced strategy that can help address the disproportionate impact of traditional disciplinary measures on marginalised learners, ultimately contributing to a more equitable educational system.

Schools are implementing restorative practices to address both historical and current harms, aiming to create more inclusive and equitable learning environments (Payne and Welch, 2018:224). These practices often involve community conferences, where offenders, victims, and community members come together to discuss the impact of harmful actions and collaboratively develop solutions (Nxumalo and Mncube, 2019).

Building on the concept of repairing harm, the principle of reintegration in restorative discipline practices further enhances the transformative potential of this approach in educational settings.

4.1.6.6 Reintegration

Reintegration in restorative discipline focuses on successfully bringing learners who have committed offences back into the school community. This approach has several significant implications for education, as it aims to support these learners in rejoining their peers and academic environment in a positive, constructive manner. It involves creating a welcoming atmosphere, providing necessary support, and ensuring the learner can resume their education without stigma or isolation. Through reintegration, restorative discipline transforms punitive experiences into opportunities for growth, learning, and community strengthening, aligning disciplinary practices more closely with broader educational goals.

This approach has several significant implications for education. It can reduce dropout rates by facilitating smooth re-entry, preventing learners from disengaging due to disciplinary issues. Reintegration also minimises disruptions to a learner's academic progress, allowing them to stay on track with their studies. Additionally, the process often includes counselling or mentoring, addressing underlying issues that may have contributed to the original misbehaviour and providing crucial mental health support. Successful reintegration strengthens the school community's resilience, enabling it to better overcome challenges and conflicts (Morrison, 2019).

Furthermore, reintegration allows learners to practise and reinforce the communication and conflict resolution skills learned during the restorative process. It can help promote equity by addressing systemic inequities that often disproportionately affect certain learners' groups in disciplinary matters. Ultimately, by maintaining learners' connection to education, this approach can positively impact their long-term academic and life outcomes, contributing to their overall success beyond the school years (Acosta et al.

2019; Islam, Li and Anderson, 2023). Embracing this approach can lead to a more equitable and supportive educational landscape, ultimately benefiting individuals and society.

Having addressed common misconceptions about restorative justice, we can now explore a comprehensive framework for its implementation in schools, as proposed by Reyneke and Reyneke's (2020) restorative discipline model.

4.6.2 The Restorative Discipline Model

Implementing restorative practices in schools requires a holistic approach aligning all aspects of the system to respect individual rights and needs. According to Reyneke and Reyneke, 2020:119), a comprehensive, school-wide strategy is vital for managing disciplinary issues. It is important to keep in mind that learners excel when feeling secure (cf. Chapter 2).

For restorative justice to be effective as a comprehensive school strategy, it necessitates the commitment of all staff members (Calupa, 2023:20). To facilitate a shift away from obsolete disciplinary methods, training is essential. Training programmes should incorporate Social and Emotional Learning (SEL) curricula and elucidate the process of tiered behavioural support (Calupa, 2023:20). All staff members (including administrative and non-administrative staff) should receive training on their specific roles within the disciplinary process and be given opportunities to participate in workshops. These workshops should focus on developing meaningful and impactful consequences for learners based on their behaviour.

McQueen, Huguley, Haynik, McCatty, Calaman, and Williams (2023:6) identify several obstacles to effective implementation that need to be addressed, including time constraints, reluctance from faculty and staff, and insufficient professional development support. Moreover, research suggests that schools often implement restorative practices through pilot programmes, gradually expanding while continuously evaluating and refining their methods (Gregory et al. 2021; Frampton, 2023). Successful implementation involves several key elements, beginning with comprehensive training for teachers and staff in restorative principles and techniques (Casey and O'Dwyer, 2023). Engaging all stakeholders, including parents and community members, is crucial to ensure support.

Schools should also develop clear protocols for restorative conversations, circles, and conferences.

It is important to integrate restorative approaches with existing disciplinary frameworks rather than completely replacing them (Kim, Smith, Cordes and Wohlstetter, 2024:539). Additionally, practices must be adapted to suit the specific cultural context of the school community. While addressing misconduct is important, schools should also focus on proactive community-building activities. This balanced approach helps create a more positive and inclusive learning environment.

In the South African context, Teise (2016) highlighted the positive impact of restorative discipline in creating safe and well-organised multicultural school environments, contributing to social cohesion. While evidence increasingly supports the effectiveness of restorative approaches, punitive elements likely still have a role in comprehensive justice systems. Walgrave (2020) argues for a model of restorative punishment that combines accountability and making amends with some form of punishment. With this mindset, I next examine the key features of restorative discipline that distinguish it from traditional punitive approaches and contribute to its potential for creating positive change in educational settings.

A comparison of punitive and restorative approaches follows, preceded by an exploration of Reyneke and Reyneke's (2020) restorative discipline model:

Aspect	Punitive Discipline	Restorative Discipline
Philosophy	Relies on sanctions and exclusionary practices.	Focuses on repairing harm, rebuilding relationships, and reintegration.
Core Approach	Prescribed punishments (e.g. suspensions, expel learners).	Facilitated dialogues, empathy-building, making amends.
Goal	Deter offence, exact retribution.	Heal relationships, address root causes of behaviour.
Method	Removal of offenders from school (suspension).	Engagement of offenders with those they have harmed.
Focus	Punishment and protection of others.	Accountability, empathy, and taking responsibility for actions.
Effectiveness (based on studies)	Mixed results on deterrence.	Reduction in recidivism compared to traditional approaches.

Implementation	Well-established in most school systems	Requires skilled facilitators, community buy-in, more resources per case
Cultural Considerations	May not align with all cultural concepts of justice.	Can be adapted to different cultural contexts.
School-specific Outcomes	Higher rates of suspension, potential discipline disparities.	Reduced suspensions, improved school climate, decreased discipline disparities.
Key Elements	Rules, exclusion.	Dialogue, accountability, stakeholder involvement, skill-building.
Long-term Impact	Potential negative effects on learners.	Promotes social-emotional growth, empathy, and conflict resolution skills.

Table 2 A summary of the difference between Punitive and Restorative approaches in the context of school discipline as a comparative view. (Davids. 2024)

Table 2 provides a side-by-side comparison of the main characteristics and outcomes of punitive and restorative approaches to discipline, particularly in the context of schools. It highlights the fundamental differences in philosophy, methods, and impacts of these two approaches.

Restorative discipline is a developing field, there are often divergent and even competing definitions about the scope and applications of restorative initiatives. While some view such initiatives as primarily a set of practices implemented to reduce exclusionary discipline (Lodi et al. 2021), others view them as addressing disproportionality in school discipline (Katic, Alba, and Johnson, 2020; Riddell and Tisdal, 2021). Still others view restorative initiatives as an approach to transforming the culture of a school. Many agree that restorative discipline is an alternative concept to current punitive discipline that focuses on repairing harm rather than on meting out punishment. Restorative discipline, as an alternative to punitive measures, also focuses on restoring relationships and promoting accountability within the school community. By aligning restorative practices with the principles of transformative constitutionalism South African schools can cultivate a culture of respect, reconciliation, and justice. In support of this Reyneke and Reyneke (2020:123) agree that restorative discipline is based on the values of respect, responsibility, relationship, and reparation.

For this chapter, the following restorative discipline model by Reyneke and Reyneke (2020) is of significant relevance in providing an understanding of how restorative justice informs learner discipline:

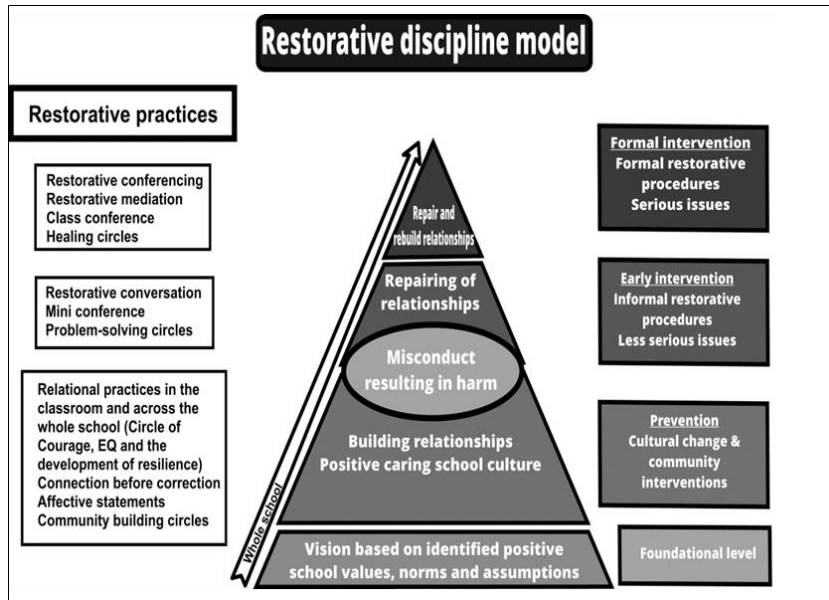


Figure 2: Restorative discipline model (Reyneke and Reyneke, 2020:123).

Figure 2 presents a comprehensive framework for implementing restorative justice principles in schools, aligning closely with the concepts discussed in this chapter. The pyramid structure illustrates a holistic approach to school discipline that emphasises relationship-building, harm repair, and community restoration over traditional punitive measures.

Level 1: at the foundation of the model is a vision based on positive school values, norms, and assumptions. This aligns with the philosophical ideal of restorative justice discussed earlier, which prioritises human dignity, interconnectedness, and the inherent worth of all individuals (Van Ness and Strong, 2019). This foundational level sets the tone for the entire school culture and approach to discipline.

Level 2: focuses on building relationships and fostering a positive, caring school culture. This preventive approach reflects the restorative justice principle of community involvement and the importance of strong relationships in maintaining a harmonious school environment (Smith, 2021). It embodies the idea that a supportive school climate can reduce disciplinary incidents and enhance social-emotional skills among learners.

The middle of the pyramid addresses misconduct resulting in harm, which is where specific restorative practices come into play. This level directly corresponds to the core of restorative justice, which seeks to understand and repair harm caused by offences (Zehr, 2015:91).

The top two levels of the pyramid deal with repairing relationships and ultimately rebuilding them. This aligns with the restorative justice principles of repairing harm and restoring relationships discussed in the previous text (Evans and Vaandering, 2022).

The left side of the model outlines various restorative practices, ranging from informal, everyday approaches to more formal interventions. This spectrum of practices reflects the flexibility of restorative justice as a framework that can be adapted to various contexts and needs (Merriman, Wolde-Michael and Reid, 2024:50). It includes practices mentioned earlier, such as restorative circles, conferencing, and mediation (cf. 4.4.2.1). Moreover, data-driven interventions allow for continuous improvement. By implementing behaviour tracking systems, conducting regular data analysis, and systematically monitoring progress, schools can develop targeted interventions, evaluate outcomes, and adjust strategies to maximise effectiveness.

The right side of the model shows the progression of interventions from prevention to formal interventions for serious issues. The model clearly shows its applicability to a wide range of situations, including serious issues (Bolitho, 2020).

The arrows on the side of the pyramid indicate the dynamic nature of this process, reflecting the ongoing and adaptive nature of restorative approaches in schools. This dynamism addresses the challenge of ensuring consistency in application while allowing for flexibility in addressing different situations.

Overall, this model encapsulates the transformative potential of restorative justice in schools. It provides a structured yet flexible approach to implementing restorative practices, addressing misconduct, repairing harm, and ultimately creating a more positive, supportive school environment. This aligns with the conclusion drawn in section 4.5.5.7 about the potential of restorative justice to transform school cultures and nurture the social, emotional, and moral development of learners (Teise and Gaillard, 2020).

4.7 CHALLENGES IN APPLYING RESTORATIVE JUSTICE TO LEARNER DISCIPLINE

As with any approach that seeks to influence the conduct of a large group of learners, there are numerous challenges. Establishing a school-wide restorative culture can be challenging as it requires a shift in mindset (Adair, 2023:245) and practices towards a more collaborative and healing-oriented approach to discipline. For example, there may be reluctance or disengagement from certain schools and schools' governing bodies in enacting restorative justice policies (Hobson and Payne, 2022:5). Sandwick et al. (2019) identify resistance from staff, lack of resources, and inconsistent implementation as key obstacles. Darling-Hammond et al. (2024) emphasise the need for ongoing professional development and systemic support to overcome these challenges.

Restorative practice often requires a cultural shift in the school community, moving away from traditional punitive approaches to conflict resolution and discipline. Changing deeply ingrained disciplinary practices and attitudes can be met with resistance, scepticism, or a lack of understanding. It may take time and effort to build understanding and support for restorative practice among all stakeholders (Wood and Suzuki, 2016:149). This mirrors some of the challenges that schools face when implementing restorative programmes for learners involved in misconduct, where, despite efforts, desired outcomes can be elusive.

4.7.1 Power Dynamics and Interpersonal Politics

Negotiating power dynamics and interpersonal conflicts within the school community can present obstacles to the successful implementation of restorative justice programmes (Murray-Darden and Turner, 2023:388; Manfield, Fowler and Rainbolt, 2018:304).

There are certain social and political forces that either positively or negatively impact the funds schools receive and the public's perception of the effectiveness of a given school (Hobson and Payne, 2022:10). Moreover, sometimes school administrators are ethically conflicted, caught between doing what they believe is best for learners and conforming to their supervisors' expectations.

4.7.2 Youth Attraction to Violence

Addressing the attraction to violence among youth can be a challenge when implementing restorative justice programmes, which requires understanding and addressing the underlying factors that contribute to violent behaviour (Suzuki 2024:2). Effective programmes must identify and address the underlying factors contributing to violent behaviour, such as home environment, peer pressure, and unresolved trauma. Schools need to offer targeted counselling, and social-emotional learning opportunities to tackle these root causes (Ismail and Olonisakin, 2021). By integrating these approaches with restorative practices, schools can more effectively reduce violent tendencies and create a safer, more supportive learning environment for all learners. For example, if traditional punitive measures are replaced with restorative practices and trauma-informed approaches, it can address the impact of trauma on learner behaviour.

By integrating these elements, schools can create an environment that not only addresses disciplinary issues effectively but also proactively builds a culture of nonviolence. This comprehensive strategy helps learners develop the skills and mindset needed to navigate conflicts peacefully, both in school and in their future lives.

4.7.3 Leadership Change

Changes in school leadership can impact the continuity and effectiveness of restorative justice programmes in schools. When leadership changes occur, there can be disruptions in the continuity of restorative justice programmes. For instance, a new principal may rely on prior knowledge or experiences (Medford, and Brown, 2022). This implies different priorities or philosophies, which can undermine established practices (Starzecki, 2022; Gold, 2024 Jonassen, 2024). For instance, if a new leader does not prioritise restorative approaches, staff may revert to traditional punitive measures, leading to a decline in the effectiveness of the programme.

Principal leadership is vital in fostering staff buy-in. Many teachers may have long standing beliefs in punitive discipline methods, making it essential for leaders to shift these mindsets (Mansfield et al. 2018:304).

4.7.4 Buy-In and Staff Training

Many teachers may have long standing beliefs in punitive discipline methods, making it essential for leaders to shift these mindsets. Because some teachers can be sceptical about the implementation of restorative practices, clarity is needed on accountability within restorative frameworks and ensuring that all staff understand the importance of restorative practices (Goold, 2024:18). In support, Hall, Keeney, Engstrom and Brazzel, (2021:361) found that participants believe an absence of staff buy-in (cf. 4.5.3.1; cf. 4.7.4), and a lack of resources prevent restorative practices from being executed with efficacy. Moreover, Goold (2024:15) stresses that ongoing professional development is also critical; initial training must be complemented by continuous support to help staff effectively implement restorative practices.

Inadequate or inconsistent staff training in restorative practices can impede the successful implementation of restorative practices. According to Mansfield et al. (2018:304), staff may not have the necessary skills and knowledge to effectively utilise restorative approaches. Restorative practice requires proper training for staff members to effectively facilitate and implement the processes (Moran, Sloan, Walsh and Taylor, 2024:1). Providing comprehensive training and ensuring staff buy-in can be a challenge, as it may involve changing existing mindsets, attitudes, and approaches to discipline. Some teachers, learners, and parents may be sceptical of restorative approaches, particularly if they are accustomed to more punitive disciplinary systems (Gee and Ryan, 2024:31).

4.7.5 Consistency and Sustainability

Consistency is crucial for the successful implementation of restorative practice. It can be challenging to maintain consistency across classrooms and the school, especially in larger schools or those with high staff turnover. Sustainability is also an ongoing challenge, as schools need to continually prioritise and reinforce restorative approaches over time. Effective restorative justice requires consistent application, which can be difficult to achieve across an entire school or district (Hollweck, Reimer and Bouchard, 2023). Hal et al. (2021:361) suggest that restorative practices should be prioritised with intentionality by all levels of the public education system for more effective implementation in schools and more equitable outcomes for learners. Restorative justice should thus be a national priority and not only for a school.

4.7.6 Time and Resource Constraints

Implementing restorative practice requires time and resources, including training for staff, establishing support systems, and providing appropriate spaces for restorative processes. Limited time and resources can pose challenges for schools, especially when they already face multiple demands and priorities (Hall et al. 2021; Darling-Hammond and Fronius, 2022). Restorative practices often require more time and personnel than traditional disciplinary methods, which can be challenging for schools with limited resources (Sandwick et al. 2019).

The above-mentioned challenges underscore the complexity of implementing restorative justice programmes in schools and emphasise the importance of addressing various factors to ensure the successful integration of restorative practices for learners involved in misconduct (Darling-Hammond, Flook, Cook-Harvey, Barron and Osher, 2020:97).

4.8 CONCLUSION

This chapter has provided a comprehensive exploration of restorative justice as an alternative approach to learner discipline in educational settings. By examining its importance in education, contrasting it with punitive disciplinary measures, and highlighting its alignment with nonviolence education, I might have established a clear understanding of the potential benefits of restorative practices in schools.

Traditional disciplinary measures, such as corporal punishment have been shown to significantly impact learners' human rights, particularly their dignity and freedom from harm. This realisation underscores the urgent need for more humane and effective disciplinary approaches in educational institutions. Throughout the discussion, the principles and practices of restorative justice have been outlined, emphasising their potential to create safer school environments by repairing harm, restoring relationships, and promoting accountability. Unlike punitive measures that often fail to address the root causes of misbehaviour, restorative justice offers a promising alternative grounded in understanding and dialogue.

The relationship between restorative justice and nonviolence education has also been highlighted, illustrating how these approaches can synergise to foster a culture of peace

and understanding within schools. This integration not only addresses immediate disciplinary issues but also equips learners with valuable conflict resolution skills for their future endeavours. Moreover, implementing restorative justice practices in schools requires a paradigm shift and ongoing commitment to learning and adaptation. Despite challenges, such as addressing misconceptions and ensuring consistency, the potential benefits—including improved school climate, reduced disciplinary incidents, and enhanced learner well-being—make this approach a compelling option for educators and policymakers.

Ultimately, this chapter serves as a foundation for understanding how restorative justice can contribute to creating safer, more inclusive, and effective learning environments. By prioritising restoration over punishment, schools can fulfil their role not only as centres of academic learning but also as nurturing spaces that promote personal growth, empathy, and social responsibility. Restorative justice offers a pathway to address learner discipline in a manner that recognises and addresses longstanding inequities, fostering safe, inclusive environments where all learners feel valued and supported (Canter et al. 2019:307).

This study concurs that a well-structured protocol for implementing restorative justice in schools is essential to consistently address discipline issues, tackle longstanding inequities, and create inclusive environments where all learners feel valued, supported, and treated fairly.

CHAPTER 5: EXPLORING SOUTH AFRICAN EDUCATION POLICIES FOR THE IMPLEMENTATION OF RESTORATIVE DISCIPLINE

5.1 INTRODUCTION

In the previous chapter, I discussed how restorative justice principles linked to learner discipline in relation to nonviolence education initiatives can contribute to a safe and conducive environment to teaching and learning. The objective of this chapter is to present the data, analysis and interpretation for the implementation of restorative discipline guided by transformative constitutionalism to promote nonviolent schools. This chapter also serves as the Methodology chapter since in policy studies, document and policy analysis are methods to collect data and to analyse data.

In Table 3, an overview of the analysis of documents that focus on legislation and education policies relevant to this study is presented.

Document Analysis	Focus	Policy Analysis	Focus
3 (a) <i>Constitution of the Republic of South Africa, 1996</i>	Chapter Two, Bill of the Rights	<i>Alternatives to corporal punishment: The Learning Experience, 2000</i>	Disciplinary Framework: positive discipline approaches, constructive learning environment; rights-based disciplinary methods Alternative disciplinary measurements: verbal warnings, time-out procedures, detention systems, community services, counselling approaches
3 (b) <i>South Africa School Act, 1996</i>	Section 8: Code of Conduct Deals with discipline in schools, Requires school governing bodies to adopt a code of conduct. Aims to establish a disciplined and purposeful school environment; and		

	Prescribes support and counselling, and processes of disciplinary hearing. Section 9: Suspension and Expulsion Covers the procedures and circumstances for suspending or expelling learners. Outlines due process requirements; and Specifies the roles of governing bodies and educational authorities in these processes Section 10 Explicitly prohibits corporal punishment in schools Makes it illegal to administer corporal punishment to learners in schools		
		<i>Protocol To Deal With Incidence of Corporal Punishment, 2017</i>	Abolition and Prevention: Establish and reinforce the complete prohibition of corporal punishment in all educational settings; Mechanism for reporting for reporting and addressing violations, Preventative measures to stop corporal punishment before it occurs; and Legal framework prohibiting corporal punishment. Standardisation and Implementation: Provides a unified national framework for addressing corporal punishment incidents; Establish consistent procedures across provinces and districts; Define clear roles and responsibilities for all stakeholders; and Create standardised reporting and

			documentation processes, and an uniform application of disciplinary measures for violations. Positive Behaviour Support: Integrate Positive Behaviour Intervention Systems (PBIS) throughout the education system; Alternative disciplinary methods; Constructive approaches to managing learner misconduct; Positive disciplinary practices; Supportive environments that promote good behaviour; and Empower stakeholders with skills and resources for behavioural management
3 (c) <i>International Human Rights Framework:</i> • <i>Universal Declaration of Human Rights (UDHR) (1948)</i> • <i>The United Nations Convention on the Rights of the Child (UNCRC) (1989)</i>	Establish fundamental human rights to be universally protected: Basic Principles: human dignity; equal and inalienable rights; freedom, justice Fundamental Rights: equality before the law. Civil and Political Rights: freedom of thought, conscience, and religion, opinion and expression; right to peaceful assembly and association; and to participate in government. Economic, Social and Cultural Rights: right to education; health and well-being; and participate in cultural life Core Principles: Non-discrimination, best interest of the child, respect for children's views Protection Rights: From violence, abuse, and neglect. Participation Rights: Freedom of expression thought and religion; right to be		

• <i>The African Charter on the Rights and Welfare of the Child (1999)</i>	heard in matters affecting them. Special Circumstances: Rights of children with disabilities; and minority/indigenous children Fundamental Principles: Best interest of the child; Non-discrimination; child participation; African cultural values and heritage Basic Rights: Freedom of expression; Education, protection from harmful social and cultural practices Specific African Context: Protection against apartheid and discrimination State Obligations: Implementation responsibilities; reporting mechanisms; establishment of monitoring bodies		
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Table 3: An overview of the study's Document Analysis and Policy Analysis (Davids, 2024).

I conducted a document analysis including the *Constitution of the Republic of South Africa* (1996), *the South African Schools Act* (1996), and international frameworks such as the *Universal Declaration of Human Rights (UDHR)* (1948), the *United Nations Convention on the Rights of the Child (UNCRC)* (1989), and the *African Charter on the Rights and Welfare of the Child* (1999).

The document analysis reviewed the *Constitution* (RSA, 1996) and education-related documents to explore policymakers' perspectives. My contention is that exploring education policies may reveal the potential to foster transformative constitutionalism in schools, promoting nonviolence. This analysis seeks to determine if these policies support a shift from punitive to restorative disciplinary approaches.

I aim to ascertain if the education policies enshrine virtues (cf. 4.3.2) such as human dignity, sustainable equality, and social justice from a restorative perspective and, as such, promote nonviolent schools. Document analysis scrutinises texts and extracts meaningful insights relevant to my research questions (Chanda, 2021). Additionally, as emphasised by Morgan (2022:66), qualitative document analysis offers data stability, as researchers cannot alter or influence the existing data.

However, document analysis has limitations. While it provides valuable insights, it may not always offer sufficient data on its own due to inherent biases and limitations of the documents themselves. To address this, I decided to complement document analysis with policy analysis to enrich my study. Moreover, to strengthen the triangulation methodology, I reconstructed the analysis around thematic categories rather than data collection methods, whereby I systematically comparing findings from different data sources within each theme to identify convergence, divergence, and complementary insights that collectively enhance the validity and depth of the research conclusions.

I concluded that a qualitative approach was most suitable for generating and analysis of data in my study. By combining document analysis with policy analysis, I aimed to produce robust findings that deepen understanding of the potential of South African education policies to promote restorative discipline and nonviolent schools. Thereafter, I discussed the findings of the document and policy analysis separately, based on the data presented in the relevant documents and policies. I developed an analytical framework informed by a literature review and conceptual and theoretical underpinnings derived from education implications.

Ultimately, the findings provided the foundation for developing a protocol for implementing restorative discipline guided by transformative constitutionalism to promote nonviolent schools.

5.2 QUALITATIVE ANALYSIS

This section emphasises the research methodologies employed for data collection, specifically document and policy analysis as briefly discussed in Chapter 1) . Qualitative data analysis involves examining data by assessing, evaluating, and interpreting textual information to glean insights (Nieuwenhuis, 2016; Morgan, 2022), which can inform responses to the research questions.

5.2.1 Document Analysis

Document analysis, as a qualitative research methodology, is a systematic approach that involves analysing, reviewing, and interpreting documents to uncover underlying meanings (Nieuwenhuis, 2016; Morgan, 2022). It involves examining and interpreting data to derive meaning, understanding, and empirical knowledge (Denzin, 2017:48). This

method addressed questions arising from the literature review in previous chapters (Armstrong, 2021). Arguably, document analysis offers data stability since researchers cannot alter existing information, ensuring consistency in the gathered data (Morgan, 2022). Furthermore, Samuel (2017:11) suggests that in reading policy, key considerations include the policy's central focus, its classification, intended objectives, instances of policy borrowing, and the discourse it employs. Additionally, one should analyse the issues the policy addresses, the consultation process involved, the intended beneficiaries, and the implementation strategy.

Consequently, document analysis involves gathering contextual insights by examining and evaluating pre-existing documents or texts. I utilised document analysis to examine the *Constitution* (RSA, 1996), the *South African Schools Act* (DoE, 1996), and an international human rights framework, paving the way to redress inequalities in the South African education system.

5.2.1.1 The Constitution of the Republic of South Africa (1996)

The *Constitution* holds the highest authority in the nation, stating that any law or behaviour contradicting it is deemed invalid (RSA, 1996: Chapter 1 (2)). This document is pivotal in my document analysis due to its supremacy over all other regulations, including those concerning education. Consequently, all policies must align with its principles and directives. Given its relationship with other policies and acts, the *Constitution* is particularly relevant for guiding restorative discipline and promoting nonviolent schools. Moreover, South Africa, as a constitutional democracy, requires all citizens to adhere to the *Constitution* (RSA, 1996). Consequently, South Africans are expected to embrace its democratic values, including tolerance, respect, diversity, and the promotion of human rights (RSA, 1996: Preamble). This implies active participation in addressing learner ill-discipline and violence in schools.

Chapter 2 of the *Constitution* (RSA, 1996) consists of a *Bill of Rights*, which is the cornerstone of South African democracy. Sections 7-39 of the *Bill of Rights* uphold freedom, equality, and human dignity while safeguarding the rights of every citizen (RSA, 1996). The government is responsible for ensuring these rights are respected, protected, and promoted.

In alignment with this study's objectives, I analysed several sections of the *Constitution* to understand its transformative and restorative educational approach. The enactment of the *Constitution* (RSA, 1996) marked a significant milestone in the evolution of the education system, establishing the legislative foundation for transformative change.

Section 29 of the *Constitution* delineates crucial rights regarding education, affirming that every individual is entitled to both "a basic education" and "further education" (RSA,1996:29). This section guarantees the right to education, which encompasses access to a safe, nonviolent learning environment. Moreover, section 9 guarantees equality, prohibits unfair discrimination, and supports transformative constitutionalism (cf. chapter 3) and nonviolent approaches in schools (cf. chapter 4).

Section 10 emphasises respect for human dignity. To ensure education delivery, the government must consider reasonable alternatives (cf. 1.2; cf. 2.4.1), taking into account "equity, practicability, and the need to redress the results of past racially discriminatory laws and practices" (RSA, 1996:29). A restorative discipline approach aligns with these principles, aiming to protect and restore the dignity of all parties involved in school misconduct. It addresses victims' needs while recognising offenders' humanity (cf. 3.3.2; cf. 3.8; cf. 4.5.2). This fosters a nonviolent school environment where all individuals feel valued and respected (Lustick, 2022:7; cf. 2.2.3; cf. 3.15).

Section 28 focuses on children's rights, including protection from maltreatment and degradation (cf. 3.1; cf. 3.16), supporting nonviolent disciplinary approaches. Section 12(1) guarantees freedom and security, including protection from violence. Learners are entitled to freedom from all forms of violence (cf. 3.11; cf. 3.12.1), and schools must be safe havens, free from bullying, physical abuse, and other forms of violence (cf. 3.11; cf. 3.12; cf. 4.5.5.4). Furthermore, the right to bodily and psychological integrity includes freedom from inhumane treatment, fostering security, respect, and mental well-being (cf. 2.7.7; cf. 3.5.8). Schools must provide adequate support services to address learners' social, emotional, and mental health needs.

In summary, the *Constitution's* foundational principles (cf. 3.5; cf. 3.6; cf. 3.10: cf. 3.11; cf. 4.4.4; cf. 4.6.1)—including "human dignity, the attainment of equality, and the promotion of human rights and freedoms" (RSA, 1996: Chapter 1, section 1(a))—are essential elements for building nonviolent schools and implementing restorative discipline practices.

Section 7(1) highlights human dignity, equality, and social justice as pivotal democratic values. The government is committed to upholding, promoting, and safeguarding the fundamental human rights, as enshrined in the *Bill of Rights* (RSA, 1996: Chapter 2).

By integrating the principles of the *Constitution* (RSA, 1996) with the international human rights framework, restorative justice and transformative constitutionalism provide a robust foundation for addressing learner discipline within and beyond South Africa's border.

5.2.1.2 South African School Act, 1996

The *South African Schools Act*, 1996 (SASA), aims to provide a uniform system for the organisation, governance, and funding of schools in post-apartheid South Africa and recognises the rights of learners, parents/guardians, and teachers. Moreover, the *Act* forms the cornerstone of current education policy, aiming to create a more equitable and effective schooling system for all South African children.

Section 2 of the SASA (DoE, 1996) specifically speaks to education, stating:

"This *Act* applies to school education in the Republic of South Africa."

The *Act* is specifically focused on "school education," clarifying its scope and jurisdiction. By implication, its rules and regulations are applicable to all South African schools.

As indicated, the aim of this chapter is to analyse specific education-related documents regarding sections that hold either direct or indirect implications for constitutional principles in implementing a restorative approach to learner discipline to promote nonviolent schools. As such, it is beyond the scope of this section to analyse the entire SASA (DoE, 1996) in detail. Instead, this section focuses on the extent to which the SASA (DoE, 1996) aligns with transformative constitutional principles to develop a restorative approach to learner discipline that promotes nonviolent schools.

Legislation can take the form of original laws such as *acts* or subordinate or delegated legislation like ordinances and regulations. It serves as a framework governing various aspects of society, such as criminal justice, education, healthcare, and taxation. Aligned with this definition and the *Constitution*, the SASA aims to entrench values stipulated by the *Constitution* and provide guiding principles for stakeholders in education. To fully appreciate the significance and impact of the SASA (1996), it is essential to examine the

historical and social context in which this landmark legislation was developed and implemented.

Contextual analysis is the process of breaking down a complex issue or problem to better understand it. It addresses the *who*, *what*, *where*, *when*, and *why* of a situation or event (Sameul, 2017). For this study, understanding the South African historical and social context in which the SASA (DoE, 1996) emerged is critical to comprehending the complexity of learner discipline.

The SASA (DoE, 1996) is an essential act within South Africa's post-apartheid transition. Emerging in the aftermath of apartheid's demise, the *Act* symbolises a concerted effort to dismantle the systemic racial inequalities ingrained in South Africa's education system. Historically, apartheid policies enforced racial segregation, denying Black South Africans equitable access to quality education (cf. 2.5.3; cf. 3.12.3; cf. 4.2.3; cf. 4.3.2). Against this backdrop, the *Act* represented a transformative shift, affirming the principles of equality, non-discrimination, and universal access to education enshrined in the 1994 and 1996 democratic Constitutions.

The principles of the SASA (DoE, 1996) align with those of the *Constitution* (RSA, 1996) in promoting quality education for all learners, laying a strong foundation for the development of their talents and capabilities. The *Act* advances democratic transformation, combats racism, sexism, and all other forms of unfair discrimination and intolerance. Quality education contributes to eradicating poverty and the economic well-being of society, while upholding the rights of all learners, parents/guardians, and teachers (RSA, 1996: Preamble). Moreover, education should instil in learners an appreciation of and the ability to exercise their human rights (cf. 4.8; cf. 4.5.4), thereby nurturing their aptitude for engaging in civil and political decision-making processes. In essence, education serves as a catalytic agent for social progress, empowerment, and the promotion of a just and inclusive society (cf. 4.2.3). Therefore, the SASA explicitly banned corporal punishment as an unjust and inhuman approach to discipline (cf. 5.2.1.3).

The SASA's transformative agenda was the decentralisation of educational governance. It sought to empower local communities by establishing democratically elected School Governing Bodies (SGBs), comprising parents/guardians, teachers, and community representatives. The *Act* also introduced measures to address historical injustices by

prioritising equity and redress, aiming to level the playing field and ensure that all learners fulfil their potential (cf. 3.2.2; cf. 4.5.4). However, the *SASA* provides limited guidance on parent/guardian involvement in restorative processes, highlighting the need for a protocol to guide restorative discipline in schools.

Furthermore, the *Act* established mechanisms for quality assurance and accountability, laying the foundation for a standardised and effective educational framework. In essence, the *Act* represents a landmark achievement in South Africa's journey towards building a more just and equitable society. By addressing the legacies of apartheid and prioritising principles of equality, inclusion, and quality education for all, the *Act* sets the stage for transformative change within the education landscape. *SASA* (DoE, 1996) aligns with the vision of building nonviolent schools, particularly through restorative learner discipline guided by transformative constitutionalism. The *SASA* (DoE, 1996) embodies inclusivity, equity, and respect for human dignity, which is foundational to the promotion of nonviolence within educational settings.

The *Act* recognises education as a fundamental right and a tool for social change. By embedding constitutional values such as equality, non-discrimination, and human dignity into the education system, the *SASA* (DoE, 1996) catalyses the transformation of school cultures towards nonviolence. It calls upon teachers and stakeholders to uphold the principles of justice, fairness, and respect for learners' rights, fostering environments conducive to teaching, learning, and personal growth (cf. 2.7; cf. 3.2.3; cf. 4.5.3; cf. 4.8; cf. 5.2.2.2). In essence, the *SASA* (DoE, 1996) serves as a cornerstone for developing nonviolent schools through restorative learner discipline and transformative constitutionalism.

By nurturing safe, inclusive, and rights-respecting learning environments where every learner can thrive (cf. 1.12; cf. 2.4.6.1; cf. 3.2.2.3; cf. 4.2; cf. 5.2.2.1), the following content analysis of the *SASA* (1996) is imperative. Researchers can summarise the policy proposals (Samuel, 2017). My analysis centres on *SASA*'s aims, objectives, underlying values, and directives for implementation to determine its potential to promote restorative discipline through transformative constitutionalism, fostering nonviolent schools.

The overarching aim of the *SASA* (DoE, 1996) is to provide for a uniform system for the organisation, governance, and funding of schools; to amend and repeal certain laws

relating to schools; and to provide for matters connected therewith. It was enacted to address the educational disparities that arose during the apartheid era, ensuring that all learners have access to quality education regardless of their background.

The *SASA* (DoE, 1996) is in alignment with the principles of building nonviolent schools and implementing a restorative learner discipline approach guided by transformative constitutionalism. The key objectives of the *SASA* (DoE, 1996) are to create a consistent and equitable system ensuring that all learners have access to quality education regardless of their background (cf. 2.5.3; cf. 3.12.3; cf. 4.2.3; cf. 4.3.2). It mandates compulsory attendance for children aged seven to fifteen or until they complete grade nine, thereby promoting educational access and participation (cf. 2.3.1; cf. 4.3.3). Furthermore, it upholds the rights of learners, parents/guardians, and teachers, promoting their involvement in the governance of schools. This includes the establishment of a code of conduct to foster a disciplined and safe environment (cf. 2.2; cf. 2.6.2.). By aiming to eradicate poverty and enhance the economic well-being of society, the *SASA* (DoE, 1996) links education to broader socio-economic goals (cf. 2.4.1; cf. 3.5.3; cf. 3.5.6; cf. 5.2.2.2). The *Act* also promotes a collaborative approach between the state and school communities in managing schools, encouraging shared responsibility (DoE, 1996). As such, the *SASA* (DoE, 1996) serves as a legislative foundation intended to transform the educational landscape of South Africa, ensuring that it is equitable, inclusive, and aligned with democratic values.

Thus, by implication, the *SASA* (DoE, 1996) promotes equal access to quality education, regardless of background. This aligns with transformative constitutionalism by addressing historical inequalities and promoting social justice. By involving learners, parents/guardians, and teachers in school governance, the *SASA* fosters a more democratic and inclusive approach to education. The *Act*'s requirement for a code of conduct suggests a structured approach to discipline. When viewed through a restorative lens, this can be interpreted as an opportunity to implement discipline strategies that focus on learning, accountability, and repairing harm rather than punitive measures (cf. 2.8.3; cf. 3.2.1; cf. 4.5). By linking education to well-being (cf. 3.2.2; cf. 3.11.1; cf. 4.8; cf. 5.2.2), the *SASA* (1996) acknowledges the transformative power of education. This view aligns with transformative constitutionalism's aim to address systemic inequalities (cf. 3.2.3; cf. 3.5.1; cf. 3.12.3). Moreover, the emphasis on shared responsibility between the government and school communities creates a framework for implementing restorative

practices, which often rely on community involvement and collective problem-solving (cf. 2.3.1.1; cf. 3.2.3.4; cf. 4.6.1). Upholding the rights of all educational stakeholders, in particular learners' rights align with both transformative constitutionalism and restorative justice principles, which emphasise human dignity, respect, and fairness (cf. 3.5.8; cf. 4.3, cf. 3.2.3.1).

The *Act* (1996) explicitly banned the use of corporal punishment in schools under Section 10. This prohibition was later confirmed by the Constitutional Court in 2000 in the Christian Education case (cf. 3.7.1; cf. 3.14). Section 10 (1) (cf. 2.6.2; cf. 3.7.1) of the *Act* states that "No person may administer corporal punishment at a school to a learner." Violating this ban is considered a criminal offence, with perpetrators liable to criminal charges. The *Act* defines corporal punishment as "any deliberate act against a child that inflicts pain or physical discomfort, however light, to punish or contain the child." The latest provision in the BELA act (RSA, 2024) reiterated the abolition of corporal punishment in schools and expanded the definition of corporal punishment to include not only physical forms of punishment but also non-physical acts that undermine a child's dignity (DBE, 2024, section 1 (c)(a-d)).

The SASA (DoE, 1996) embodies principles crucial for nurturing peaceful educational environments. The *Act* upholds the values of inclusivity and equality, echoing the transformative spirit of South Africa's post-apartheid constitutional order. By acknowledging the historical injustices of apartheid and affirming the right to education for all, irrespective of race, gender, or socio-economic status, the *Act* sets the stage for dismantling inequalities and promoting social cohesion within schools (cf. 4.5.2). This commitment to inclusivity aligns with the values (cf. Chapter 2) of nonviolent schools.

The SASA (DoE, 1996) does not explicitly mention restorative justice but infers some directives that align with transformative constitutionalism and restorative approaches, *inter alia*: it requires schools to establish codes of conduct (cf. 2.3.1; cf. 5.2.2), which could incorporate restorative practices (cf. 3.11; cf. 4.1). Thus, by implication, inclusive governance involves learners, parents/guardians, and teachers (cf. 5.2.2); emphasises a disciplined educational environment (cf. 2.2; cf. 2.6.2); encourages shared responsibility between the government and school communities (cf. 2.3.1.1; cf. 3.2.3.4); upholds stakeholders' rights, in particular learner's rights (cf. 3.7), aligns with restorative justice principles; and links education to broader socio-economic transformation (cf. 2.4.1; cf.

3.5.3; cf. 3.5.6). These inferred directives provide a framework that could support restorative approaches and transformative constitutionalism in promoting nonviolent schools, though they don't explicitly prescribe these methods. Arguably, this is congruent with this study and the South African philosophy of education articulated in the *Constitution* (cf. 5.2.1.1).

The directives of the *SASA* (DoE, 1996) emphasise equal access and inclusivity. This includes practices that provide a foundation for implementing restorative practices that value learners' voices (cf. 3). Moreover, the directives can be interpreted to support non-punitive, restorative methods that maintain order while fostering learning and growth. By upholding stakeholder's rights, particularly learners' rights, it aligns with restorative justice's focus on dignity and respect, as well as transformative constitutionalism's emphasis on human rights. Furthermore, by linking education to broader socio-economic change, the *SASA* supports the transformative aspect of this approach, aiming for systemic change beyond individual conflicts, allowing schools to adopt and adapt restorative practices within their unique contexts (cf. 3.6.4; cf. 3.12.3; cf. 4.2.4).

The *SASA* (DoE, 1996) does not explicitly mandate restorative approaches to discipline. While the Act provides a legislative environment for nonviolent schools, it lacks an explicit definition of discipline, a framework for restorative approaches, or anything beyond punitive disciplinary measures (as outlined in section 8). This gap between the legislative intent of creating nonviolent schools and the actual disciplinary mechanisms provided by the *SASA* highlights the importance of developing more nuanced, restorative approaches to school discipline. As such, this study suggests the need for a protocol to implement restorative discipline, guided by transformative constitutionalism, to promote nonviolent school environments.

5.2.1.3 International Human Rights Framework

The international human rights framework for the purpose of this study refer to *inter alia* the *Universal Declaration of Human Rights* (UDHR) (1948), the *United Nations Convention on the Rights of the Child* (UNCRC) (1989), and the *African Charter on the Rights and Welfare of the Child* (1999). The *UDHR*, adopted in 1948, serves as a cornerstone for human rights protection globally, setting a universal standard for human dignity and equality. The foundation of the *UDHR* is based on the human dignity and states that

“recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” (UDHR, Preamble).

The implementation of human rights principles is primarily achieved through United Nations treaties and declarations (cf. 1.1; cf. 2.2; cf. 3.1; cf. 3.8; cf. 3.11), with the UDHR serving as a foundational document. Since its adoption, the UDHR has profoundly influenced the development of subsequent human rights treaties, shaping international agreements that address specific areas such as racial discrimination, women's rights, disability rights, and children's rights (Özler, 2018:395). This flow of human rights instruments, all stemming from the UDHR (1948), has created a comprehensive framework for protecting and promoting human dignity across various domains and demographics (cf. 3.2.1; cf. 3.11; cf. 3.12).

The declaration includes, not only basic, civil, and political rights, which are recognised by democratic constitutions, such as South Africa (cf. 3.8; cf. 5.2.1.2) but also economic, social, and cultural rights. The basic rights include the right to life, freedom, and personal security, as well as arbitrary arrest, protection from prison and exile, and fair and public trial in independent and impartial courts (Wells, 2015; Arendse 2020). Moreover, global human rights discourses have also influenced national education sectors. In the past three decades, the UN has promoted Human Rights Education (HRE) to prevent human rights abuses and protect marginalised groups.

Building upon the UDHR, the *United Nations Convention on the Rights of the Child* (UNCRC, 1989) gave legal force to signatory states to incorporate human rights standards into their domestic legal systems, thereby promoting transformative constitutionalism at a national level. South African domestic legal system has a record of including international law into the domestic legal order as the *Constitution* prescribes that international law must be used to interpret the rights contained in the *Bill of Rights* (cf. section 39 of the *Constitution*). This compels courts to use international human rights instruments as guidelines to interpret the *Constitution* (cf. 3.8).

The United Nations' *Convention on the Rights of the Child* (UNCRC, 1989) puts an obligation on governments to take “all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence while in the care of parent(s), legal guardian(s) or any other person who has the care of

the child” (article 19(1)). In relation to education, governments must “take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention” (article 28(2)). The Convention emphasises that

“no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment” (article 37(a)).

The aims of education (article 29(1)), stresses that realising a child’s right to education must entail ensuring there is no corporal punishment (para. 8) and the importance of children’s human rights. Therefore, education must be provided in a way that respects the inherent dignity of the child and enables the child to express his or her views freely in accordance with article 12(1) (UNCRC, 1990) and to participate in school life. Education must also be provided in a way that respects the strict limits on discipline reflected in article 28(2) and promotes non-violence in school. Compliance with the values recognised in article 29(1) clearly requires schools to be

“child-friendly in the fullest sense of the term and that they be consistent in all respects with the dignity of the child. The participation of children in school life, the creation of school communities and student councils, peer education and peer counselling, and the involvement of children in school disciplinary proceedings should be promoted as part of the process of learning and experiencing the realisation of rights.”

These international instruments (UDHR, 1948; UNCRC, 1989; *African Charter*, 1999) emphasise the importance of rehabilitative and restorative approaches to justice, over purely punitive measures. This principle is highly relevant and applicable to the education context, where learners should be treated with an emphasis on rehabilitation (cf. 3.7.2; cf. 4.5.5), restoration (cf. 2.8.3; cf. 3.2) and reintegration (cf. 4.1), rather than solely through punitive disciplinary actions (cf. 4.2.3; cf. 5.2.2.2). The principle of transformative constitutionalism in South Africa seeks to align its legal system, including the education system, with these international human rights norms. This means that the South African education system is being transformed to move away from the legacy of punitive and exclusionary disciplinary practices of the apartheid era and towards a more restorative and rehabilitative approach. Thus, the UNCRC (cf. 1.1; cf. 5.2.2.2), in conjunction with the *Constitution*, provides a strong legal and normative framework for creating safe, inclusive,

and equitable school cultures that respect the inherent dignity and well-being of all learners (cf. 2.3; cf. 3.5.8).

The *African Charter on Human and the Rights and Welfare of the Child* (1999) (hereafter, *African Charter*) complements the UN Convention on the Rights of the Child while addressing specific African cultural, economic, and social circumstances and stands as a pivotal human rights instrument for the African continent (cf. 1.1). As a member of the African Union, South Africa is also bound by the *African Charter* (1999), which emphasises the importance of traditional dispute resolution mechanisms and communal approaches to justice. Consequently, by grounding the education system in the principles of the *Constitution* (RSA, 1996) and international human rights treaties, the South African government is working to create a safe and democratic education environment.

In addition, the *African Charter* (1999) provides for a range of human rights (cf. 2.5.3; cf. 2.6.3; cf. 3.11; cf. 3.15; cf. 4.5.4). Articles 2 and 3 of the *African Charter* (1999) provide *inter alia* for the right to freedom from discrimination, prohibition of torture and cruel, inhuman and degrading treatment (Dersso, 2021). The latter reflect the *African Charter*'s relevance in addressing human rights in Africa, as well as its dynamic interaction with other regional and international human rights mechanisms.

Moreover, the principle of transformative constitutionalism in South Africa seeks to incorporate these African-centric conceptions of justice and social cohesion into South Africa's legal frameworks (cf. 2.3.1; cf. 3.7.1; cf. 4.3.2; cf. 4.5; cf. 4.7). Importantly, the *African Charter* also represents an expression of specific historical experiences and civilisations for human freedom and dignity (cf. 3.6; cf. 3.10; cf. 4.3.2; cf. 4.5.4). Arguably the *African Charter* not only articulated the catalogue of rights and freedoms by which state parties to the *African Charter* consented to be legally bound but also established a mechanism for the monitoring and implementation of the rights and freedoms and for holding states accountable (Dersso, 2021:653).

The legal framework established by the *South African Constitution* (RSA, 1996), reinforced by international human rights instruments such as the UNDHR, UNCRC and *African Charter*, provides a solid foundation for developing comprehensive policies and practices to create safe, inclusive, and equitable school environments. Building on this analysis of the constitutional and international legal obligations, it is crucial to examine the specific

policy responses and initiatives implemented by the South African government and education authorities to translate these principles into tangible change within the education system.

5.2.2 Policy Analysis

Policy analysis is a multidisciplinary field that uses various methods and tools to generate and transform policy-relevant information to support the evolution of policies in addressing emerging social problems (Yang, Tan, Sji, Deng, 2023: 1). It involves understanding who develops and implements certain policies, for whom, by what means, with what effects, and what techniques and tools can be used (cf. 1). Taylor et al. as cited in Jie (2016:1) also indicate that policy analysis is the study of what governments do, why, and with what impact, recognising that all levels of an education system are functionally part of a public system, even if they are technically in the private sector. Subsequently, policy analysis aims to understand governments' focal points and policy priorities (Yang et al. 2023); investigate why and how governments issue policies; evaluate the effects of certain policies (Yang et al. 2023); and reflect on political agendas driven by social concerns (cf. 3.3.2; cf. 3.5; cf. 4.5.2). It draws from the ideas and methods of various disciplines such as economics, political science, sociology, psychology, and philosophy to collect and interpret information that clarifies the causes and effects of public problems and the likely consequences of using different policy options to address them (Gibson and Walt, 2023). The major concerns of policy analysts and scholars are *inter alia*; human needs (cf. 2.5.1. cf. 2.5.3; cf. 3. 2. 3; cf. 4.5.1); environmental pressures (cf. 2.4.1; cf. 3.1 and cf. 3.11) for sustainable development

Policy analysts must decide whether to focus on the root causes of public problems or examine policy actions that might ameliorate a pressing problem without addressing its underlying causes (Cairney, 2021; Kraft and Furlong, 2020). In terms of this study the focus explores the implementation of a restorative approach to learner discipline guided by transformative constitutionalism to promote nonviolent schools.

From the foregoing exposition, I embarked on a policy analysis of the *Alternatives to Corporal Punishment in Schools (ATCP)* (DoE, 2000); the *Protocol to Deal with Incidents of Corporal Punishment ('Protocol')* (DBE, 2017) and incorporate the BELA act (RSA,

2024) to gain a comprehensive understanding of the policy framework governing discipline.

5.2.2.1 Alternatives To Corporal Punishment (ATCP): The Learning Experience, 2000

The *ATCP* (DoE, 2000) was developed following the ban of corporal punishment to assist teachers in implementing alternatives to corporal punishment in schools. The policy document provides teachers with concrete strategies and approaches to maintain discipline while respecting children's constitutional rights and human dignity. It outlines various disciplinary alternatives available to teachers, ranging from verbal warnings and timeouts to constructive disciplinary measures such as additional academic work and supervised school service.

With the adoption of the *South African Constitution* in 1996, the foundation was laid for a democratic South Africa based on values such as freedom, equality, and human dignity. The right to humane treatment is one of the key rights included in the *Bill of Rights* (Chapter 2, sections 10, 12(e), 28), and specific reference is made to the treatment of individuals, including children. This constitutional framework has significant implications for the policies and practices governing disciplinary measures in schools. The right to human dignity, enshrined in section 10, requires that disciplinary approaches respect the inherent worth and humanity of each learner. Section 12(e) (RSA, 1996) prohibits the use of "cruel, inhuman or degrading treatment or punishment," clearly precluding violent or degrading disciplinary tactics in the school setting. Furthermore, the special protection afforded to children's rights in section 28 of the Constitution (RSA, 1996) places a heightened obligation on schools to ensure that disciplinary measures do not compromise learners' well-being, education, or development. This aligns with the move away from punitive and authoritarian approaches towards more positive, restorative, and rehabilitative disciplinary models.

The alignment with international human rights standards (cf. 5.2.1.2) is reflected in the *ATCP* (DoE, 2000), which promotes the use of restorative justice and non-violent disciplinary measures in schools. Moreover, in keeping with the values and principles of the *Constitution* (cf. 5.2.1.1), the *SASA* (DoE, 1996: section 10(1)) bans all forms of corporal punishment in schools and places of education, stating that "[n]o person may administer corporal punishment at a *school* to a *learner*." Therefore, the *ATCP* (DoE,

2000) marks a significant shift in disciplinary approaches, moving away from punitive measures to more constructive and rights-respecting methods (cf. 2.3.1; cf. 2.8.3). It aims to equip teachers with alternative strategies to maintain order in the classroom while fostering a positive learning environment (DoE, 2000:5).

A relevant statement from the *ATCP* (2000) policy document indicates that:

"The Department of Education is committed to the development and implementation of a new disciplinary framework in schools that is based on the principles of restorative justice. This approach recognises the need to move towards more restorative and corrective disciplinary practices that address the underlying causes of misbehaviour, restore relationships, and reintegrate offenders into the school community" (DoE, 2000:5).

The policy document further elaborates on the key principles of restorative justice that should underpin the new disciplinary framework in schools:

"Restorative justice emphasises repairing the harm caused by an offence and addressing the needs of all those affected - the victim, the offender, and the broader school community. It focuses on restoring relationships, fostering accountability, and promoting the reintegration of offenders, rather than simply relying on punitive measures" (DoE, 2000:6).

The implementation of the *ACTP* (DoE, 2000) demonstrates the DoE's commitment to embedding restorative approaches (cf. Chapter 4) within the South African education system. This represents a significant shift away from the punitive and exclusionary disciplinary practices of the past. According to Chitsamatanga and Rembe (2020), the adoption of the ban on corporal punishment through the *South African Constitution* aimed to protect the rights of learners. *ATCP* (2000) was designed to enable learners to learn from misbehaviour without being physically punished (DoE, 2000:6).

The persistence of corporal punishment in South African schools, despite its prohibition through the *ATCP* policy, demonstrates a significant failure in policy implementation. The gap between legislative intent and classroom practice reveals that legislation alone is insufficient to transform deeply embedded disciplinary practices. Many teachers continue to rely on traditional punitive methods, despite their illegal status, indicating resistance to

change stemming from cultural beliefs and perceived effectiveness of physical punishment.

This ongoing 24-year struggle to implement restorative justice approaches clearly demonstrates the urgent need for a comprehensive protocol in South African schools. Such a protocol must address practical implementation challenges by providing clear guidelines, establishing accountability measures, and ensuring proper teacher training in alternative disciplinary methods. Without these structured support systems and resources, the rights-based approach envisioned in both the *Constitution* and *ATCP* policy will remain an unrealised goal rather than a classroom reality.

The *ATCP* (DoE, 2000: Preface) aligns with values of the *Constitution* and the *SASA* (DoE, 1996), and affirms the inhumane nature of corporal punishment, stating:

“[c]orporal punishment is by its very nature, anti-human and ultimately an abusive practice that entrenches the idea that violence provides a solution to every problem in the classroom. The removal of corporal punishment and the elimination of other dehumanising practices in our schools are necessary steps towards the development of a culture of human rights in our country. Of course, rights must be exercised responsibly.”

Subsequently, the *ATCP* (DoE, 2000: Preface), maintains that discipline must be positive and constructive to ensure a safe learning environment. Furthermore, the *ATCP* (DoE, 2000) indicates that teachers must manage the school environment based on the understanding that:

“discipline rather than punishment is used proactively and constructively. In such a system, learners experience an educative, corrective approach in which they learn to exercise self-control, respect others and accept the consequences of their actions” (DoE, 2000:9).

The *ATCP* (DoE, 2000:5) equips teachers with a range of disciplinary strategies to promote non-violent, constructive, and positive approaches to maintaining order in the classroom. This framework encourages teachers to move away from punitive measures and embrace more supportive disciplinary methods. Nevertheless, teachers often fail to utilise these practical tools, highlighting the need for a restorative discipline protocol guided by transformative constitutionalism - not necessarily corporal punishment. There

has been no fundamental change in how teachers perceive school discipline, which largely remains humiliating - even through actions like shouting or labelling. Discipline is not yet viewed as an educational process aimed at socially acceptable behaviour.

5.2.2.2 Protocol to Deal with Incidence of Corporal Punishment in Schools (2017)

In 2017, the Department of Basic Education (DBE) published the *Protocol to Deal with Incidences of Corporal Punishment in Schools (Protocol)*, which outlines how corporal punishment should be reported. Incidents of corporal punishment should not be dealt with lightly by the school. Instead, victims and parents/guardians should formally report all incidents of corporal punishment to the principal or teacher, who must document the incident in detail, including date, time, location, individuals involved, and nature of the punishment. The school management team must then conduct a thorough investigation into the reported incident. If the investigation confirms that corporal punishment occurred, appropriate disciplinary action should be taken against the perpetrator, following due process (cf. 3.4.1). Schools should also provide necessary support and counselling to learners who experienced corporal punishment. All cases of corporal punishment must be reported to the police or social services, provincial education department, and SACE (Children's Act, 2005: Chapter 7, Part 1, section 110). Therefore, schools should implement awareness programmes and training to prevent future incidents of corporal punishment.

The *Bill of Rights* (RSA, 1996: Chapter 2, sections 10, 12(e), and 28) includes fundamental rights, such as the entitlement to humane treatment, extending to individuals of all ages. Aligned with the *Constitution's* values and principles, the *SASA* (DoE, 1996: Section 10(1)) prohibits any form of corporal punishment within educational settings, explicitly stating that it is impermissible for anyone to administer such punishment to a learner in a school.

The prohibition of corporal punishment in schools represents a significant shift in educational policy and practice nationally. This shift reflects evolving societal values, and growing awareness of children's rights. This prohibition aims to create safer, more nurturing learning environments while promoting alternative disciplinary methods that focus on positive reinforcement (cf. 2.2.1). Despite the clear legal prohibition, corporal punishment remains a common practice in many South African schools (cf. 3.7.3).

While the *ATCP* (DoE, 2000) promotes collaborative rule-setting, it is crucial to examine how this approach aligns with and is reinforced by other key policies, such as the *Protocol* (DBE, 2017). This protocol aims to provide clear guidance to schools nationally on how to deal with incidents of corporal punishment. The prohibition of corporal punishment in schools is not only fosters a culture of human rights in democratic South Africa (cf. 3.11.1; cf. 5.2.2.1) but is also embedded within new education legislation, including the *SASA* (DoE, 1996) *ATCP* (DoE, 2000), and *Protocol*, (DBE, 2017), and reiterated in the *BELA Act* (RSA, 2024, section 1(c), which now includes a definition of corporal punishment and amends section 10 of the *SASA*. This legislation underscores the notion that nurturing a culture of democracy and peace in society necessitates citizens who can uphold the principles of justice, equality, freedom, and tolerance (DBE, 2000: Preface). Furthermore, the *Protocol* aims to create a national framework to standardise the education sector's response to corporal punishment and facilitate its prohibition throughout the education system, empowering stakeholders to respond constructively to learner ill-discipline.

To be effective, implementation requires comprehensive measures to prevent the use of corporal punishment, equip teachers with positive, non-violent disciplinary techniques, and respond appropriately when breaches occur (DBE, 2017, paragraph 2.1). Addressing corporal punishment effectively necessitates implementing the directives of the *SASA* (DoE, 1996), amended by the *BELA Act* (RSA, 2024), which emphasises prevention, equipping teachers with positive disciplinary techniques, and ensuring appropriate responses to violations.

Corporal punishment remains one of the most prevalent forms of violence in schools. The *Protocol* highlights its negative impacts and emphasises the need for alternative disciplinary methods. By implication, refraining from corporal punishment could reduce violence in schools. Arguably, under section 7(1)(h) of the *Children's Act*, the child's physical and emotional well-being must be prioritised when applying the best interests of the child standard. Legislation should enhance the protection afforded to children.

The *BELA Act* (RSA, 2024) introduces explicit changes relevant to school discipline, amending the *SASA* (DoE, 1996) and proposing reforms to learner codes of conduct. It emphasises community involvement in their development and provides guidelines for addressing serious misconduct. Notably, the *BELA act* reiterates the abolition of corporal punishment and expanded its definition to include not only physical punishment but also non-physical acts that undermine a child's dignity. This expanded definition includes

actions such as hitting, smacking, slapping, pinching, scratching, kicking, shaking a child violently, and forcing children into uncomfortable positions or standing for extended periods (DBE, 2024: section 1(c)(a-e)).

By providing a comprehensive definition of corporal punishment and reaffirming its abolition, the BELA act (RSA, 2024) aimed to ensure that schools adopt disciplinary practices aligned with dignity and human rights. Instead, the *Act* calls for developing learner codes of conduct through community involvement, promoting constructive and supportive approaches to addressing learner behaviour.

This legislative reform built upon the *ATCP* (DoE, 2000) (cf. 5.2.2.3), which sought to shift South African schools away from physical discipline towards methods focused on teaching, learning, and fostering self-discipline in learners. The BELA act (RSA, 2024) further entrenches these principles, strengthening the legal framework to support non-punitive, rights-based approaches to school discipline.

5.3 FRAMEWORK FOR ANALYSIS

In this section, I summarised the conclusions drawn from the document analysis carried out in the previous section (cf. 5.2.1).

I analysed the content of selected educational documents *inter alia* the *ATCP* (DoE, 2000), the '*Protocol*' (2017) and the BELA act (RSA, 2024), I analysed these documents intending to scrutinise South Africa's commitment to explore the restorative discipline approach guided by transformative constitutionalism to promote nonviolent schools. I explored the *Constitution of South Africa* as the supreme law and scrutinised the international legal framework in relation to restorative justice.

In the analysis, I referred to some excerpts from the *Constitution* wherever applicable because any national document or policy must be consistent with the *Constitution* (cf. 5.2.1.1). Therefore, I perceived the *Constitution* as the most important document that informs the direction for other government documents. The analysis of the documents was critical in eliciting meaning, understanding, and developing empirical knowledge to guide me when analysing the *ATCP* (DoE, 2000), the *SASA* (DoE, 1996), the *Protocol* (DBE, 2017) and the BELA act (RSA, 2024). As such, I paid particular attention to three emerging themes: nonviolent and safe environments; transformative constitutionalism; and

restorative justice. These themes are applied in the findings and discussions for both document analysis and policy analysis. The themes were critical in discovering South Africa's position on the implementation of a restorative discipline approach guided by transformative constitutionalism to promote nonviolence in schools.

5.4 FINDINGS AND DISCUSSIONS: DOCUMENT ANALYSIS

In this section, I summarised the conclusions drawn from the document analysis carried out in the previous section (cf. 5.2.1). In the analysis, I referred to relevant excerpts from the *Constitution* wherever applicable, because any national document or policy must be consistent with the *Constitution* (cf. 5.2.1.1). Therefore, I identified the *Constitution* as the most important document informing the direction of other government documents. The analysis of these documents was critical in eliciting meaning, understanding, and developing empirical knowledge to guide me in examining the *ATCP* (DoE, 2000), the *SASA* (DoE, 1996), and the *Protocol* (DBE, 2017). Particular attention was given to three emerging themes: nonviolent and safe environments, transformative constitutionalism, and restorative justice. These are applied in the findings and discussions for both document analysis and policy analysis.

The themes were critical in determining South Africa's position on implementing a restorative discipline approach guided by transformative constitutionalism to promote nonviolence in schools.

5.4.1 Findings and Discussions of the Constitution of the Republic of South Africa (1996)

I analysed the *Constitution* (RSA, 1996) and the international legal framework (cf. 5.2.1.2) in relation to the identified themes. This was done to explore the implementation of a restorative approach to learner discipline guided by transformative constitutionalism to promote nonviolent schools (cf. 1.3). The findings and related discussions are presented below.

5.4.1.1 Theme 1: Non-Violent and Safe Environments

A safe educational environment is a structured and supportive environment (cf. 2.6.1; cf. 3.6.1; cf. 4.5.2). It forms the foundation of safe schools, providing clear expectations and

assistance that enables all learners to thrive academically and personally (cf. 2.4.6.1; cf. 3.2.2.3; cf. 4.2; cf. 5.2.2.1). Furthermore, a positive interpersonal relationship among learners, teachers, and staff creates a network of trust and respect. Shared beliefs, values, and traditions unite the school community, promoting a collective commitment to safety and well-being for all (cf. 2.3.1.3).

Freedom from crime and violence is achieved not just through security measures but through a culture of mutual respect and conflict resolution, creating a truly safe space for learning and growth. Recognising that the environment and humanity are interrelated and constantly affect one another, restorative discipline approaches, guided by transformative constitutionalism, aim to create safe schools by fostering a holistic understanding of how physical spaces, social dynamics, and individual behaviours interconnect to shape a secure and nurturing educational ecosystem.

Although the *Constitution* is not specifically directed to education, section 29(1)(a) reflects on education as a basic right by indicating that

“everyone has the right to a basic education.”

This implies that the *Constitution* mandates that the government must respect, protect, promote, and fulfil the rights enshrined in the *Bill of Rights* as stated in section 7. This section is foundational in ensuring that the rights of all individuals, including learners and teachers, are upheld within the educational environment. Schools must take positive steps to prevent the infringement of rights and promote rights, thereby aligning with restorative practices that focus on repairing harm and restoring dignity rather than merely punishing misbehaviour (cf. 2.8.3; cf. 3.2.1; cf. 4.2; cf. 4.5; cf. 5.2.2).

Creating safe schools involves more than just physical security measures. In terms of nonviolent and safe environments, it requires understanding and addressing the complex interplay in schools (e.g., school buildings, classrooms, playgrounds) (cf. 2.7.1; cf. 3.6.4; cf. 4.1), the social environment (e.g., peer relationships, teacher-learner dynamics, school culture (cf. 4.3.2; cf. 4.5.3.3), and individual behaviours and experiences (cf. 1.6; cf. 2.3.1; cf. 4.5.2). This necessitates a holistic and comprehensive approach to creating safe schools, moving beyond just physical security measures. This approach aligns with the *Constitution's* emphasis on the right to basic education, equality, dignity, and the protection of vulnerable groups.

Moreover, according to the *Constitution* (RSA, 1996), everyone has the right to “an environment that is not harmful to their health or wellbeing” (RSA, 1996:9). This constitutional provision is significant for safe schools as it promotes school environments that go beyond mere physical safety to encompass emotional, social, and psychological well-being for all learners and staff (cf. 2.4.1; cf. 3.5.8; cf. 5.2.1). It establishes a legal foundation for demanding safe educational environments and broadens the concept of safety to include overall well-being, not just physical protection. This aligns with the holistic approach of restorative justice, which seeks to address the root causes of conflicts and promote healing.

Furthermore, it supports transformative constitutionalism (cf. 1.3; cf. 2.7.3; cf. 3.1.13; cf. 4.4.2.1; cf. 4.4.7) by requiring schools to actively create positive environments, not just prevent harm. It empowers learners, teachers, and parents/guardians to advocate for comprehensive safety measures that support health and well-being in all aspects of school life. This implies that this expanded perspective on creating safe schools aligns with the *Constitution's* commitment to promoting positive rights, public participation, holistic well-being, transformative change, and the redress of historical inequalities within the education system.

Values and culture form the foundation of a safe educational environment, shaping behaviours and attitudes that promote mutual respect, understanding, and responsibility among all members of the school community (cf. 2.6.2; cf. 3.2.3; cf. 4.3.1). By fostering a positive school culture grounded in shared values such as empathy, inclusivity, and accountability (cf. 2.3.1; cf. 3.2.3; cf. 4.4.2.4), this approach emphasises the creation of a school culture aligned with the *Constitution's* core principles of human dignity, equality, transformation, participation, and the protection of vulnerable groups. This approach contributes to the realisation of the *Constitution's* vision for a just, equitable, and inclusive education system.

The *Constitution* (RSA, 1996) embodies principles closely related to empathy, inclusivity, and accountability through its emphasis on human dignity, equality, and non-discrimination, although it may not use these exact terms. Chapter 2 (*Bill of Rights*) prohibits discrimination on various grounds, including race, gender, sexual orientation, and religion, stating in Section 9 that

“(1) Everyone is equal before the law and has the right to equal protection and benefit of the law.

(2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

(3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, and birth.”

This section of the *Bill of Rights* explicitly prohibits unfair discrimination on a wide range of grounds, including race, gender, sexual orientation, and religion. It establishes the principle of equality before the law and the state's obligation to take measures to promote and achieve substantive equality. As such, the equality and non-discrimination provisions in the *Bill of Rights* mandate that schools create a safe, inclusive, and equitable educational environment for all learners, regardless of their individual characteristics or backgrounds. This is a fundamental requirement for realising the constitutional vision of a transformed and just education system.

In addition, the value of empathy is represented through human dignity and social justice. Section 10 states that “everyone has inherent dignity and the right to have their dignity respected and protected.” By implication, the value of empathy, which is central to creating a positive school culture, is closely linked to the constitutional principle of human dignity as enshrined in Section 10. Moreover, the preamble of the *Constitution* highlights the commitment to

“improve the quality of life of all citizens and free the potential of each person.”

This speaks to the value of empathy and the recognition that respecting the inherent dignity of all individuals is fundamental to achieving social justice. Furthermore, Section 7(2) of the *Bill of Rights* states that

“the state must respect, protect, promote and fulfil the rights in the Bill of Rights.”

This places not only a positive obligation on the state but also on schools to actively uphold the right to human dignity. It also implies that by fostering a school culture grounded in empathy, schools are directly contributing to the realisation of human dignity and social justice as enshrined in the *Constitution* (RSA, 1996). Empathy enables deeper understanding, compassion, and a commitment to addressing the needs and vulnerabilities of all learners (cf. 3.13; cf. 4.3.1).

Section 28 (RSA, 1996) provides special protection for children's rights. Section 28 (1)(d), (f), and (ii) states that

“(1) Every child has the right -

(d) to be protected from maltreatment, neglect, abuse or degradation;

(f) not to be required or permitted work or provide services that:

(ii) place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development.”

The *Constitution* thus provides protection for the rights of children, which is crucial in the context of creating safe and inclusive school environments. This section establishes that every child has the right to be protected from maltreatment, neglect, abuse, or degradation. Crucially, it also stipulates that children must not be required or permitted to perform work or provide services that place at risk their well-being, education, physical or mental health, or spiritual, moral, or social development.

These constitutional provisions directly address the imperative of fostering a positive school culture that prioritises the safety, well-being, and holistic development of all learners. By enshrining children's rights, the *Constitution* mandates that schools take proactive measures to safeguard learners from harm and ensure that the school environment supports their overall growth and development (cf. 2.8.1; cf. 3.12; cf. 5.2.2). This aligns with the values of empathy, inclusivity, and accountability that are central to creating a transformative and equitable education system (cf. 4.7.5). Moreover, these provisions collectively create a constitutional framework that promotes a society based on democratic values, social justice, and fundamental human rights (cf. 2.5.3; cf. 5.2.2.1). The *Constitution* aims to heal past divisions and establish a society grounded in democratic values, social justice, and fundamental human rights, while improving the quality of life for all citizens (cf. 3.2). This value-driven framework underscores the need

for empowering learners to actively contribute to creating and maintaining a safe, inclusive, and nurturing learning environment (cf. 4.2.3; cf. 4.5.2; cf. 2.9). By fostering such active participation, schools can align with the constitutional commitment to well-being of learners and the broader transformative goals of education.

The *Constitution* is clear on the importance of protection in the context of safe schools. Section 12 of the *Constitution* deals with the right to freedom and security of the person. To indicate protection, it specifically states

“(1) Everyone 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;

(d) not to be tortured in any way; and

(e) not to be treated or punished in a cruel, inhuman or degrading way.”

The aforementioned provisions are designed to protect individuals from various forms of physical and psychological harm, which indicates a strong emphasis on personal security and protection under the law. It follows that all learners should feel secure enough to fully engage in their education without fear of harm, discrimination, or exclusion.

Thus, by implementing restorative practices, schools can address conflicts in ways that protect the dignity and rights of all parties involved, fostering a culture of mutual respect and understanding that serves as a protective factor against various forms of harm (cf. 3.1; cf. 3.7.7; cf. 4.6.2; cf. 5.2.1).

Creating safe, secure, and inclusive school environments that foster positive relationships, social cohesion, and a culture of respect is a key priority. This aligns with the *Constitution*’s vision of the South African education system to overcome the legacy of apartheid and build a more equitable and just system (cf. 2.5.3; cf. 3.12.3; cf. 4.2.3; cf. 5.2.2). As such, schools should be safe environments for learners and teachers, as mandated by the *South African Constitution* (RSA, 1996). However, violence in schools puts learners and teachers at risk, violating the right to freedom and security of the person (Davids, 2017). The government must provide education in a safe and conducive environment (RSA, 1996).

Although the *Constitution* emphasises the need for education to provide a safe and disciplined environment for quality education (RSA, 1996: Chapter 2, Section 24; DoE, 1996: Section 8(2)), it neither mandates nor outlines specific safety measures or protocols for schools. Given its date of adoption, the *Constitution* (RSA, 1996) is silent on issues such as nonviolent educational environments, including protection from bullying (cf. 3.2.3; cf. 4.5.1.4; cf. 5.5.1, and cyber safety issues (cf. 2.4.2; cf. 2.5.2).

5.4.1.2 Theme 2: Transformative Constitutionalism

Transformative constitutionalism involves the application of constitutional principles and values to adapt to evolving societal needs and drive social transformation. As established, the *Constitution* serves as the foundational framework upon which transformative constitutionalism operates. While the *Constitution* (RSA, 1996) provides the legal structure and principles for governance, transformative constitutionalism extends beyond mere compliance with legal norms. It calls for a deeper understanding and application of constitutional principles in ways that promote social transformation. Thus, transformative constitutionalism challenges traditional interpretations of the *Constitution*, urging a more dynamic and contextually sensitive approach to constitutional law (cf. 3.2.3.3; cf. 3.4; cf. 3.4.3).

The *Constitution* (RSA, 1996) and its principles of human dignity, equality, and human rights form the foundational framework for the transformation of the education system. Subsequent education policies and laws, such as the *South African Schools Act* (DoE, 1996), aim to align the education system with constitutional values of human dignity and equality (cf. 4.3.2).

The concept of transformative constitutionalism is explicitly referred to and embodied within the *Constitution* (1996). The preamble states the aim

"to heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights."

This highlights the transformative vision and purpose of the *Constitution*. Furthermore, the Constitutional court of South Africa has interpreted the *Constitution* as embracing a transformative agenda. In the landmark case dealt with the socio-economic rights of an individual, *Soobramoney v Minister of Health (KwaZulu-Natal)*, the court stated that the

Constitution "is committed to the transformation of our society from a grossly unequal society to one respectful of human dignity, equality and freedom" (Singh 2022:4).

Key aspects of transformative constitutionalism reflected in the *Constitution* include redressing historical injustices and inequalities (cf. 3.3); promoting substantive equality and social justice (cf. 3.3.2; cf. 3.5.8); empowering marginalised and vulnerable groups (cf. 3.4.2); and fostering a culture of human rights and democratic values (cf. 3.11.1; cf. 5.2.2). The emphasis on creating a just, equitable and inclusive society through the *Constitution's* progressive *Bill of Rights* and mandate for positive state action underscores South Africa's commitment to transformative constitutionalism. This transformative vision has significant implications for policy and practice across various domains, particularly education, where the *Constitution's* principles must be actively realised to achieve meaningful and sustainable change.

In the context of the *South African Constitution* (1996) and the discussion around creating safe and inclusive school environments, the term "transformative" carries several important meanings, *inter alia*, redressing historical injustices (cf. 3.3; cf. 4.3; cf. 5.2.1.2); promoting substantive equality (cf. 3.10); fostering a culture of human rights (cf. 3.11); enabling participatory governance (cf. 3.2; cf. 3.12) and achieving sustainable change (cf. 4.2).

Transformative constitutionalism seeks to transform the broader social and institutional culture to reflect the values of human dignity, freedom, and equality. In education, this involves cultivating a school culture that actively upholds and promotes human rights principles. Moreover, transformative constitutionalism envisions a shift towards more inclusive and participatory governance, enabling all stakeholders, including teachers, learners, parents/guardians, and administrative and non-administrative staff, to engage in decision-making processes. This empowers all stakeholders to advocate for safety measures that address specific needs and concerns. Thus, the "transformative" nature of the *Constitution* reflects an ambitious and far-reaching agenda to reshape the social, political, and institutional landscape in pursuit of a more just, equitable, and inclusive society—a vision that must be actively realised within the education system.

The concept of human rights is prominently acknowledged and emphasised throughout the *Constitution* (1996), particularly regarding safe and inclusive school environments.

Human rights are explicitly enshrined in the *Bill of Rights* (Chapter 2), which covers civil, political, economic, social, and cultural rights. Section 9 explicitly prohibits unfair discrimination based on race, gender, sexual orientation, and religion, reflecting the principle of equality. Additionally, Section 10 states that "everyone has inherent dignity and the right to have their dignity respected and protected," which is fundamental to human rights. Section 28 provides special protection for the rights of children, recognising their vulnerability and the need for enhanced safeguards.

The analysis references the International Covenant on Civil and Political Rights (ICCPR), which South Africa has ratified and is bound to uphold (cf. 5). Teachers have an important role in ensuring the safety and protection of learners under the *Constitution* and related legislation, particularly in protecting learners from harm (cf. 2.6.3; cf. 3.1; cf. 3.3.2; cf. 4.6.2). This aligns with Section 24(a) in the *Bill of Rights*, which states

"everyone has the right to an environment that is not harmful to their health or well-being."

By implication, schools have a responsibility and legal obligation to provide an environment conducive to teaching and learning. While schools must ensure safety, learners and parents/guardians should also promote nonviolent and safe environments (cf. 2.6.3). Moreover, the *Constitution's* transformative vision is grounded in the promotion of democratic values, social justice, and fundamental human rights. The centrality of norms such as equality, non-discrimination, dignity, and children's special protection is consistently emphasised as fundamental to creating safe and inclusive school environments in South Africa.

The *Constitution's* protection of human rights, particularly the right to dignity, humane treatment, and safeguards for children, provides a solid foundation for implementing restorative justice approaches in school disciplinary practices.

5.4.1.3 Theme 3: Restorative Justice

Restorative justice shifts the focus from punitive measures to collaborative processes that involve all stakeholders—victims, offenders, and the community. By encouraging dialogue and understanding, restorative practices aim to address the root causes of misbehaviour and promote accountability (cf. 2.4.3; cf. 3.2.1; cf. 3.3.3; cf. 4.2; cf. 5.2.1). This aligns with

the transformative constitutionalism framework, which seeks to address historical injustices and promote social justice within the educational system (cf. 3.12; cf. 4.6.1).

There has been a concerted effort to move away from the punitive and exclusionary disciplinary practices of the apartheid era towards more restorative, rehabilitative, and reintegrative approaches. Policies like the *ATCP* (DoE, 2000) promote the adoption of restorative justice principles in school discipline. The development and implementation of education policies and codes of conduct involve the collaborative efforts of various stakeholders, including school governing bodies (SGB's), teachers, learners, parents/guardians, and the wider community. This participatory approach reflects the principles of democratic governance central to transformative constitutionalism.

Moreover, as the education system recognises the need to address the social, economic, and contextual factors that may contribute to discipline issues and misbehaviour, the *Constitution* does not explicitly mention restorative justice approaches. Nevertheless, the interconnected themes of nonviolent and safe environments, transformative constitutionalism, and restorative justice demonstrate the comprehensive and systemic efforts to transform the South African education system. These efforts are aligned with the principles of restorative discipline and the broader vision of transformative constitutionalism.

5.4.2 Findings and Discussion on the *South African Schools Act, (1996)*

As indicated, the aim of this chapter is to analyse education-related documents regarding sections that have either direct or indirect implications for the implementation of restorative discipline guided by transformative constitutionalism to promote nonviolent schools. Accordingly, it is not within the scope of this section to analyse the *SASA* (DoE, 1996) in detail. Instead, the focus is limited to the extent to which the *SASA* underscores nonviolent and safe environments, transformative constitutionalism, and restorative justice. Furthermore, this section examines the significance of the *BELA* act (RSA, 2024) as an extension of the amendments it introduces, particularly regarding learner discipline, nonviolent and safe environments, transformative constitutionalism, and restorative justice.

5.4.2.1 Theme 1: Nonviolent and Safe Environments

The SASA (DoE, 1996) provides several provisions aimed at ensuring a safe school environment. One of the significant developments in the SASA is the explicit prohibition of corporal punishment, reflecting a commitment to fostering a respectful and non-violent atmosphere in schools. Section 10 (1) states

“No person may administer corporal punishment at a *school* to a *learner*.”

The implications of this law are significant and far-reaching. Primarily, the SASA (DoE, 1996) establishes an outright ban on physical punishment, prohibiting any form of physical force as a disciplinary measure in schools. The SASA supports learners' physical safety and dignity within the educational system by integrating school rules with broader child protection laws and human rights standards (cf. 1.1; cf. 3.8; cf. 3.16). By implication, the implementation of this regulation is expected to foster a movement in school culture towards a more respectful and nonviolent educational environment, with the potential to improve learner-teacher relationships and the overall school climate (cf. 4.5.5; cf. 4.6).

The prohibition of corporal punishment is a critical step towards ensuring that discipline is approached constructively, promoting a culture of respect and safety. Furthermore, the *Act* mandates the creation of a code of conduct for learners, which is essential for maintaining discipline and promoting a safe learning environment. According to the SASA (Section 18A (2))

“A code of conduct must be aimed at establishing a disciplined and purposeful school environment, dedicated to the improvement and maintenance of a quality governance structure at a public school.” (DoE, 1996).

This statement emphasises the creation of a disciplined and purposeful school environment. This implies a shift from viewing discipline as merely punitive to seeing it as a constructive force in education. Schools are expected to develop an atmosphere that actively supports learning and personal growth, rather than simply maintaining order. The code of conduct, therefore, becomes a tool for fostering a positive school culture that enhances educational outcomes. The focus on establishing and maintaining a quality governance structure highlights the importance of effective school management. This approach recognises that discipline and overall school success are intrinsically linked to good governance practices. It suggests a move towards more professional, standardised

administration in public schools, which is crucial for ensuring consistent quality across the education system. In addition, the BELA act (RSA, 2024) emphasises that codes of conduct must now serve multiple interconnected purposes. It explicitly states that discipline must align with the *Constitution*, and codes of conduct must be in line with the *Constitution*. Although it does not explicitly mention restorative discipline, it sensitises schools to integrate the SASA and the *Constitution* in their disciplinary processes.

Section 1 of SASA (DoE, 1996) is amended by prohibiting “any acts which seek to belittle, humiliate, threaten, induce fear or ridicule the dignity and person of a learner” (BELA, RSA, 2024, section 1(d)). By implication, schools are sensitised to uphold the dignity of learners and to act in the best interests of the child (Section 8 (i)), with emphasis on equality as provided for in section 9 of the *Constitution*.

This broader mandate aligns perfectly with the principles of transformative constitutionalism, which seeks to reshape society through progressive implementation of constitutional values. The SASA (DoE, 1996) aligns with international conventions on children's rights (cf. 1.2; cf.2.8; cf. 3.1), ensuring that disciplinary measures respect fundamental human rights. The SASA (DoE, 1996) provides a framework for establishing a safe school environment. Through the prohibition of corporal punishment, the establishment of a code of conduct, and the emphasis on due process in disciplinary actions, the SASA aims to create an educational culture that respects the rights of learners while promoting accountability and safety. By implication, schools must create a school culture beyond just listing rules. An effective code of conduct should explain the rationale behind learner behaviour, helping learners to understand how their conduct contributes to their own learning and the school's overall success. Arguably, the *code of conduct* contributes to accountability and safety. These principles are essential for fostering a positive learning environment where all learners can thrive (cf. 2.4.6.1; cf. 3.2.2.3; cf. 4.2; cf. 5.2.2.1).

In amendment of section 5 of SASA (DoE, 1996), the BELA act (RSA, 2024, section 7(b)) brought changes to the code of conduct of a public school. Schools must now consider the diverse cultural beliefs and religious observances of learners to provide for the inclusion of an exemption clause in the code of conduct. Additionally, disciplinary proceedings must be age- appropriate and in the best interests of the learner. These exemptions pave the way for steps towards implementing restorative discipline and

transforming society through the *Constitution*. Hence, this study aims to develop a protocol for restorative discipline, guided by transformative constitutionalism, to promote nonviolent schools.

The above align with the *Constitution* in terms of nonviolent and safe environments (cf. 3.12.1; cf. 4.5.5; cf. 4.6.1) and emphasises the need for alternative disciplinary methods that focus on repairing harm but are silent regarding restorative discipline that contributes to safe schools. For instance, the SASA (DoE, 1996) does not mention preventing conflict, repairing harm, and rebuilding relationships. When searching the SASA, I found the phrase “safeguarding” the interest of the learner but is silent on the approach to take to contribute to a safe environment. The phrase “harm” is mentioned only in terms of dangerous objects to cause bodily harm, but there are no explicit references to restorative discipline for preventing conflict, repairing harm, and rebuilding relationships. In this regard, the SASA (DoE, 1996) is indeed silent about repairing harm and rebuilding relationships to foster safe schools.

It is noteworthy to mention how the BELA act (RSA, 2024) emphasises a significant shift in how schools should approach learner discipline. Whereas the SASA (DoE, 1996) focused primarily on establishing discipline and governance, the BELA act (RSA, 2024) expands this vision to embrace restorative and rehabilitative approaches. This change reflects a deeper understanding of how school discipline should contribute to positive educational outcomes and societal transformation. Particularly, safety and wellbeing, as emphasised in the BELA act (RSA, 2024), take on broader meanings within this new framework. They encompass not only physical security but also emotional and psychological safety, creating environments where all members of the school community can thrive. This comprehensive approach to safety aligns with international human rights standards while addressing local needs and challenges.

5.4.2.2 Theme 2: Transformative Constitutionalism

The SASA (DoE, 1996) embodies the principles of transformative constitutionalism. Guided by transformative constitutionalism, the SASA (DoE, 1996) recognises education as a fundamental right and a tool for social change (cf. 3.2.3; cf. 3.5.6; cf. 4.5.2). The SASA explicitly acknowledges the right to education, aligning with Section 29 of the *Constitution*, which states that everyone has the right to basic education. This legal framework ensures that education is not merely a privilege but a guaranteed right for all

children in South Africa, thereby promoting access and equity. The *SASA* reinforces the government's responsibility to provide educational opportunities and combat historical injustices related to access to education. Section 3(1) states that

“...every *parent* must cause every *learner* for whom he or she is responsible to attend a *school* from the first *school* day of the year in which such *learner* reaches the age of seven years until the last *school* day of the year in which such *learner* reaches the age of fifteen years or the ninth *grade*, whichever occurs first.”

By mandating compulsory attendance for children aged seven to fifteen, the *Act* reinforces the government's commitment to providing educational opportunities for all children, thereby addressing historical injustices related to access to education, which resonates with transformative constitutionalism (cf. 3.2.2; cf. 3.3.3; cf. 4.5.4). Moreover, the Preamble of the *SASA* emphasises the need for a new educational system that addresses past inequalities and promotes democratic transformation (cf. 3.2.3.1; cf. 4.2.3; cf. 5.2.2). It highlights the importance of redressing injustices in educational provision, which is crucial for fostering social cohesion and advancing the rights of marginalised communities. This is particularly important in a post-apartheid context where access to quality education was unevenly distributed. As such, by aiming to provide quality education for all learners, the *SASA* (DoE, 1996) serves as a tool for social change (cf. 3.2.1; cf. 3.2.2), enabling individuals to improve their circumstances and contribute positively to society.

The *Act* mandates that schools must admit children without discrimination based on race, gender, or socio-economic status (DoE, section 5 (1)(3)(a)) stating that

"A *public school* must admit *learners* and serve their educational requirements without unfairly discriminating in any way... No *learner* may be refused admission to a *public school* on the grounds that his or her *parent* is unable to pay or has not paid the *school* fees..."

Children may not be refused admission to public schools on the grounds that their parents/guardians are unable to pay or have not paid school fees. This commitment aligns with the transformative goals of the *Constitution* by striving to create an inclusive educational landscape where all learners have equal opportunities. By addressing

systemic barriers and promoting diversity within schools, the SASA contributes to social justice and equality in education.

"WHEREAS the achievement of democracy in South Africa has consigned to history the past system of education which was based on racial inequality and segregation; and WHEREAS this country requires a new national system for schools which will redress past injustices in educational provision, provide an education of progressively high quality for all learners..." (DoE, 1996: Preamble).

By acknowledging the end of apartheid and the establishment of democracy in South Africa, the above-mentioned explicitly recognises the necessity for a new national education system. This implies that the previous system was deemed inadequate for the new democratic South Africa. By implication, to redress past injustices in education, high quality for all learners is pivotal by ensuring learners receive teaching and learning in a nonviolent and safe environment. Aligning with transformative constitutionalism, schools can address historical injustices and promote social justice (cf. 2.3.1; cf. 4.5.2; cf. 5.2.1). The requirement for schools to involve learners, parents/guardians, and teachers in the development of a code of conduct reflects a transformative approach to governance. The *Act* states that a code of conduct

"...must be aimed at establishing a disciplined and purposeful school environment, dedicated to the improvement and maintenance of a quality governance structure at a *public school*" (DoE, 1996, section 8(2)).

The SASA (DoE, 1996) promotes democratic values within the education system, encouraging participation from various stakeholders, including learners, parents/guardians, and teachers. Arguably, this participatory approach is essential for transformative constitutionalism as it empowers communities to take an active role in shaping their educational environment. The *Act's* provisions for establishing codes of conduct and governance structures within schools facilitate this engagement, ensuring that educational policies reflect the needs and aspirations of diverse communities.

Section 3 (a-e) implies restorative discipline by mentioning: (a) endangers the mental or physical health or safety of a person; (b) undermines the intrinsic worth of human beings by treating some as inferior to others; (c) subjects individuals to humiliating or violent acts

which undermine the constitutional guarantee to dignity in the *Bill of Rights*; (d) undermines the fundamental rights and values that underpin the *Constitution*; (e) impedes the development of a true democratic culture that entitles an individual to be treated as worthy of respect and concern. However, the *SASA* is silent in terms of restorative discipline guided by transformative constitutional values to prevent conflict, repair harm, and rebuild relationships.

In addition, the *BELA* act (RSA, 2024) demonstrates transformative constitutionalism by recognising education as a fundamental right and a catalyst for social change. By explicitly including exemptions like the fairness of processes, age appropriateness, and the best interests of the child in the legal requirements for school codes of conduct, it aligns more with the *Constitution*. Although not explicitly mentioning restorative discipline, the change reflects a move from purely maintaining order to fostering positive development. It aligns with transformative constitutionalism's goal of fundamental societal change and emphasises rehabilitation over punishment, supporting restorative principles.

5.4.2.3 Theme 3: Restorative Justice

The *SASA* (DoE, 1996) incorporates several principles of restorative justice (cf. 3), such as its commitment to equality (cf. 5.2.2), community involvement in governance (cf. 4.5.5), and fair disciplinary processes. The *Act* aims to foster a more inclusive and rehabilitative approach to discipline within schools. Moreover, the *Act* recognises the rights and dignity of all parties involved in disciplinary matters, as envisaged in the Preamble (*SASA*, DoE, 1996), which sets the tone for the entire *Act* by acknowledging the historical injustices of apartheid (cf. 2.5.3; cf. 3.2; cf. 4.3.2) and emphasising the need for a new educational framework that promotes equality and inclusivity. This aligns with restorative justice principles such as repairing harm and restoring relationships (cf. 4.3.2) by recognising historical injustices and committing to rectifying them (cf. 3.2.1; cf. 3.2.3; cf. 4.5.5). The focus on providing quality education for all learners reflects a victim-centred approach, ensuring that those historically marginalised are prioritised in the educational system. By addressing systemic inequalities (cf. 2.8.1; cf. 3.2.3; cf. 4.7), the *Act* aims to foster a safe environment (cf. 5.6.1). Moreover, the above-mentioned indicates the *SASA*'s commitment to emphasising dignity, which is crucial in promoting a safe environment for both victims and offenders. In addition, the above-mentioned aligns with the restorative principle of restoring relationships and promoting reconciliation within the school

community. This principle is essential for creating a conducive learning environment where conflicts can be resolved constructively.

The SASA's emphasis on social justice, human dignity, accountability, the rule of law respect, and reconciliation (cf. 2.3.1.3; cf. 3.2.3; cf. 4.3.2) implies fair treatment, due process, and community involvement (cf. 3.4.1; cf. 3.4.3; cf. 4.3.2; cf. 5.6.2) in disciplinary actions. The *Act* mandates that

“a code of conduct must contain provisions of due process safeguarding the interests of the learner and any other party involved in disciplinary proceedings” (DoE, 1996, section 8(5)(a)).

As restorative justice principles advocate for community involvement (cf. 3.2; cf. 4.6.2; cf. 5.2.2) In the resolution of conflicts, the *Act* encourages the establishment of a code of conduct that involves parents/guardians, learners and teachers, fostering a sense of community ownership and responsibility in maintaining discipline (cf. 2.3.1; cf. 2.7.3; cf. 3.12.3; cf. 4.3.2). By implication, this participatory approach is necessary for creating a supportive school environment where all stakeholders feel invested in the outcomes.

Moreover, this focus implies fairness in disciplinary actions, aligning with restorative justice's goal of repairing harm and fostering understanding. The SASA (DoE, 1996) encourages the establishment of support structures for learners involved in disciplinary proceedings, which reflects restorative principles. The provision for counselling indicates a commitment to addressing the underlying issues of behaviour rather than solely focusing on punishment, aligning with restorative justice (cf. 2.8.1; cf. 3.2.3). The *Act* highlights that

“the code of conduct must also provide for support measures or structures for counselling a learner involved in disciplinary proceedings” (DoE, 1996, section 8(5)(b)).

The *Act* emphasises the importance of resolving conflicts and addressing misconduct in a manner that prioritises reconciliation (cf. 2.3.1; cf. 3.12.4; cf. 4.5.4; cf. 4.6.2; cf. 5.2.2), healing (cf. 3.2.1; cf. 4.3.2; cf. 4.7), and the restoration of relationships (cf. 4.4.4; cf. 4.5.1; cf. 4.6.2). These resonate with restorative learner discipline. By embracing restorative justice principles, such as repairing harm and restoring relationships (cf. 4.3.2) schools can foster a culture of empathy (cf. 2.3.1; cf. 3.2.3; cf. 4.3.2), responsibility (accountability),

and community-building (cf. 3.2.1; cf. 4.6.2), which implies improving school climate and school culture (cf. 2.3.1; cf. 4.3.1; cf. 5.2.1) and non-punitive disciplinary practices. However, in essence, the SASA (DoE, 1996) is still punitive, focusing on punitive measures and procedural disciplinary actions, and although it places emphasis on due process and fairness in disciplinary proceedings, it aligns with restorative justice principles, ensuring that all learners are treated justly. In terms of learner discipline, the *Act* (section 9 (3)(c)) indicates that provisions of due process should

“...safe-guarding the interests of the *learner* and any other party involved in disciplinary proceedings.” (DoE, 1996, section 9(3)(c)).

The above-mentioned ensures that the interest of all learners and stakeholders are safeguarded and encapsulates the essence of due process and fairness within the disciplinary framework of the SASA (DoE, 1996). As such, the SASA not only ensures that all parties involved in disciplinary proceedings are treated equitably (cf. 3.2.3), but underscores fairness, which is a cornerstone of restorative justice (cf. 3.5.8; cf. 5.2.2). Moreover, it advocates for processes that respect individual rights while effectively addressing instances of wrongdoing through consultation with all parties involved. Moreover, the requirement for transparency and the right to be heard not only protect learners from arbitrary or unjust treatment but also promote a culture of accountability and responsibility.

In terms of restorative justice, the SASA (DoE, 1996) provides some form of framework but focuses only on the transgressors and disciplinary hearings. Arguably, the establishment of a *code of conduct* (cf. 2.3.1; cf. 5.2.2) makes provision for punishment instead of restoring relationships and restoring harm. However, by the promotion of inclusive governance (cf. 5.2.2), the SASA (DoE, 1996) reflects some commitment to fostering a respectful and equitable educational environment that aligns with the values of human rights (cf. 4.8; cf. 4.5.4) and social justice (cf. 3.15; cf. 4.5.2; cf. 5.1).

However, the SASA (DoE, 1996) is still punitive, focusing on punitive measures and procedural disciplinary actions, and is silent in terms of preventing conflict, repairing harm and rebuilding relationships. When examining the SASA (DoE, 1996), I found the phrase ‘harm’ only in terms of the definition of dangerous objects to cause bodily harm (SASA, DoE, 1996, chapter 1(c)), but no explicit references to restorative discipline to prevent

conflict, repair harm, and rebuild relationships. These texts do not necessarily align with “repairing harm”, implying that the SASA (DoE, 1996) is indeed silent about this attribute of restorative discipline.

In addition, the BELA act (RSA, 2024) amendments do not focus on developing self-discipline. Nevertheless, the BELA act (RSA, 2024) represents a legal advancement in eliminating discrimination but falls short of actively cultivating positive learner behaviours. It lacks substantial mechanisms for cultivating positive interpersonal skills and relies more on prohibitive than constructive approaches. As it eliminates discrimination, it helps create school environments where conflicts become opportunities for learning and growth rather than occasions for punishment. Consequently, the BELA act (RSA, 2024) opens the door for restorative discipline; however, it does not provide specific implementation guidelines for implementing restorative discipline.

5.4.3 Findings and Discussion on the International Human Rights Framework

The analysis of the international human rights framework provides a crucial context for understanding and evaluating South Africa's approach to restorative discipline and nonviolent schools. This section examines key international instruments and declarations that shape global perspectives on children's rights, education, and discipline in schools. By exploring documents such as the *Universal Declaration of Human Rights (UDHR)* (1948), the *United Nations Convention on the Rights of the Child (CRC)* (1989), and the *African Charter on the Rights and Welfare of the Child (African Charter)* (1999), along with references to other relevant international guidelines, I gain insights into the global standards and expectations for protecting children's rights and promoting nonviolent educational environments.

This international human rights framework serves as a benchmark against which South African policies and practices can be assessed, highlighting areas of alignment and potential gaps. Furthermore, it offers a broader perspective on how transformative constitutionalism and restorative justice principles in education align with global human rights standards. The discussion focuses on how these international norms and principles can inform and strengthen South Africa's efforts to implement restorative discipline and promote nonviolent schools, while also considering the unique challenges and

opportunities presented by the specific context. The findings, together with a discussion of these findings, are presented below:

5.4.3.1 Theme 1: Nonviolent and Safe Environment

The *Universal Declaration of Human Rights* (UDHR) (1948) provides a foundational framework for fostering safe school environments, despite not explicitly addressing nonviolent school settings. Its emphasis on education, dignity, equality, and non-discrimination is crucial for developing inclusive educational policies (cf. 3. 8).

The UDHR does touch on some general principles related to education in Article 26, which states

“(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”

The above-mentioned provisions focus on the right to education and its general goals rather than specific aspects of school safety or discipline. However, these foundational concepts can inform school policies that promote mutual respect among learners and staff, fostering an inclusive atmosphere where all individuals feel valued and protected.

Throughout the document there is evidence of the importance of values and culture, as it outlines fundamental human rights and freedoms that reflect certain core values and cultural aspirations. The Preamble underscores essential values and culture, stating

“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”

The above-mentioned statement emphasises the values of human dignity, equality, freedom, justice, and peace, which imply the necessity of nonviolent and safe environments in educational contexts (cf. 5.2.2.1). Article 26(2) further elaborates

“Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”

The above-mentioned statement promotes values of personal development, respect, understanding, tolerance, and peace through education (cf. 3.12.1; cf. 3.12.1; cf. 4.8). By implication, these principles establish the foundations for a nonviolent and a safe education environment.

In terms of protection, the *UDHR* contains numerous references to the safeguarding of individuals and their rights. Notably Article 3 states that

“Everyone has the right to life, liberty and security of person.”

As outlined in Article 3, creating nonviolent and safe schools is paramount to upholding the right to life, liberty, and security of a person. To achieve this, schools must adopt a multifaceted approach (cf. 2.5.3; cf. 4.6) that addresses both physical security (cf. 5.4.1.1) and the cultivation of a positive culture (cf. 2.7.3). This includes implementing comprehensive security measures to protect against external threats, while simultaneously establishing clear policies against corporal punishment, bullying, harassment, and any form of violent behaviour. Additionally, the curriculum should be designed to foster empathy, emotional intelligence, and nonviolent communication among learners, laying the foundation for a culture of mutual respect and understanding.

Schools must develop and practise comprehensive emergency response plans to prepare for various crisis scenarios. Equally important is the establishment of fair disciplinary procedures that prioritise restorative justice over purely punitive measures, striking a balance between maintaining order and respecting learners' liberty. Furthermore, readily available counselling and mental health services are essential for promoting emotional well-being and providing early intervention for learners who may be at risk of violent

behaviour. By implementing these measures, schools can create environments where learners not only feel safe but also thrive academically and personally, fully realising their right to education in a safe environment (cf. 2.4.6.1; cf. 3.2.2.3; cf. 4.2; cf. 5.2.2.1).

Additionally, article 7 directly addresses protection of life and personal security and explicitly mentions that

"All are equal before the law and are entitled without any discrimination to equal protection of the law."

The above-mentioned provision provides a legal basis for ensuring safety and security within school settings. While the declaration supports freedom of expression, this right must be carefully managed to maintain order and respect in classrooms. This principle supports the implementation of necessary disciplinary measures in schools. As such, the UDHR provides a comprehensive foundation for developing school policies that respect human rights while maintaining a safe and disciplined learning environment.

The UDHR reaffirms the UN's commitment to fundamental rights and human dignity. Subsequent treaties, such as the *UNCRC* and the *African Charter*, have strengthened the global human rights legal framework (cf. 3. 8). Moreover, the *United Nations Convention on the Rights of the Child* (UNCRC) (1989) underscores the importance of a safe school. Article 28, paragraph 2 states

"States parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention."

The provision highlights the importance of administering school discipline in a manner that upholds children's human dignity and aligns with the principles outlined in the Convention. It challenges schools to move beyond traditional punitive disciplinary measures and embrace more constructive approaches. Educational institutions are required to develop disciplinary policies and practices that respect the child's inherent worth, fostering an environment where discipline serves as a tool for growth and learning rather than as mere punishment. This shift requires viewing disciplinary incidents as opportunities to teach valuable life skills, such as conflict resolution, empathy, and personal responsibility.

In terms of values and culture, the UNCRC (1990), in article 29, paragraphs 1, outlines educational goals, including respect for cultural identity, national values, and other civilizations. Significant to this study is article 19, which addresses the protection of children from all forms of violence and abuse. Furthermore, although the UNCRC does not explicitly mention restorative approaches, article 40 discusses treating children in conflict with the law in a manner that promotes reintegration and a constructive role in society.

Dignity is emphasised repeatedly, including in the Preamble, which recognises the inherent dignity of all humans; article 28 on school discipline, which mandates respect for the child's dignity; and article 40, which requires treating children in conflict with the law in a manner consistent with promoting their dignity. The Convention, therefore, places significant emphasis on protecting children's rights, safety, and dignity across various aspects of their lives, including education and legal proceedings.

The *African Charter* (1999) is a regional human rights instrument that complements the UDHR in the African context. While the UDHR establishes a broad framework for human rights, the *African Charter* addresses specific rights and duties relevant to the African continent.

Article 17 of the *African Charter* states

"Every individual shall have the right to education."

It further emphasises that

"the promotion and protection of morals and traditional values recognised by the community shall be the duty of the State."

The provision implies that African states must ensure universal access to education for all individuals and remove barriers such as cost, location, and discrimination. This aligns with the *South African Constitution* (RSA, 1996), which indicates that the education system should be inclusive (cf. 2.5.3; cf. 3.2; cf. 3.5.1; cf. 4.2; cf. 5.2.1; cf. 5.2.2; cf. 5.4.1), accommodating diverse learning needs and marginalised groups. Arguably, curriculums should balance global knowledge with teachings that reflect positive African traditions and values. Since governments have a responsibility to promote moral education aligned with community values (cf. 2.7.3), educational content should aim to preserve and transmit

cultural traditions to new generations (cf. 2.3.1). Thus, education must balance traditional values with universal human rights principles, ensuring that promoting traditional values does not infringe on individual rights (cf. 2.3.1; cf. 3.7.1).

Similarly to the *UDHR*, the *African Charter* emphasises the protection of individual rights. Article 4 states

“Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.”

The above-mentioned highlights the right to life and personal integrity, which are crucial for ensuring a safe and secure learning environment. One distinctive feature of the *African Charter* is its emphasis on individual duties and responsibilities. Article 29 outlines these duties, including

“To preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents/guardians at all times, to maintain them in case of need.”

Article 29 underlines the importance of family and community values in African societies, which can inform educational practices aimed at fostering social cohesion and respect. Moreover, the *African Charter* (1999) acknowledges that rights can be limited to protect the rights of others and maintain public order. Article 27 states

“Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.”

The provision emphasises the balance between individual rights and social responsibilities (cf. 3.1; cf. 3.2.3.1), which is crucial for maintaining discipline and order in educational settings. While the *African Charter* (1999) does not explicitly address nonviolent and safe school environments, its provisions on the right to education, protection of rights, and individual duties and responsibilities provide a framework for developing educational policies that prioritise human rights and African values. By incorporating these principles, schools can create inclusive and respectful learning environments that foster social cohesion and prepare learners for their roles as responsible members of society.

Subsequently, the South African education system's focus on restorative and rehabilitative approaches is informed by international human rights treaties and conventions, such as the *Convention on the Rights of the Child* (cf. 1.1; cf. 2.2; cf. 3.1; cf. 3.11). This alignment with international norms and standards is a key aspect of transformative constitutionalism guiding the education system. Moreover, the *Constitution* (RSA, 1996) and its principles of human dignity, equality, and human rights form the foundational framework for the transformation of the education system. Education policies and laws, such as the *South African Schools Act* (DoE, 1996), aim to align the education system with these constitutional values. There has been a concerted effort to move away from the punitive and exclusionary disciplinary practices of the apartheid era towards more restorative, rehabilitative, and reintegrative approaches. Policies such as the *Alternatives to Corporal Punishment: The Learning Experience* (DoE, 2000) promote the adoption of restorative justice principles in school discipline.

Creating safe, secure, and inclusive school environments that foster positive relationships, social cohesion, and a culture of respect is a key priority. This vision aligns with the transformative vision of the South African education system to overcome the legacy of apartheid and build a more equitable and just system. The development and implementation of education policies and codes of conduct involve the collaborative efforts of various stakeholders, including school governing bodies, teachers, learners, parents/guardians, and the wider community (cf. 2.4.2; cf. 4.6.2; cf. 5.2.2; cf. 5.4.1). This participatory approach also reflects the principles of democratic governance central to transformative constitutionalism.

However, while the *UDHR*, *UNCRC*, and *African Charter* establish fundamental rights and principles for safe education, they lack specific mechanisms for implementation. Schools require structured guidance to translate these broad principles into practical measures that ensure both physical safety and psychological wellbeing. A protocol could provide clear procedures for implementing comprehensive security measures while maintaining dignity and respect, addressing both immediate safety concerns and long-term cultural transformation needs. Such measures align with article 28 of the *UNCRC*'s mandate for dignity-preserving discipline and the *African Charter*'s emphasis on balancing rights with community values.

5.4.3.2 Theme 2: Transformative Constitutionalism

The concept of transformative constitutionalism is not explicitly mentioned in the Universal Declaration on Human Rights (UDHR) but is a foundational document in the history of human rights (cf. 5.5.1.1). It sets out fundamental human rights to be universally protected, but it does not specifically use the term "transformative constitutionalism" or directly address this concept. As transformative constitutionalism is a more recent legal and political philosophy (cf. Chapter 3) that emerged later, it generally refers to the use of constitutional law as a tool for social and political change, aiming to transform society through the implementation of constitutional values and principles.

While the *UDHR* does not explicitly mention transformative constitutionalism, it contains principles that align with some of its goals. The *UDHR* promotes human dignity, equality, and fundamental rights, which are central to transformative constitutionalism (cf. 3.1; cf. 3.2.1; cf. 3.6.1; cf. 4.2; cf. 4.3.2). Transformative constitutionalism aims to reshape society by addressing historical injustices (cf. 3.2.2.4; cf. 3.5.7; cf. 4.3.2; cf. 5.5.1.7), promoting equality (cf. 3.6.2; cf. 3.6.2; cf. 4.2.3; cf. 4.5), and realising the rights and values enshrined in the *Constitution* (cf. 3.2.2; cf. 3.3.2; cf. 5.4.1). Transformative constitutionalism is a progressive, forward-looking approach that seeks to gradually improve social conditions through legislative changes (cf. 4.2.3). This process targets deep-rooted societal structures and power dynamics, fundamentally altering social, economic, and political relationships.

The transformative aspect of transformative constitutionalism emphasises the implementation of constitutional values in a way that empowers marginalised groups and promotes their full participation in society. It is not a one-time event, but rather a dynamic process of societal progression guided by constitutional principles (cf. 3.6.1; cf. 3.6.2). Ultimately, transformative constitutionalism seeks to bridge the gap between constitutional aspirations and social realities, using the *Constitution* (RSA, 1996) as a dynamic instrument for continuous, meaningful change.

The *UDHR* (1948) focuses on acknowledging and defining human rights. It is the foundational document for modern human rights law and practice. Moreover, while the *UDHR* does not explicitly use the term "nonviolent practices", it does promote principles that align with nonviolence. For instance, article 3 affirms

“The right to life, liberty, and security of person.”

The overall spirit of the *UDHR* (1948) promotes respect for human dignity and peaceful resolution of conflicts, which aligns with nonviolent principles, even if not explicitly stated. In education contexts, applying this article often involves balancing discipline and order with respect for learners' dignity and rights. It encourages a shift towards positive, supportive approaches to education that foster respect and understanding rather than fear or intimidation.

Although the *UDHR* (1948) provides foundational principles for safe schools through article 26: right to education and personal development; article 3: right to life, liberty, and security; article 7: equal protection under law, it is silent in terms of specific implementation strategies for security measures.

The need for a protocol guided by transformative constitutionalism is particularly crucial given these documents' findings. While the international human rights frameworks provide foundational principles for human rights and dignity, they do not explicitly address how to achieve societal transformation through educational practices. Such a protocol would bridge this gap by providing specific strategies for implementing constitutional values in school discipline. This is especially important in the South African context, where schools must actively overcome historical injustices while building new systems that promote equality and human dignity. The protocol would provide a structure for this ongoing transformation process, ensuring that disciplinary practices contribute to broader societal change rather than merely maintaining order.

5.4.3.3 Theme 3: Restorative Justice

Based on my analysis of the UNCRC (2011), the term “transformative constitutionalism” is not explicitly mentioned in the text. However, the UNCRC (1948) aims to transform societies by establishing comprehensive rights and protections for children, which could be seen as having a transformative effect. Moreover, while the term “nonviolent practices” is not explicitly used, the UNCRC promotes nonviolence in several ways. For instance, article 19 requires governments to protect children from all forms of physical or mental violence, article 28 states that school discipline should be administered in a manner consistent with the child's human dignity, article 37 prohibits torture or other cruel, inhuman, or degrading treatment or punishment of children. The Convention, therefore,

promotes peaceful and respectful treatment of children in all aspects of their lives, implicitly supporting nonviolent practices.

Restorative justice generally entails approaches that focus on repairing harm caused by criminal behaviour, often involving all stakeholders in a process of healing and reconciliation. While not explicitly mentioning restorative justice, the UNCRC incorporates some principles that align with restorative approaches. For example, article 40 discusses treating children in conflict with the law in a manner that promotes their reintegration and their ability to assume a constructive role in society, which aligns with restorative principles. Additionally, article 28 (UNCRC, 1990) mentions ensuring that school discipline is administered in a manner consistent with the child's dignity. Thus, the potential for restorative justice is implicit in provisions promoting rehabilitation and reintegration, but it is not explicitly stated.

The development of a restorative discipline protocol guided by transformative constitutionalism is essential for several reasons. First, the international human rights framework, including the *UDHR*, *UNCRC*, and *African Charter*, sets out clear obligations for protecting children's rights and dignity in educational settings. These legal instruments mandate that school discipline must respect human dignity and promote positive development, making a structured protocol necessary for consistent implementation. Consequently, the need for a restorative justice protocol becomes evident from the analysis of international frameworks. While the legal documents in this study's international human rights framework promote principles aligned with restorative approaches, such as reintegration and dignity-centred discipline, they do not provide specific implementation frameworks. A protocol would fill this crucial gap by offering clear guidelines for restorative practices while maintaining alignment with constitutional principles.

This is particularly important given the need to balance multiple considerations: individual rights, community needs, cultural values, and educational objectives. A protocol for restorative discipline would provide schools with practical guidance for implementing restorative approaches that honour international human rights standards, while respecting local cultural contexts. Moreover, it would actively contribute to societal transformation.

5.5 FINDINGS AND DISCUSSION: POLICY ANALYSIS

The policy analysis conducted in this study provides crucial insights into the potential of South African education policies to implement restorative discipline guided by transformative constitutionalism in promoting nonviolent schools. This section presents the key findings derived from a comprehensive examination of relevant policies, including the *Alternatives to Corporal Punishment: The Learning Experience* (DoE, 2000) and the *Protocol to Deal with Incidence of Corporal Punishment in Schools* (DBE, 2017). The analysis focuses on how these policies align with and support the principles of restorative justice and transformative constitutionalism within the educational context.

The discussion explores how these policies provide the groundwork for a shift from punitive to restorative approaches in school discipline. It examines how they reflect the values of human dignity, equality, and social justice, which are central to both transformative constitutionalism and restorative justice. Additionally, the challenges and opportunities presented by these policies in fostering a more inclusive, equitable, and nonviolent school environment are considered.

By critically analysing these policies through the lens of transformative constitutionalism and restorative justice, this study identifies both the progress made and the areas requiring further development to fully realise the goal of nonviolent schools in South Africa. This analysis serves as a foundation for developing practical recommendations. The adoption of the *Constitution* (RSA, 1996) laid the foundation for a transformative approach to governance in South Africa, emphasising values such as freedom, equality, and human dignity. This aligns closely with the principles of transformative constitutionalism, which seeks to use the law as a tool for social change and the promotion of justice (cf. 3.10; cf. 3.12; cf. 5.2.2). The findings, together with a discussion of these findings, are presented below.

5.5.1 Findings and Discussions on the Alternatives To Corporal Punishment (ATCP): The Learning Experience (2000)

In keeping with the values and principles of the *Constitution* (RSA, 1996), the SASA (DoE, 1996), and the ATCP (DoE, 2000) affirm the inhuman nature of corporal punishment by stating

“[C]orporal punishment is by its very nature, anti-human and ultimately an abusive practice that entrenches the idea that violence provides a solution to every problem in the classroom. The removal of corporal punishment and the elimination of other dehumanising practices in our schools are necessary steps towards the development of a culture of human rights in our country. Of course, rights must be exercised responsibly.”

The *ATCP* (DoE, 2000) affirms that corporal punishment is an inhumane and abusive practice that promotes violence as a solution to problems in the classroom (cf. 3.1; cf. 2.8.1; cf. 3.7.1; cf. 5.2.2; cf. 5.4.1). The removal of corporal punishment and other dehumanising practices from schools is necessary to develop a culture of human rights in South Africa. However, the *ATCP* policy also notes that rights must be exercised responsibly (DBE, 2000: Preface; cf. 3.2.1). This implies that, while corporal punishment is prohibited, teachers must still maintain discipline and adopt alternative, non-violent ways to manage learner behaviour.

The policy encourages a culture of resolving conflict through dialogue, discussion, and instilling a sense of responsibility and self-discipline in all stakeholders. The abolition of corporal punishment is a crucial step in developing a culture of human rights and fostering nonviolent, safe schools in South Africa.

5.5.1.1 Theme 1: Nonviolent and Safe Environment

Safe school environments are a crucial aspect of the *Alternatives to Corporal Punishment: The Learning Experience* (DoE, 2000). This theme aligns with the principles of transformative constitutionalism and restorative justice, emphasising the creation of nurturing, nonviolent, and safe environments (cf. 3.2.3; cf. 3.13; cf. 4.5.2; cf. 5.2.2).

The *ATCP* (DoE, 2000) emphasises the importance of creating safe school environments as an alternative to corporal punishment. It recognises that a safe and supportive school climate is essential for effective learning and personal development, encouraging positive discipline that includes elements such as dialogue and communication, responsibility, community involvement, skill-building, repairing harm, and reintegration (cf. 2.2; cf. 2.3.1; cf. 4.6.1). Moreover, by promoting dignity and equality in educational settings, the *ATCP* emphasises positive discipline, stating

"Positive discipline is about teaching and guiding children and helping them to learn to take responsibility for making good decisions. It involves helping children to understand the implications of their behaviour and the reasons for the rules they are asked to follow" (DoE, 2000).

This stance not only supports transformative constitutionalism by promoting more humane and dignified treatment of learners but also aligns with restorative justice principles. Arguably, the *ATCP* encourages alternative, nonviolent approaches to discipline that focus on effective learning, personal growth, and repairing harm rather than punishment of misbehaviour (cf. 2.8.3; cf. 3.2.1; cf. 4.2; cf. 4.5; cf. 5.2.2).

The *ATCP*'s focus on safe school environments represents a significant shift from the punitive approach of corporal punishment. By emphasising positive discipline (cf. 2.3.1; cf. 2.6.1; cf. 2.7.2; cf. 4.6.1), human rights education (cf. 3.1; cf. 3.3.3; cf. 3.11.1), and proactive measures for safe schools (cf. 3.12.6; cf. 3.16; cf. 5.4.1.1), the *ATCP* (DoE, 1996) promotes an educational environment that nurtures dignity, equality, and mutual respect. This approach lays the groundwork for nonviolent schools that can effectively support learning and personal growth (cf. 2.2.1; cf. 2.7.3; cf. 4.5.3.5; cf. 5.2.2).

5.5.1.2 Theme 2: Transformative Constitutionalism

Transformative constitutionalism refers to the ongoing process of interpreting and applying the *Constitution* (cf. 3.3; cf. 3.3.1; cf. 3.6.3) to promote social justice and human rights, particularly in the context of historical injustices and inequalities. *Alternatives to Corporal Punishment: The Learning Experience* (DoE, 2000) aligns with transformative constitutionalism by affirming the inhuman nature of corporal punishment in schools by stating that

"[C]orporal punishment is by its very nature, anti-human and ultimately an abusive practice that entrenches the idea that violence provides a solution to every problem in the classroom."

Corporal punishment is unconstitutional (cf. 3.7.1, cf. 3.8.1, cf. 5.2). In a democratic South Africa, prohibiting physical punishment in schools is crucial for fostering a society that values human rights. This ban is supported by *ATCP*, which asserts that society's growth

towards democracy and peace requires citizens to uphold “the values of justice, equality, freedom and tolerance” (DoE, 2000: Preface).

Furthermore, in terms of transformative constitutionalism, the *ATCP* promotes non-violent disciplinary methods (cf. 2.8.2; cf. 4.3.2; cf. 5.2.2. cf. 5.5.1). In this regard, the *ACTP*

“provides ideas on how the void can be filled through proactive and constructive alternatives that ultimately contribute to the growth of well-balanced children who are able to interact with each other and their world in a respectful, tolerant and responsible manner.” (DoE, 2000: Preface).

The *ACTP* (DoE, 2000) highlights the importance of teachers adopting constructive and understanding approaches to discipline, reflecting the constitutional values of dignity, equality, and respect. By encouraging the development of alternative disciplinary practices, it aims to create a safe and conducive learning environment, thus supporting the transformative goals of the *Constitution* (cf. 3.2.2; cf. 5.4.1). In this way, *ACTP* not only addresses the immediate concerns regarding corporal punishment but also contributes to the broader vision of a just and equitable society as envisioned by TC.

Although the *ATCP* framework represents a significant step toward aligning school disciplinary practices with constitutional values, the above-mentioned analysis reveals a substantial gap between its aspirational goals and practical implementation, particularly in the context of transformative constitutionalism in schools. It provides insufficient guidance for handling specific disciplinary situations, emphasising the need for a protocol to implement restorative discipline guided by transformative constitutionalism to promote nonviolent schools.

5.5.1.3 Theme 3: Restorative Justice

Crime and violence are acts or behaviour that violates the law and are punishable by the state or other authority (cf. 2.3.1). However, restorative justice views crime not as the violation of laws but as a violation of an individual's human rights (cf. 3.11.1; cf. 3.15). This perspective emphasises the obligation to repair the harm caused, thereby restoring relationships within the community. As stated in the *ATCP*

“Crime hurts individual victims, communities, and offenders and creates obligations to put things right.” (DoE, 2000).

The restorative justice process places victims and the community at the heart of the justice system. It asserts that “all parties should be a part of the response to a crime—victim (if he or she chooses to be involved), community, and the offender” (DoE, 2000). This inclusion helps ensure that the needs of those most affected by violent behaviour and ill-discipline are addressed. Moreover, the process seeks to

“maximize opportunities for exchange of information, participation, dialogue and mutual consent between victim and offender” (DoE, 2000).

This focus on healing underscores the importance of restoring both the victim and the offender to a state of dignity and respect. Moreover, restorative justice emphasises that offenders must take responsibility for their actions (cf. 2.8.2; cf. 3.3.2; cf. 4.6.1; cf. 5.6.1.1). This principle is encapsulated in the idea that

“the offender has a personal responsibility to victims and to the community for wrongs committed” (DoE, 2000).

Restorative discipline encourages offenders to actively participate in repairing the harm they have caused. The principle of reintegration (cf. 4.4.5; cf. 4.6.1.1; cf. 5.2.2; cf. 5.5.1) highlights the importance of allowing offenders to return to the community after taking responsibility for their actions. This process supports the notion that the justice process belongs within the community and involves community members actively in the restorative process.

By advocating for the abolition of corporal punishment and promoting a culture of human rights in schools (cf. 4.6.1.1), restorative justice aligns with the goals of restorative practices, which focus on accountability, understanding, and reconciliation. The emphasis on non-violent conflict resolution suggests a shift towards restorative methods to create a nonviolent, safe, and educational environment (cf. 2.8.2; cf. 3.2.1; cf. 4.2.3; cf. 5.4.1.1; cf. 5.6.1). Rather than resorting to punitive measures, the *ACTP* highlights the importance of addressing the needs of all parties involved (cf. 4.2; cf. 4.3.2), fostering dialogue (cf. 2.3.1; cf. 3.2; cf. 4.2.2), and encouraging mutual understanding (cf. 4.3.2; cf. 4.6.1). In this way, the principles of restorative justice are not only compatible with the objectives outlined in the *ATCP* but are also essential for cultivating a positive school culture that respects the dignity and rights of every learner (cf. 2.3.1; cf. 2.7.1; cf. 3.5.8; cf. 5.4.1).

While the *ATCP* sought to move South African schools away from physical discipline, the specifics of how teachers were meant to facilitate learning from misbehaviour without physical punishment are not always clear. Arguably, the policy emphasises the importance of addressing the underlying causes of misbehaviour, whether they are academic challenges, personal issues, or broader systemic factors. But it does not always provide clear frameworks for how teachers could diagnose the root causes and develop tailored interventions to support learners in learning from their mistakes. The *ACTP* is also silent on dialogue, repairing harm, and rebuilding relationships, which are important components of restorative justice in education (cf. Chapter 4).

5.5.2 Findings and Discussion on the Protocol to Deal with Incidence of Corporal Punishment in Schools (2017)

The *Protocol to Deal with Incidences of Corporal Punishment in Schools* ('Protocol') (2017) serves as a framework established by the Department of Basic Education to address the ongoing issue of corporal punishment in educational settings (DBE, 2017). Despite the prohibition of corporal punishment in schools since 1996 (cf. 5.6.2), reports indicate that it continues to occur, violating children's rights and undermining the principles of a safe learning environment (cf. 2.1; cf. 2.5.2).

The *Protocol* aligns with international legal standards, particularly the *United Nations Convention on the Rights of the Child* (UNCRC, 1989), which mandates that education must respect the dignity of children and promote nonviolent disciplinary methods.

5.5.2.1 Theme 1: Nonviolent and Safe Environment

The *Protocol* strongly emphasises creating nonviolent and safe school environments when it states that

"Corporal punishment of children is a violation of human rights" (DBE, 2017:1).

The *Protocol* places emphasis on creating nonviolent and safe school environments, with the elements of the prohibition of corporal punishment underscoring the need for a structured and supportive environment (cf. 2.3.1.1; cf. 4.6.1; cf. 5.2.2). As such, the *Protocol* upholds children's rights (DBE, 2017; Chapter 2(2.1)). This aligns with the notion that schools should provide a supportive structure that recognises and protects learners' fundamental rights (cf. Chapter 2). While the *Protocol* provides guidance on addressing

instances of corporal punishment, the framework lacks a comprehensive integration of restorative justice principles that are essential for building nonviolent schools.

The *Protocol* emphasises the role of leadership in creating safe, nonviolent environments, stating that the Department of Basic Education therefore

“...condemns in the harshest possible terms any subverted, reckless and irresponsible attempts by principals, teachers and/or any support staff member to undermine the existing legislative framework prohibiting the use of corporal punishment in schools” (DBE, 2017: Introduction).

Additionally in Chapter 3, section 3 (1.10), the *Protocol* explicitly states that principals must

“ensure school environments are enabling, supportive, inclusive and safe spaces in which children can learn and flourish.”

This statement underscores the need for a structured environment that supports and upholds children's rights. Moreover, the fundamental purpose of the *Protocol* is to create school environments free from the violence of corporal punishment. The *Protocol* aims to create a culture of nonviolence by prohibiting corporal punishment and promoting alternative disciplinary methods, as stated in Chapter 2, Section 2.1(e) to

“promote positive, non-violent forms of discipline to the public, children, parents/guardians, other carers, teachers, etc.”

Despite the aim of the *Protocol* to create a culture on nonviolence by prohibiting corporal punishment, the persistence of corporal punishment practices includes, *inter alia*, lack of effective enforcement (cf. 3.5.9; cf. 5.2.2) and lack of responsibility (accountability) for perpetrators (cf. 4.6.1.1); continued acceptance of the practice by some teachers (cf. 2.6.2); underreporting of incidents by learners and parents/guardians (cf. 2.1; cf. 5.2.2); absence of alternative disciplinary measures and training for teachers (cf. 2.6.2; cf. 5.2.2). Despite the intention of the *Protocol* to prohibit corporal punishment and cultivate nonviolent schools, the persistent acceptance and normalisation of corporal punishment in some schools (cf. 1.1; cf. 1.2; cf. 2.2; cf. 2.4; cf. 2.8; cf. 3.7; cf. 4.1) continue to impede the realisation of this objective.

Chapter 3, Section 3.1.5 of the *Protocol* refers to nonviolent and safe environments by providing training and support to teachers in the use of nonviolent or positive methods of discipline. Arguably, it implies a significant shift towards creating safer and more supportive educational environments. This approach recognises that traditional disciplinary methods, often rooted in corporal punishment and authoritarian practices, can perpetuate cycles of violence and negatively impact learners' well-being (cf. 2.5.1). Hence, the commitment of the *Protocol* to training teachers in non-violent and positive methods of discipline signifies a transformative approach to education that prioritises learner safety and well-being (cf. 2.6.2). By equipping teachers with the tools to manage behaviour constructively, the *Protocol* aims to create a supportive and inclusive school environment that not only reduces violence but also enhances the overall educational experience for all learners. This approach aligns with the broader goals of fostering a culture of respect, empathy, and collaboration within schools, ultimately contributing to a more equitable and just educational system (cf. 2.5.3, cf. 3.2.3.1).

While the *Protocol* aims to prohibit corporal punishment and promote positive discipline, it falls short in comprehensively addressing the underlying issues of learner ill-discipline and violence within schools. Arguably, the lack of detailed guidance on processes such as victim-offender mediation (cf. 4.1; cf. 4.4), community conferencing (cf. 4.6.1.4), and peer-led restorative circles conflict resolution could address the root causes of learner misbehaviour. Consequently, this limits the ability of the *Protocol* to foster accountability, empathy, and relationship-building among learners involved in disciplinary incidents.

In terms of values and culture, the *Protocol asserts* that "Corporal punishment of children is a violation of human rights," which implies the need for positive interpersonal relationships based on respect and dignity, rather than fear and violence. It thus states in Chapter 3, section 3.4.1.1 that principals should

"Adopt a whole-school approach that will ensure classroom discipline reflects the school's policies that must reflect the establishment of ground rules, consistent implementation of the rules, knowledge of learners and focus on relationship building."

By aligning classroom discipline with school policies and involving all stakeholders, including teachers, administrators, staff, parents/guardians, and learners, schools can create a cohesive and collaborative environment that prioritises restorative justice. This

approach recognises that addressing complex issues like learner discipline requires the collective effort of the entire school community (cf. 2.3.1.1; cf. 4.6.1). It thus implies a significant shift towards creating a school culture rooted in respect, dignity, and positive interpersonal relationships. Despite the emphasis of the *Protocol* on positive interpersonal relationships, respect, and dignity as the foundation for addressing disciplinary issues, there are still significant gaps in its implementation. While the *Protocol* asserts the need for classroom discipline to "reflect the school's policies," in practice there is often a disconnect between the two. Arguably, school policies may adopt values of respect and dignity, but classroom-level discipline in South African schools still relies on punitive, authoritarian approaches (cf. 2.8; cf. 5.2). This lack of coherence undermines the ability to create a nonviolent and safe environment.

The *Protocol* aims to create a shared belief system that values nonviolence and respect for human rights. It challenges traditional disciplinary practices that violate these values. In reference to Chapter 3, section 3.8.2, it states that

"Community dialogue and working with local norms and understandings to bring about change from within, is more effective and respectful than imposing from the outside and avoids stigmatizing different groups of people."

The focus on community dialogue and local engagement signifies a transformative approach to discipline that values nonviolence and respect for human rights. By fostering trust, avoiding stigmatisation (cf. 3.12.3; cf. 4.2.2.5), and promoting sustainable change through collaboration (cf. 2.7.3; cf. 3.12; cf. 4.2.3), the *Protocol* challenges traditional disciplinary practices and encourages the development of a shared belief system that prioritises the well-being of all learners. Although this approach enhances the educational experience, contributing to the broader goal of transforming society, the *Protocol* is silent about restorative discipline in terms of repairing harm, conflict and violent behaviour prevention, and rebuilding relationships. Moreover, the *Protocol* is silent in terms of guidance on how to implement restorative discipline and the principles of transformative constitutionalism. Arguably, schools are left to figure this out for themselves, since the *Protocol* seemingly focuses on the theory of what is wrong and what the ideal situation should be but is silent on practical application of how to change the mindsets and attitudes of stakeholders. Ill-discipline, human rights violations, poor relationships and high-level of violence in schools remain a reality in most South African schools (cf. 2.2; cf. 2.4; cf. 2.5;

cf. 2.8; cf. 3.12; cf. 4.4). Hence, I deemed it necessary to develop a protocol for restorative discipline guided by transformative constitutionalism to promote nonviolent schools.

Despite the existence of the *Protocol* (DBE, 2017) and supporting legal frameworks, schools continue to struggle with high levels of ill-discipline, human rights violations, and violence. The effectiveness of the *Protocol* is hampered by its predominantly reactive approach, focusing mainly on responding to corporal punishment rather than fostering comprehensive discipline management and positive school cultures. While the *Protocol* contains elements of restorative justice, its implementation is undermined by significant structural weaknesses, including insufficient training for teachers, limited resources, and inadequate support structures (cf. Chapter 2). Cultural resistance to change, deep-rooted punitive mindsets (cf. 4.7.4), and practical challenges such as overcrowded classrooms (cf. 2.5) and time constraints (cf.4.6), as well as inconsistent implementation of policies, further compromises the effectiveness of the *Protocol*.

These persistent challenges underscore the necessity for a restorative discipline protocol that moves beyond merely responding to misconduct. This study's protocol aims to provide clear guidelines for implementing restorative practices to create sustainable support structures for schools to transform school culture. Restoring relationships, repairing harm, prevention strategies, and meaningful stakeholder engagement will address the systemic nature of disciplinary issues. I believe the restorative discipline protocol guided by transformative constitutionalism will provide schools with practical tools for creating safer, more positive learning environments.

5.5.2.2 Theme 2: Transformative Constitutionalism

The *Protocol* (DBE, 2017) embodies principles of transformative constitutionalism by seeking to change deeply ingrained practices and transform the education system to align with constitutional values, as evident in reference to the *Constitution* (Section 12) in Chapter 1, Section 1.2.1 of the *Protocol*, which stipulates that

“Everyone has the right not to be treated or punished in a cruel, inhuman or degrading way.”

Transformative constitutionalism, as articulated in the *Protocol*, calls for a holistic reimagining of the educational landscape. It arguably challenges teachers to move beyond traditional, punitive disciplinary methods and instead adopt practices that affirm the rights

and dignity of all learners. This shift not only aligns with constitutional values such as social justice, human dignity, and equality (cf. 3.2; cf. 3.2.3), but also contributes to the broader goal of creating a more just and equitable society (cf. 2.5.3; cf. 2.6.5; cf. 3.2.3.1). By prioritising the rights of learners and fostering an environment of respect and support, the education system can play a pivotal role in advancing the principles of transformative constitutionalism, ultimately leading to meaningful social change.

In its introduction the *Protocol* (DBE, 2017) furthermore, states that

“Prohibiting corporal punishment is an obligation under international human rights law, and not a voluntary gesture based on goodwill.”

The *Protocol* (DBE, 2017: Chapter 3, Section 3.6.3) aims to transform the power dynamics within schools and promote a rights-based approach to education by

“Breaking cycles of violence requires greater attention to the gendered nature of corporal punishment,”

and to involve

“...children in the establishment of school rules and standards, such as through school clubs and learner councils is a promising approach to reducing...”

Chapter 3, section 3.6.3 represents a significant step towards creating a more equitable and just educational system by recognising that corporal punishment has been used disproportionately against boys, reinforcing harmful gender stereotypes and perpetuating a culture of violence (DBE, 2017). By acknowledging this gendered dynamic, the *Protocol* calls for a more nuanced and equitable approach to discipline that addresses the root causes of violent behaviour and promotes healthy relationships between genders. Moreover, by involving learners in the establishment of school rules and standards through platforms, such as school clubs and learner councils, empowers learners to take ownership of their learning environment and fosters a sense of shared responsibility for maintaining a safe and supportive school community. However, schools currently lack a concrete protocol for translating constitutional values into actionable disciplinary practices that maintain both order and human dignity. Safety protocols within the *Protocol* remain general and imply a disconnection between the implementation of restorative practices

aligned with constitutional values. Additionally, the *Protocol* is silent on guidance for schools trying to shift from punitive to restorative mindset while maintaining constitutional alignment.

The *Protocol's* emphasis on a rights-based approach to education underscores the importance of upholding the fundamental rights of children, as enshrined in international human rights treaties and national constitutions (cf. 5.1). This approach recognises that children are not merely passive recipients of education but active rights-holders who must be empowered to claim their rights and participate in decisions that affect their lives. By promoting a rights-based approach and involving children in the establishment of school rules and standards (cf. 3.2), the *Protocol* seeks to transform the power dynamics within schools and create an environment where children feel safe, respected, and empowered to reach their full potential. Although the *Protocol* hints at a rights-based approach to education, it remains silent about restorative discipline in terms of preventing conflict, repairing harm and rebuilding relationships. It does not address how to address misconduct or the harm that learners suffer when involved in misconduct. Learners' meaningful involvement in restorative discipline protocols represents a critical shift from traditional disciplinary approaches, where they are typically passive recipients of punishment, to becoming active participants in addressing and resolving misconduct. This approach aligns with both constitutional imperatives regarding children's rights and international human rights standards, particularly article 12 of the *UNCRC*, which emphasises children's right to participate in matters affecting them (cf. 5.2.1.3). Therefore, for children who have engaged in misconduct, the restorative protocol would create structured opportunities to understand and take responsibility for their actions (cf. 3.2, cf. 4.1). Rather than facing punitive measures that may reinforce negative behaviours, these children engage in facilitated processes that help them comprehend the impact of their actions on others and develop empathy. Through guided reflection and dialogue, they actively participate in developing solutions and making amends, which builds essential social-emotional skills and promotes genuine behavioural change (cf. 3.9; cf. 3.12; cf. 4.4). Therefore, children who have experienced harm must be given a voice and agency in the restorative process.

5.5.2.3 Theme 3: Restorative Justice

While the *Protocol* does not explicitly use the term restorative justice, it incorporates several principles aligned with restorative approaches, evident in Chapter 3, section 3.4.1.1 and section 3.4.1.2, suggesting principles to

“Adopt a whole-school approach that will ensure classroom discipline reflects the school's policies, which must include the establishment of ground rules, consistent implementation of the rules, knowledge of learners, and a focus on relationship building.”

By advocating for a whole-school approach (cf. 4.3.2), the *Protocol* emphasises that school discipline should reflect the school's overarching policies. This ensures that disciplinary measures are consistent with the school's values, creating an environment that fosters understanding and reconciliation rather than mere punishment (cf. 4.5.5). Moreover, the establishment of clear ground rules, which are collaboratively created by learners and staff, promotes a sense of ownership among learners (cf. 4.5.2; cf. 4.6; cf. 5.5.1.2), making them more likely to adhere to the rules and engage in constructive dialogue when conflicts arise. Furthermore, the consistent implementation of these rules is crucial for fairness, helping to build trust within the school community. This consistency aligns with restorative practices, which prioritise fairness and accountability, ensuring that all learners feel respected and understood (cf. 4.5.2). However, the *Protocol's* call for a “whole-school approach” that aligns classroom discipline with school policies and engages all stakeholders is a worthy goal, but one that is often difficult to achieve in practice. Arguably, schools frequently struggle to break down silos, foster collaborative decision-making, and truly empower the entire community in addressing disciplinary challenges.

The *Protocol's* focus on relationship-building is central to restorative justice (cf. 4.5.3.3). By emphasising the importance of understanding learners and fostering positive relationships, schools can create a culture where interconnectedness is valued (cf. 5.5.1.4). Despite the assertion of the *Protocol* that schools should “focus on relationship-building”, the realities of high workloads, limited training, and deep-rooted disciplinary mindsets often prevent teachers from dedicating sufficient time and effort to this critical aspect. Without intentional, sustained focus on developing positive, supportive relationships, the shift towards a culture of respect and dignity remains elusive.

Additionally, the involvement of the broader community is a significant aspect of restorative justice that the *Protocol* implicitly supports. The implications of the *Protocol* for restorative justice highlight a transformative approach to school discipline that prioritises relationships (cf. 4.5; cf. 5.5.1.4) responsibility, and community engagement, ultimately fostering a culture of understanding and cooperation within educational settings. The *Protocol* also suggests schools should

“Devise positive strategies to deal with learners with behavioural and social difficulties, involvement of parents/guardians and the use of professional assistance.”

The *Protocol's* suggestion to devise positive strategies for dealing with learners with behavioural and social difficulties is broad and could benefit from more specificity. While the *Protocol's* suggestions for positive strategies and PBIS (cf. 2.2.1; cf. 4.3.2; cf. 4.5.2) are valuable, they operate within a relatively narrow scope, focused on individual learner behaviours rather than driving systemic change. Without a clear, intentional pathway for this systemic transformation, schools may struggle to sustain progress and embed nonviolent practices as a core part of their institutional identity. Moreover, the *Protocol* does not adequately address the role of trauma and adverse experiences in shaping learners' behavioural and social difficulties. Adopting a trauma-informed lens is crucial in South African schools, where many learners face socioeconomic challenges (cf. 1.1; cf. 2.4), exposure to violence (cf. 2.8; cf. 3.14), and other traumatic events that contribute to disruptive behaviours (cf. 3.6; cf. 4.3.2.1).

The *Protocol* also recognises the need for "professional assistance" in dealing with learners' behavioural and social difficulties, but it does not provide a comprehensive framework for building teacher capacity in this area. Schools often lack the resources, training, and ongoing support required for teachers to effectively implement positive, restorative approaches to discipline (cf. 2.6; cf. 4.7).

The *Protocol* also promotes the development of social skills and problem-solving abilities, which align with restorative practices, to

“Implement problem-solving and social skills instruction that has been incorporated into the curriculum in line with PBIS programmes” (Chapter 3, Section 3.6.6),

and to

“Participate in the development of more intensive instructional opportunities in academic, social, and problem-solving skills should the general teaching strategies prove insufficient for individual learners, as well as implement and evaluate these instructional opportunities” (Chapter 3, Section 3.6.8).

By equipping learners with these tools, schools can significantly reduce instances of social difficulties and behavioural issues. Social skills training encourages positive interactions among peers and helps learners navigate social situations more effectively (cf. 2.8.3; cf. 3.2.3; cf. 4.3 2), which implies improved relationships and a more harmonious school environment (cf. 4.5.5). By implication, as learners learn to interact positively, they are more likely to feel connected to their school community (cf. 4.5.1.3).

The *Protocol* emphasises community involvement and dialogue in Chapter 3, Section 3.1.8, which are key aspects of restorative justice, by

“Encourage community dialogues and working with local norms and understandings to bring about change from within.”

While the *Protocol* does not explicitly use the term restorative approaches, several elements align with restorative principles, namely the emphasis on creating “child-friendly” schools that respect children’s dignity and rights (Chapter 1, Section 1.1.1), aligned with the UNCRC (Article 29(1)). Moreover, the focus in the *Protocol* is to promote positive, non-violent forms of discipline (Chapter 2, Section 2.1.e) to support the implementation of the prohibition and non-violence in education, stating that it

“Promote positive, non-violent forms of discipline to the public, children, parents/guardians, other carers, teachers, etc.”

Considering the above, although the *Protocol* maintains a strong focus on reporting and disciplinary procedures for violations of the corporal punishment ban, it remains punitive. It only hints at elements of restorative justice by emphasising relationship-building, community involvement, and the development of social-emotional skills as alternatives to punitive measures but is silent on how to incorporate these elements in preventing conflict, restoring harm and rebuilding relationships.

5.6 CONCLUSION

This chapter has provided a comprehensive analysis of key South African policies and documents to explore their potential in implementing restorative discipline, guided by transformative constitutionalism, to promote nonviolent schools. While the document analysis focused on the *Constitution of the Republic of South Africa* (RSA, 1996) and International human rights framework, the policy analysis focused on the *South African Schools Act* (DoE, 1996), *Alternatives to Corporal Punishment: The Learning Experience* (DoE, 2000), and the *Protocol To Deal with Incidence of Corporal Punishment* (DBE, 2017), as well as international perspectives on restorative justice.

By employing qualitative document and policy analysis methods, this study has examined the aims, objectives, and underlying values of these policies to determine their alignment with restorative discipline principles and transformative constitutionalism. The research sought to ascertain whether these policies support a shift from punitive to restorative disciplinary approaches and enshrine virtues such as human dignity, sustainable equality, and social justice from a restorative perspective.

The combination of document analysis and policy analysis has provided a framework for extracting meaningful insights relevant to the research questions. While acknowledging the limitations of document analysis, such as potential biases and insufficient data, the study has aimed to overcome these challenges by complementing it with policy analysis. This comprehensive approach has allowed for a deeper understanding of the potential of South African education policies in promoting restorative discipline and nonviolent schools. However, the findings (cf. 5.6.1; 5.6.2; cf. 5.6.3) from this analysis indicate that, despite these policies, ill-discipline and violence remain an obsolete reality in South African schools (cf. Chapter 2). Therefore, the current escalation of human rights violations, corporal punishment, bullying, and violence in South African schools (cf. 2.4.2) necessitates a fundamental shift in disciplinary approaches, guided by the principles of transformative constitutionalism. The *Constitution* (RSA, 1996), along with the *SASA* (DoE, 1996) and subsequent legislation, establishes a clear mandate for creating safe, dignified learning environments that respect and protect fundamental human rights. However, the persistence of punitive disciplinary practices contradicts these constitutional imperatives and undermines the transformative vision of post-apartheid education.

I believe that a protocol for implementing restorative discipline relies on its ability to bridge the gap between constitutional aspirations and educational realities. By providing a comprehensive framework for nonviolent, dignity-affirming discipline, a protocol will advance the transformative constitutional project while addressing practical challenges in South African schools. This approach not only responds to current problems but also builds foundations for more equitable, peaceful, and effective educational environments aligned with South Africa's democratic values and human rights commitments.

The next chapter provides a proposed protocol for the implementation of restorative discipline, guided by transformative constitutionalism, to promote nonviolent schools.

CHAPTER 6: PROTOCOL FOR RESTORATIVE DISCIPLINE

6.1 INTRODUCTION

This chapter contains a proposed protocol for the implementation of restorative discipline, guided by transformative constitutionalism, to promote nonviolent schools. All preceding chapters have contributed to achieving this objective (cf. 1.4). The purpose of implementing such a protocol is to foster nonviolent school environments.

Figure 3 represents the proposed protocol which will be discuss from section 6.2 onwards and presented as Appendix A:

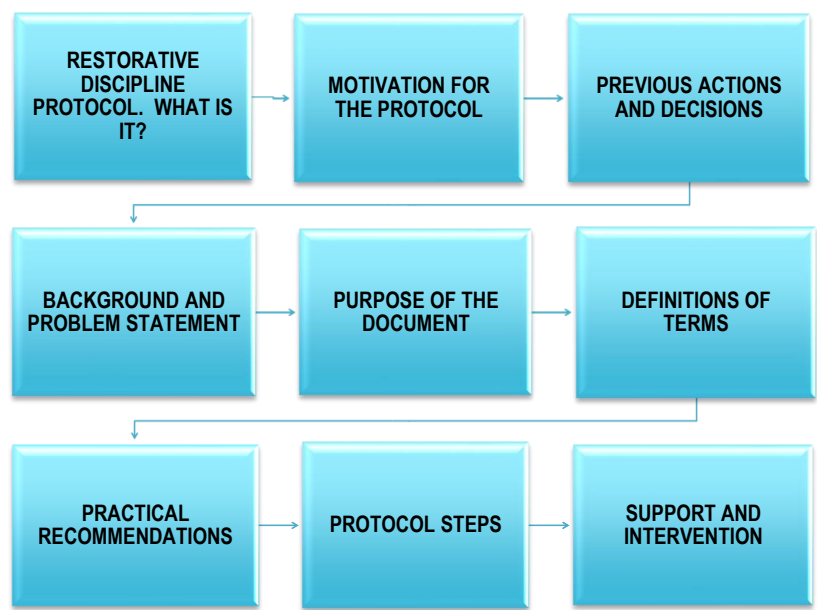


Figure 3: Davids Protocol for restorative discipline in schools (Davids, 2024)

6.2 PROTOCOL FOR RESTORATIVE DISCIPLINE: WHAT IS IT?

A protocol is a detailed, standardised set of procedures that must be followed in a specific sequence to achieve a particular outcome. It provides explicit, step-by-step instructions with little room for interpretation or **deviation (references)**.

Protocols differ from guidelines in three ways. Firstly, in their flexibility level: protocols are rigid and prescriptive, requiring exact compliance, while guidelines offer flexibility and allow professional judgement. Secondly, in their detail level: protocols contain specific actions, precise timing, and exact measurements, while guidelines provide broader principles and general suggestions. Thirdly, in their purpose: protocols ensure exact replication and strict standards for critical procedures, while guidelines offer best practices and support adaptable decision-making.

In schools, both serve distinct purposes: protocols apply to situations requiring exact replication (such as emergency procedures), while guidelines are suited for scenarios needing professional judgement (such as classroom management). Understanding this distinction helps teachers choose the appropriate tool for different situations.

The protocol for the implementation of restorative discipline acts as a guideline and framework, developed to create a safe and inclusive environment that prevents and addresses ill-discipline and violence in schools. The protocol is consistent with and supports the *Constitution of South Africa* (RSA, 1996) and must, therefore, be read together with it.

6.3 MOTIVATION FOR THE PROTOCOL DEVELOPMENT

Research on restorative justice in South Africa remains limited, particularly in the context of restorative discipline. This is also true for its implementation, which is currently minimal. Measures are required to expand its application rapidly, especially regarding how restorative justice might enable a school to shift from punitive discipline practices to a restorative discipline approach that promotes a culture of basic human rights and nonviolence.

A restorative discipline policy document is necessary, despite the abundance of traditional legal and policy frameworks governing school discipline. While existing legal documents

address learner rights and due process, restorative approaches require additional considerations of fairness, equity, and conflict resolution. New policies must outline specific procedures for restorative conferences, mediation processes, and reintegration plans while ensuring compliance with legal requirements and the protection of learner rights.

Thus, although existing documents provide important legal and procedural frameworks, new restorative discipline policies are necessary to bridge the gap between traditional disciplinary approaches and modern, research-based practices that better serve our educational communities.

This protocol has been developed to provide a feasible solution to effectively involve all role-players in a school community. It aims to build upon and to encourage a shift in the current school climate and culture from one based on a punitive disciplinary system to a restorative one, ultimately promoting several human rights.

6.4 PREVIOUS ACTIONS AND DECISIONS

In South African schools, discipline has historically been marked by authoritarian and punitive approaches, including corporal punishment, which was banned in 1996 under the *South African Schools Act* (DoE, 1996). This shift necessitated the development of alternative disciplinary measures aligned with constitutional values and human rights principles.

Traditional disciplinary practices often relied on exclusionary measures, such as suspensions and expulsions, which have been shown to disproportionately affect marginalised learners and contribute to increased dropout rates. These approaches frequently failed to address the root causes of behavioural issues or support learner development (cf. 4.6.1).

The Department of Basic Education (DBE) has implemented various initiatives to promote positive discipline in schools, including the development of codes of conduct and disciplinary guidelines. However, implementation challenges persist, with many schools struggling to effectively transition from punitive to constructive disciplinary approaches (cf. 3.2.1; cf. 4.2.3).

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Recent court decisions have emphasised the importance of considering children's rights in disciplinary matters, highlighting the need for procedural fairness and proportionality in disciplinary actions. Cases such as the Constitutional court's ruling against corporal punishment have reinforced the commitment to human dignity and children's rights in educational settings.

Provincial Education Departments have undertaken various interventions to support schools in implementing alternatives to corporal punishment, including training programmes on positive discipline and conflict resolution. These efforts reflect a growing recognition of the need for more restorative and rights-based approaches to school discipline.

Despite these developments, research indicates that many schools continue to face challenges in effectively implementing alternative disciplinary measures. This highlights the need for comprehensive support and resources to facilitate the transition to restorative practices that are aligned with constitutional principles.

6.5 BACKGROUND AND PROBLEM STATEMENT

The background and problem statement for this protocol stem from the high prevalence of violence in South Africa (Baruth and Mokoena, 2016:95). Learners are directly or indirectly exposed to violence across the most important spheres in their lives, namely, home, school, and politically driven violence in their communities. The prevalence of various forms of violence, such as gang violence, and abusive family relationships, negatively impact the learner's behaviour and is often linked to trauma experienced due to exposure to a violent society.

Children who experience trauma because of exposure to violence do not have the advantage of a place to connect with others. Schools should provide that safe place; however, a lack of a support system and the current punitive discipline system prevents learners from connecting with teachers and fellow learners (Reyneke and Reyneke, 2020). Therefore, if learners are provided with opportunities to learn alternatives to conflict resolution, such as restorative practices, the negative impact of violence can be addressed. Schools have a responsibility to respect and protect human rights, including through their discipline practices.

6.6 PURPOSE OF THE DOCUMENT

The general purpose of protocols is to ensure standardisation and safety. They maintain consistency, quality control, and predictable processes while minimising errors, protecting participant wellbeing, and ensuring legal compliance through clear accountability measures.

The purpose of drafting a protocol for restorative discipline, guided by transformative constitutionalism, is to promote nonviolent school environments. Traditional punitive disciplinary approaches in many schools, such as zero-tolerance policies and exclusionary measures like suspensions and expulsions, disproportionately impact marginalised learners. These punitive measures often exacerbate trauma, disrupt learning, and contribute to the school-to-prison pipeline.

In contrast, a restorative justice framework emphasises repairing harm, restoring relationships, and addressing the root causes of learner misbehaviour. By adopting a restorative mindset and implementing collaborative, trauma-informed disciplinary processes, schools can promote safer school environments. Grounding this restorative approach within the principles of transformative constitutionalism further strengthens the framework. Aligning discipline policies and practices with constitutional tenets of human dignity, equality, and freedom helps dismantle systemic inequities and enshrine the right of all learners to learn in safe, supportive environments.

The overarching purpose of this protocol, therefore, is to promote, nonviolent and nurturing school climates that prioritise learner wellbeing, build strong relationships, and empower marginalised communities. By shifting away from punitive measures and towards restorative, constitutionally grounded practices, schools can create the conditions for holistic learner success and thriving school communities.

6.7 DEFINITIONS OF TERMS

6.7.1 Learner Discipline

Learner discipline is the systematic process of guiding, supporting, and managing learner behaviour to create an orderly, safe, and conducive learning environment. It encompasses

both preventive measures and responsive interventions aimed at developing self-discipline, responsibility, and positive conduct among learners (cf. 2.2).

6.7.2 Human Rights Education

Human rights education embodies a transformative learning process that cultivates understanding of fundamental human rights and instils values of human dignity, equality, and social justice (cf. 3.1).

6.7.3 Restorative Justice in Education

Restorative justice in education can be defined as an approach that prioritises repairing harm, fostering empathy, and promoting inclusive dialogue among all affected parties when addressing conflicts and disciplinary issues (cf. 4.3.1).

6.7.4 Restorative Circles

Restorative circles are a facilitated dialogue process rooted in indigenous traditions, where individuals affected by conflict or harm come together to share perspectives and work towards resolution. These circles focus on building understanding and healing relationships among participants, with the potential to improve school climate through supporting conflict resolution and community building (cf. 4.5.2.1)

6.7.5 Restorative Conferences

Restorative conferences are similar to restorative circles but typically involve a larger group, often including community members, to address more serious conflicts or harm. They serve as a tool for addressing conflicts and repairing harm by bringing together those directly impacted by an incident (Wood, 2020:169), including victims, offenders, bystanders, and relevant stakeholders, to discuss the harm caused and collectively determine how to move forward (cf.). Bystanders also need to be encouraged to actively and constructively engage.

6.7.6 Restorative Discipline

Restorative Discipline is a learner behaviour management approach that prioritises repairing harm and rebuilding relationships (cf.4.6).

6.7.7 Restorative Practices

Restorative Practices refer to a collaborative and relational approach focused on building, maintaining, and repairing relationships within a community through inclusive processes that promote dialogue, accountability, and healing (cf. 4.5.1).

6.7.8 Social Justice

Social justice refers to the fair and equitable distribution of opportunities, resources, privileges, and obligations within society, ensuring equal access to fundamental human rights and dignity for all individuals. It encompasses the principles of fairness, equality, human dignity, and non-discrimination addressing systemic inequities and promoting inclusive social transformation (cf. 3.2.3.3).

6.7.9 Transformative Constitutionalism

Transformative constitutionalism refers to the application of constitutional principles and values to adapt to evolving societal needs and drive social transformation (cf. 3.6.4). It is a legal-political process that uses the *Constitution* as an instrument to transform society from a past characterised by inequality, injustice, and authoritarianism to a future founded on democratic values, social justice, and fundamental human rights. It combines constitutional interpretation with practical mechanisms to achieve meaningful social change while promoting dignity, equality, and participatory democracy (cf. 3.3.2.1; cf. 3.12.2; cf. 5.4.1.2).

This definition provides a framework for understanding how transformative constitutionalism guides the development of safe schools and restorative justice approaches in education by prioritising dignity, equality, and democratic participation while addressing historical injustices.

6.8 PRACTICAL RECOMMENDATIONS FOR IMPLEMENTATION

Restorative discipline guided by transformative constitutionalism offers an approach to promote nonviolent schools and positive learner outcomes. This framework emphasises repairing harm, restoring relationships, and addressing the root causes of learner misbehaviour through collaborative, trauma-informed practices. The following recommendations are proposed for implementation:

6.8.1 Preventing Conflict and Misconduct

The meaning of preventing conflict and misconduct, such as theft, vandalism, not doing their homework, and bullying, focuses on taking actions before disagreements escalate into serious problems. Conflict prevention involves recognising potential issues early and addressing them proactively (cf. 3.5.8; cf. 4.7.2; cf. 5.2.2.1). It can be achieved through six key methods:

1. Early identification of tension signals helps address issues before they worsen.
2. Open and honest communication ensures transparency and understanding among all involved parties.
3. Creating respectful environments encourages people to voice their concerns freely.
4. Implementing clear rules and fair processes provides a structured approach to handling disagreements.
5. Identifying shared interests unites diverse groups and builds common ground.
6. Teaching constructive conflict resolution skills equips people to handle disagreements effectively.

The relevance of preventing conflict and misbehaviour as an attribute of restorative discipline lies in its goal of creating a positive and supportive environment that addresses behavioural issues before they escalate.

Relationship building is the first key connection, which establishes trust between learners, teachers, and staff. This creates a safe environment where concerns can be

freely expressed, and community members develop empathy and understanding. Practical ways to build relations and prevent conflict and learner misbehaviour through restorative discipline include:

- **Restorative Circles:** Structured opportunities for learners and teachers to share experiences (cf. 4.5; cf. 4.6.2).
- **Collaborative Rule-setting:** Involving learners in creating classroom guidelines to establish shared ownership of behavioural expectations (cf. 4.3.2.4; cf. 5.2).
- **Active Listening Practices:** Teaching active listening skills, particularly using “I” statements, and implementing peer mediation programmes (cf. 4.5.2.2; cf. 4.5.2.4).
- **Positive Recognition Systems:** Regularly acknowledging positive behaviours, focusing on growth and improvement rather than rule compliance.
- **Preventive Check-ins:** Conducting one-on-one conversations with learners to monitor their emotional well-being and identify potential issues (cf. 2.4; cf. 3.14).
- **Community Building Activities:** Team-building exercises, cross-grade mentoring programmes, and collaborative projects to foster cooperation (cf. 4.6.1.3).
- **Clear Communication Channels:** Multiple avenues for learners to voice concerns, such as regular feedback sessions and open-door policies (cf. 2.3.1.2; cf. 2.6.1).

These strategies create the foundation of trust and understanding necessary for effective restorative discipline.

The second connection focuses on **social skills development**. Learners gain emotional awareness, and self-regulation abilities, and tools for effective communication and problem-solving. Key strategies for developing social skills as part of restorative discipline include:

- **Social-Emotional Learning (SEL) Instruction:** Teaching emotional vocabulary and practising identifying and labelling feelings with the learners (cf. 3.2.3.5, cf.

4.4; cf. 4.6.2). Using role-play scenarios to explore emotional responses with regular mindfulness and self-awareness exercises enhance learners' social skills.

- **Conflict Resolution Training:** Teaching specific steps for conflict resolution, where teachers can practise negotiation skills and teach learners to use "I" messages. As such learners will understand different perspectives in conflicts (cf. 3.2.3.5; cf. 3.11).
- **Communication Skills Development:** Active listening exercises, non-verbal communication awareness, and practising respectful disagreement, especially when they take turns in conversations (cf. 3.12).
- **Peer Mediation Programmes:** Training learner mediators establishes sound peer support systems (cf. 4.5.2.2; cf. 4.6.2) and creating structured mediation protocols that teaches learners conflict analysis skills.
- **Self-Reflection Activities:** Journaling and group discussions to analyse behavioural choices and set personal growth goals (cf. 3.12; cf. 4.5).

The above strategies equip learners with the social skills necessary for positive relationships and conflict management.

Thirdly, a **proactive approach** addresses behavioural issues at their root cause, establishing clear behavioural expectations and preventive measures before incidents arise. Schools can achieve this by:

- **Conducting root cause analyses** to understand behavioural patterns, identifying triggering factors, and performing detailed environmental and social dynamics evaluations (cf. 4.5.5.1). By understanding the complex interplay between academic performance, family situations, and individual behavioural patterns, teachers can develop more targeted interventions.
- **Establishing clear behavioural expectations** (cf. 2.3.1.4; cf. 3.5.1; cf. 4.3.2.4) with written guidelines, visual reminders, and transparent consequences.
- **Implementing preventive measures**, such as (cf. 4.5.2; cf. 4.5.1.4) regular check-in meetings, early warning systems, and behaviour screening tools.

Structured daily routines, transition support strategies, and clear communication channels further reinforce positive behavioural development.

- **Strengthening support systems**, including (cf. 3.7; cf. 4.7.6) counselling services, peer mentoring programmes, strengthening teacher-learner relationships, family engagement plans, and offering academic and social skills support. Resource referrals ensure that learners receive comprehensive assistance tailored to their specific needs.
- **Using data-driven interventions** to monitor progress and refine strategies. By implementing behaviour tracking systems, conducting regular data analysis, and systematically monitoring progress, schools can develop targeted interventions, evaluate outcomes, and adjust strategies to maximise effectiveness (cf. 4.6.2).
- **Providing professional development** for staff on (cf. 4.2.3; cf. 4.7.1) prevention, behaviour management, de-escalation techniques, cultural competency, and trauma-informed practices. This ensures that all teachers are equipped with the necessary skills to support learners effectively.
- **Creating a safe environmental structure** with predictable routines and sensory-friendly spaces that provide a sense of safety and structure (cf. 4.5.5.4). This includes designing organised classroom layouts, creating quiet spaces, and developing visual schedules.

By integrating these strategies, schools can foster a supportive environment that addresses behavioural challenges at their root and promotes positive learner development, establishes a culture of understanding support, and continuous improvement.

Community involvement forms the fourth connection, engaging all stakeholders in maintaining a positive school climate (cf. 4.3.2.4; cf. 4.6.1.3). This approach promotes collective responsibility and collaborative problem-solving among community members (cf. 3.2.1).

- **Implementing community involvement** in restorative discipline requires a holistic and strategic approach that actively engages all stakeholders in creating a supportive educational ecosystem (cf. 4.5.5.4; cf. 4.6.1). The foundation of this

approach lies in comprehensive stakeholder engagement programmes that establish sound connections between schools, families, and the broader community.

- **Stakeholder engagement** begins with creating structured platforms, such as parent advisory committees, learner leadership councils, and community-school partnerships (cf. 3.2.2.2). These platforms facilitate meaningful dialogue, ensuring that diverse perspectives are heard and integrated into school decision-making processes. Cultural liaison programmes and mentoring initiatives further bridge gaps between different community segments, while strategic collaborations with businesses and NGOs bring additional resources and expertise.
- **Effective communication** systems are critical to maintaining transparency and fostering ongoing engagement (cf. 2.7; cf. 3.7.4). This involves developing multi-language communication channels, including regular newsletters, digital platforms, parent portals, and social media engagement. These systems ensure that all community members, regardless of linguistic or technological barriers, can access information and provide feedback (cf. 5.5.2.1).
- **Collaborative events** serve as powerful mechanisms for building community cohesion. Family nights, cultural celebrations, community service projects, and student-led conferences create opportunities for meaningful interactions. These events not only strengthen relationships but also demonstrate the school's commitment to inclusive, participatory education (cf. 2.7; cf. 2.8.2; cf. 3.2.3.6; cf. 5.2.1.2).
- **Support networks** play a crucial role in providing comprehensive assistance. Parent volunteer programmes, community mentoring initiatives, after-school partnerships, and resource-sharing networks ensure that learners receive holistic support (cf. 2.3.1.2; cf. 2.4.2.1). Translation services and family support groups further enhance accessibility and inclusivity.
- **Professional development** is essential for staff to effectively implement community involvement strategies. This includes training in cultural competency, such as culturally responsive training, community engagement skills, cross-cultural communication, and restorative practices (cf. 3.2.3.5; cf. 4.5.1.3). Such

development ensures that teachers can facilitate meaningful, respectful interactions across diverse community contexts.

- **Decision-making structures** must be fundamentally collaborative, incorporating shared governance models, community input processes, and joint policy development (cf. 4.5.2.6; cf. 4.5.5.5). Problem-solving committees and implementation workgroups ensure that decision-making is inclusive, transparent, and representative of diverse community needs.
- **Recognition systems** are vital for sustaining engagement and motivating continued participation and the inherent worth and dignity of every individual (cf. 3.12.1; cf. 3.15). Community achievement awards, partnership celebrations, volunteer appreciation, and success story sharing validate and celebrate community contributions, creating a positive feedback loop of involvement and support.

By integrating these comprehensive strategies, schools can create a dynamic, inclusive community that views education as a collective responsibility. This approach transforms traditional educational models, replacing punitive discipline with collaborative, restorative practices that strengthen social relationships, promote mutual understanding, and support holistic learners. Such a model recognises that effective education extends far beyond classroom walls, requiring active, meaningful engagement from all community stakeholders (cf. 3.11; cf. 4.1; cf. 5.5.1.1). The emphasis on learning treats conflict as a growth opportunity. By understanding how actions impact others, learners develop valuable skills for preventing future conflicts, turning challenging situations into learning experiences.

The above can contribute to the cultivation of a culture of care and a sense of belonging by fostering an environment where learners feel safe, valued, and connected to their school. In cultivating a culture of care, conflict prevention creates an atmosphere where empathy and mutual understanding flourish (cf. 5.5.2.1). When learners feel secure in expressing their needs and concerns without fear of hostility, they are more likely to develop genuine care for one another.

The sense of belonging is enhanced when conflict prevention strategies prioritise inclusive dialogue and active participation. When learners know their voices will be heard and their

perspectives respected, they develop a stronger attachment to the group. To achieve this, inclusive dialogue and active participation can be enhanced through the following methods (cf. 4.5.5; cf. 4.5.5.3):

- **Restorative circles** (cf. 4.1), such as regular morning check-in circles, weekly connection circles, problem-solving circles, celebration circles, and gratitude circles. Key features include talking piece rotation, equal speaking time, non-judgmental listening, and shared leadership roles.
- **Learner voice forums**, which may include *inter alia* class meetings, learner councils, focus groups, suggestion boxes, learner-led initiatives, peer feedback sessions, and leadership opportunities (cf. 4.2.3; 4.6.1.3).
- **Inclusive dialogue practices** (cf. 3.1.2; cf. 4.2; cf. 5.4.1), including "round robin" sharing, think-pair-share activities, small group discussions, anonymous input options, multi-language support, cultural expression opportunities, and accommodating different communication styles.
- **Active participation structures**, such as role assignments, classroom responsibilities, leadership projects, peer mentoring, serving on committees, and participation in event planning to foster decision-making involvement (cf. 4.3.2.3).
- **Trust building activities**, including team-building exercises, partner activities, group challenges, shared goals, collaborative projects, cross-cultural exchanges, and identity sharing (cf. 4.5.5.2; cf. 5.5.2.1).
- **Creating safe space**, which involves group agreements, respect protocols, confidentiality rules, emotional safety guidelines, cultural sensitivity, and validating different perspectives (cf. 4.5.5.4; cf. 5.2.1.1).
- **Recognition and validation**, where teachers acknowledge learners' contributions by celebrating diversity, sharing of success stories, recognising different cultures, appreciating individual and group achievements, and celebrating progress (cf. 5.4.1.1).

To achieve the above-mentioned objectives, schools should first shift from a punitive to a restorative mindset. This involves moving away from zero-tolerance policies and

exclusionary disciplinary measures like suspensions and expulsions, which disproportionately impact marginalised learners. Instead, schools should adopt a restorative justice philosophy focused on accountability, healing, and community restoration. Schools can develop and implement policies that promote a restorative discipline approach and mindset. This can be achieved by:

- **A policy development process**, involving diverse committees of staff, learners, and parents/guardians to research restorative practices, draft clear guidelines aligned with existing policies, create implementation timelines, and establish review processes (cf. 4.2.3, cf. 5.4.3).
- **Drafting key policy components**, including a clear restorative philosophy statement, defining restorative principles, specific procedures, processes and protocols, rights and responsibilities, behavioural expectations, intervention levels/tiers, and establishing support systems (cf. 4.4.2; cf. 4.5; cf. 4.7.6).
- **Compiling an implementation strategy**, incorporating a staff training schedule, resource allocation, communication plan, pilot programme phases, monitoring systems, evaluation methods, and adjustment procedures (cf. 4.5.3.4; cf. 5.2.1).
- **Establishing a staff development plan**, with initial training workshops, ongoing professional development, mentoring systems, practice opportunities, resource materials, support networks, and regular refresher sessions (cf. 4.3.2.3; cf. 4.5.3.4).
- **Drafting a communication plan**, including parent information sessions, learner orientation, community updates, clear policy documentation, regular newsletters, and updates on digital platforms (cf. 2.7.2).
- **Drafting a monitor and evaluation Plan**, including data collection systems, progress indicators, regular assessments, feedback mechanisms, success measures, impact analysis, and policy adjustments (cf. 2.3.1.3; cf. 5.5.2.2).
- **Establishing support structures**, such as restorative coordinators, mentor teachers, learner leadership, parent liaisons, community partners, resource allocation, and professional networks (cf. 3.12.1; cf. 5.4.2; cf. 6.3).

To prevent conflict and misbehaviour, all staff should receive training on restorative practices, trauma-informed care, and implicit bias. By adopting a restorative justice philosophy focused on accountability, healing, and community restoration, schools can implement a discipline approach that promotes a restorative mindset.

6.8.2 Repairing Harm

Repairing harm is a restorative process that focuses on addressing and healing the damage caused by misconduct or conflict in a constructive way. It involves identifying who was harmed, understanding the nature of the harm, and taking responsibility for one's actions. The process requires active participation from all affected parties to make amends, rebuild damaged relationships, and restore trust within the community.

In the educational context, repairing harm moves beyond traditional punitive approaches by emphasising accountability while maintaining learner dignity. This process teaches valuable conflict resolution skills and helps build stronger school communities through understanding and dialogue. The goal is not punishment but rather healing relationships, preventing future harm, and supporting positive behavioural change.

Repairing harm is not explicitly addressed in the *Constitution* (RSA, 1996), the *SASA* (DoE, 1996), the *UDHR* (1989), the *UNCRC* (1990), the *African Charter* (1999), the *ATCP* (DoE, 2000), or the *Protocol* (DBE, 2017). Hence, there is a need for schools to adopt a learner discipline approach that aligns with transformative constitutionalism. Schools should then implement restorative discipline practices, including the use of circle processes for conflict resolution, problem-solving, and community building. Learners should be empowered to play active roles in addressing harms and repairing relationships. Restorative conferences, mediation, and reintegration plans should also be incorporated. In practices, this is done by:

- **Restorative circle processes** (cf. 4.4.2.1; cf. 5.2.1.2) with structured dialogue formats, equal speaking opportunities, non-hierarchical seating, inclusive participation, emotional safety protocols, etc.
- **Conflict resolution strategies** (cf. 4.4.2.1; cf. 5.2.1.2), which *inter alia* include peer mediation programmes, guided dialogue techniques, active listening training,

perspective-taking exercises, empathy development, win-win problem-solving, harm acknowledgment processes, etc.

- **Community building approaches** (cf. 4.7.1; cf. 5.2.1.2) through regular community circles, shared goal-setting sessions, collective responsibility practices, relationship repair workshops, trust-building activities, collaborative decision-making, mutual respect cultivation.
- **Learner empowerment methods** by providing learner leadership training, conflict resolution roles, establishing peer support networks, creating decision-making opportunities, responsibility assignments, skill development workshops, reflective practice sessions (cf. 5.5.2.1; cf. 5.5.2.3).
- **Harm repair processes**, which include restorative conferences, individual reflection sessions, group accountability meetings, collaborative repair plans, restitution opportunities, emotional reintegration support, reconciliation frameworks, etc. (cf. 4.2.2; cf. 4.6.2).
- **Mediation techniques**, which *inter alia* include neutral facilitator training, structured dialogue protocols, confidentiality guidelines, voluntary participation, interest-based negotiation, emotional regulation strategies, and a mutually acceptable outcome focus, etc., (cf. 4.4.4; cf. 5.5.2.1).
- **Reintegration support**, which could include individual support plans, gradual re-engagement strategies, monitoring and follow-up systems, skill-building interventions, and emotional support mechanisms, such as success celebration (cf. 4.2.3; cf. 5.4.3; cf. 6.3).

This above framework ensures that restorative discipline is not just a punitive measure, but a transformative process that builds community, develops social-emotional skills, and creates opportunities for personal and collective growth.

6.8.3 Rebuilding Relationships

Transitioning a school towards a restorative, nonviolent approach to discipline requires a comprehensive effort to rebuild relationships and align the institution with the transformative ideals of the *Constitution*. This process begins by acknowledging any

history of punitive or exclusionary disciplinary practices that may have strained the school's relationships with learners, families, and the broader community (Adeola 2022).

Through facilitated discussions, the school must make a genuine effort to understand the perspectives and experiences of those impacted by past disciplinary measures. This open acknowledgment of past issues is a crucial first step in rebuilding trust and credibility with the community.

As the school moves away from a punitive model, it must demonstrate a sincere commitment to addressing harms, empowering learners, and collaborating with families and community members in a transparent manner (cf. 3.8.1). Establishing clear communication channels and feedback mechanisms enables ongoing dialogue (cf. 2.3.1.1; cf. 4.5.5.4) which implies the co-creation of restorative discipline policies.

Aligning with the principles of transformative constitutionalism, the school can work with the community to identify shared values around human dignity, equality, and restorative justice. This helps establish a collaborative framework for addressing disciplinary issues (cf. 4.3.1; cf. 4.6.2), which means that schools can move away from a one-size-fits-all approach towards a more contextual, relationship-centred model.

Transitioning to a restorative justice model requires the school to co-create with learners, families, and staff new frameworks for behavioural expectations, accountability measures, and conflict resolution processes that prioritise healing and community restoration. By making relationship-building a central tenet, restorative discipline seeks to repair harm, address root causes, and restore a sense of community—rather than simply meting out punishment. This holistic approach is crucial for creating safe, inclusive, and equitable school environments that foster learner success.

The relevance of rebuilding relationships is what distinguishes restorative discipline from more traditional, punitive approaches. It also aligns with the broader principles of transformative constitutionalism and social-emotional learning (cf. 4.6.1; cf. 4.7.2). Rebuilding relationships is silent in the *Constitution* (RSA, 1996), the *SASA* (DoE, 1996), the *UDHR* (1989), the *UNCRC* (1990), the *African Charter* (1999), the *ATCP* (DoE, 2000), or the *Protocol* (DBE, 2017). Thus, schools can rebuild relationships by:

- **Creating dedicated safe spaces** for open dialogue between affected parties, implementing structured conferencing that brings together offenders and those impacted by their actions, having trained facilitators guide constructive conversations to address harm and identify solutions, promoting honest expression of feelings and needs, and developing clear action plans for making amends and restoring trust (cf. 3.12.1; cf. 5.5.2.1). The key is establishing consistent processes that prioritise understanding, accountability, and the repair of damaged relationships over punishment alone (cf. 4.5.5.4; cf. 5.2.1.1).
- **Peer mediation programmes** can be highly effective, where trained learner mediators help resolve conflicts between their peers. For example, if two learners have a dispute over social media posts, peer mediators create a safe space for both learners to express their feelings, understand each other's perspectives, and develop a mutually agreeable solution (cf. 4.6.1.3; cf. 4.4.4; cf. 5.5.2.1).
- **Circle processes** provide structured opportunities for dialogue and healing. A teacher might facilitate a circle after a classroom disruption, where learners sit in a circle and pass a talking piece (cf. 4.4.2.1; cf. 5.2.1.2). Each person shares how the incident affected them and suggests ways to make things right. For instance, if a learner repeatedly interrupted class, the circle allows classmates to express how this impacted their learning while giving the disruptive learner a chance to understand these effects and commit to specific behavioural changes.
- **Conflict resolution conferences** bring together those involved in more serious incidents (cf. 4.4.2.1; cf. 5.2.1.2). For example, if learners were involved in a physical altercation, a trained facilitator guides a conference where each learner shares their perspective, describes the impact of the incident, and works collaboratively to determine appropriate ways to repair harm—such as writing letters of apology, doing community service together, or creating an anti-violence campaign.
- **Check-in/check-out systems** provide daily opportunities for relationship building between learners and designated staff mentors. A learner struggling with behavioural issues might start and end each day with a brief meeting with their

mentor to set goals, review progress, and receive positive reinforcement (cf. 2.4; cf. 3.14).

- **Collaborative problem-solving** involves working with learners to identify and address the root causes of behavioural issues (cf. 4.1; cf.5.5.1). Rather than simply punishing a chronically tardy learner, a counsellor meets with them to understand underlying challenges (like transportation difficulties or family responsibilities) and develop practical solutions together (cf. 4.6.2).
- **Community service projects** can help rebuild relationships on a broader scale. Learners who damaged school property might work with maintenance staff to repair the damage and then initiate a school beautification project, helping them develop respect for the facility and those who maintain it (cf. 4.3.2.3).
- **Skill-building workshops** focused on communication, emotional regulation, and conflict resolution equip learners with practical tools for maintaining healthy relationships. These might include role-playing exercises where learners practice active listening, "I" statements, and peaceful problem-solving strategies (cf. 4.3.2.3; cf. 4.5.3.4).
- **Restorative contracts** formalise commitments to changed behaviour and relationship repair. After a bullying incident, for example, the involved learners might develop and sign a contract outlining specific actions they will take to make amends and prevent future incidents, with regular check-ins to monitor progress (cf. 2.4; cf. 3.14).
- **Parent-learner-teacher conferences** that follow restorative principles help rebuild relationships among all stakeholders. Rather than simply reporting problems, these meetings focus on collaborative problem-solving and creating support systems for learner success (cf. 2.7.2).

These approaches are most effective when implemented as part of a comprehensive restorative framework, with proper training for staff and consistent application throughout the school. The goal is to create a culture where relationship repair becomes the natural response to conflict, rather than punishment and exclusion (cf.).

Effective relationship rebuilding in school disciplinary contexts requires a comprehensive understanding of stakeholder roles and shared accountability. Each participant in the school ecosystem—including learners, teachers, school management, parents/guardians, and community members—bears distinct yet interconnected responsibilities in creating and maintaining supportive, healing-centred environments. The success of restorative approaches fundamentally depends on clear role definition, mutual commitment, and a collective understanding of accountability beyond traditional punitive frameworks.

6.9 STAKEHOLDERS

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6.9.1 Learners

In the context of Restorative Discipline and rebuilding relationships in schools, the role of learners is critical and multifaceted. Their responsibilities extend beyond merely following rules to actively participating in conflict resolution, demonstrating empathy, and taking accountability for their actions (cf. 5.5.2.1). This involves developing emotional literacy, practising active listening, engaging genuinely in restorative circles, and committing to personal growth. Learners must be empowered to understand the impact of their behaviours, reflect on underlying causes of conflict, and actively contribute to repairing harm and rebuilding trust within their school community. Below are some keyways learners can contribute:

- **Active participation:** Learners are not mere passive recipients of discipline, but rather active participants in the process. Restorative Discipline approaches emphasise the importance of engaging learners in dialogue, problem-solving, and

collaborative decision-making around disciplinary issues (cf. 2.4; cf. 3.14; cf. 4.5.2.2).

- **Sharing perspectives:** Learners are empowered to share their perspectives, experiences, and feelings openly (cf. 4.4.1). This allows the school community to better understand the root causes of conflicts and misbehaviour from the learner's point of view (cf. 3.2).
- **Taking responsibility/accountability** (cf. 4.3.2.1): Rather than simply being punished, learners in Restorative Discipline are encouraged to take responsibility for their actions, understand the impact on others, and actively participate in making amends and repairing harm. Before meaningful restoration can occur, individuals must first acknowledge their direct role in creating harm and demonstrate a genuine understanding of their actions' impact. Responsibility begins with honest self-reflection and a willingness to be emotionally vulnerable (cf. 4.6.1). It requires individuals to move beyond defensive mechanisms of denial or blame, and instead openly recognise the consequences of their behaviour on others and the broader community (cf. 4.3.2.3). The psychological readiness to take responsibility involves several key elements. Firstly, there must be a clear acknowledgment of the specific behaviour that caused harm. Secondly, the individual must demonstrate empathy by understanding the emotional and practical consequences of their actions. Thirdly, they must express genuine remorse and a commitment to preventing similar incidents in the future.

This process is not about punishment, but about personal growth and community healing. By taking responsibility, individuals transform disciplinary interactions from punitive encounters into opportunities for learning, understanding, and meaningful repair (cf. 4.3.2.3). Age and individual developmental stages significantly influence one's capacity to take responsibility. Younger individuals may require more guided support and scaffolding to develop accountability skills, such as:

- **Developing empathy:** The relational aspect of Restorative Discipline requires learners to develop empathy towards their peers, teachers, and the broader school community (cf. 4.5.2.5; cf. 4.6.1.1). This helps foster a culture of mutual understanding and compassion.

- **Building conflict resolution skills:** Through Restorative Discipline processes, learners could develop conflict resolution, communication, and problem-solving skills that they can apply both in school and in their broader lives (cf. 5.5.1.3; cf. 5.5.2.1).
- **Co-creating policies:** Learners can be involved in the co-creation of school policies, behavioural expectations, and disciplinary procedures, ensuring that their voices and perspectives are represented (cf. 3.6.4; cf. 5.2.1.2).
- **Peer-to-peer mentoring:** In some Restorative Discipline models, older or more experienced learners may take on mentorship roles, supporting their younger peers in navigating conflicts and rebuilding relationships (cf. 4.5.5.2).
- **Reintegration and restoration:** When a learner has caused harm, Restorative Discipline focuses on their reintegration into the school community through restorative practices, such as victim-offender dialogues or community service, rather than simply punitive measures (cf. 4.6.1.1; cf. 5.2.1.3; cf. 5.2.2).

By placing learners at the centre of the Restorative Discipline process, schools can empower learners, strengthen relationships, and cultivate a sense of shared responsibility and ownership over the school's climate and culture. This aligns with the principles of transformative constitutionalism and helps create a more equitable, inclusive, and supportive learning environment for all.

6.9.2 Parents/ Guardians

In the context of Restorative Discipline and rebuilding relationships in schools, parents/guardians form a critical external support system in relationship rebuilding. Their responsibilities include supporting school-based restorative initiatives, reinforcing positive communication strategies at home, and participating actively in conflict resolution processes. Effective parental engagement requires ongoing education about restorative principles, transparent communication with the school, and a commitment to supporting their children's emotional and social development. Some keyways that parents/guardians can contribute are:

- **Collaborative partnerships:** Restorative Discipline requires strong collaborative partnerships between schools and parents/guardians (cf. 2.3.1.2; cf. 5.2.1.2; cf. 5.2.1.2; cf. 5.4.1.1). They should be actively involved in the development and implementation of Restorative Discipline policies and practices.
- **Shared understanding:** parents/guardians can work with schools to develop a shared understanding of Restorative Discipline principles, such as the emphasis on addressing root causes, restoring relationships, and developing social-emotional skills (cf. 2.6.4; cf. 5.2.1.2). As such, they can offer valuable insights into their child's background, needs, and triggers, which can help the school tailor Restorative Discipline interventions more effectively.
- **Supporting accountability:** When their child has caused harm, they can support the Restorative Discipline process by encouraging their child to take responsibility, make amends, and actively participate in the restoration of relationships (cf. 2.6.4; cf. 4.2.2).
- **Modelling restorative behaviours:** They can model restorative behaviours at home, such as conflict resolution, empathy, and open communication, which can reinforce the school's Restorative Discipline approach (cf. 2.3.1.1; cf. 4.5.5.4).
- **Advocating for restorative discipline:** They can be powerful advocates for the adoption and implementation of Restorative Discipline approaches in their child's school, helping to shift the broader school culture (cf. 2.3.1.2).
- **Participating in conferences:** Parents/guardians should be actively involved in restorative conferences, circles, and other Restorative Discipline processes, where they can share their perspectives and work collaboratively to find solutions. Through this involvement, parents/guardians can provide feedback, suggest improvements, and help evaluate the overall impact on the school community (cf. 2.3.1.2; cf. 5.4.3.1; cf. 6.3).

6.9.3 Principals

Principals stand at the critical intersection of leadership, policy implementation, and cultural transformation in school disciplinary approaches (cf. 5.5.2.1). As primary

institutional leaders, they bear the ultimate responsibility for creating environments that embody restorative principles, moving beyond traditional administrative roles to become visionary architects of relational school cultures. Their leadership determines the depth and authenticity of restorative practices, influencing every aspect of school interactions from classroom dynamics to systemic policy development. Some keyways that principals can contribute are:

- **Championing the restorative discipline approach:** They need to be the driving force behind the adoption and institutionalisation of Restorative Discipline within their schools (cf. 2.3.1.3; cf. 5.5.2.1). They must clearly articulate the vision, values, and benefits of Restorative Discipline to the entire school community.
- **Providing resources and support:** They are responsible for allocating the necessary resources, including funding, training, and staffing, to ensure the successful implementation of Restorative Discipline practices. This includes ensuring that teachers and staff are equipped with the skills and knowledge to facilitate restorative processes (cf. 5.5.2.1; cf. 5.2.2.2).
- **Modelling restorative behaviours:** As school leaders, they must model the restorative behaviours and attitudes they expect from their teachers, staff, and learners. This includes demonstrating empathy, conflict resolution, and a focus on rebuilding relationships (cf. 2.7; cf. 4.7.4).
- **Fostering a collaborative culture:** They should cultivate a school culture that is conducive to Restorative Discipline. This involves promoting open communication, shared decision-making, and a sense of collective responsibility among all stakeholders. Moreover, principals must ensure that the school's disciplinary policies, codes of conduct, and overall operations are aligned with the principles of Restorative Discipline. They may also need to revise existing policies and co-creating new ones with the input from the school community (cf. 5.2.1.2).
- **Providing ongoing support and evaluation:** They should closely monitor the implementation of Restorative Discipline, gather feedback from stakeholders, and adjust as needed. This includes providing ongoing professional development and support for teachers and staff (cf. 5.5.2.1).

- **Serving as a bridge to the community:** Based on their key functions to interact with SGBs and the Department of Education, they can also act as a bridge between the school and the broader community, fostering partnerships and collaborations that support the Restorative Discipline approach and the rebuilding of relationships (cf. 2.3.1.4; cf. 5.5.2.1).
- **Advocating for system-level change:** Based on their interaction with SGBs and the Department of Basic Education, they can also advocate for system-level changes (cf. 1.2.3; cf. 5.2.1.2; cf. 5.5.2.3), such as policy reforms and resource allocation, to support the widespread adoption of Restorative Discipline practices within their district or state.

By taking on these multifaceted responsibilities, principals can play a pivotal role in transforming their schools into hubs of restorative justice, where the promotion of dignity and rebuilding of relationships is at the heart of addressing disciplinary issues and supporting learner success. However, when learners do not take accountability, the school must revert to punitive processes, such as disciplinary hearing (cf. 4.6.1.2). Consequently, teachers, therefore, need to work hard on teaching learners to take responsibility for their actions so that they can move away from punishment. While teachers may never abandon punishment completely, it will just become the last option rather than the first choice. In this regard, punishment will also look differently, reflecting dignity and compassion.

6.9.4 Teachers

In the context of Restorative Discipline and rebuilding relationships in schools, teachers play an instrumental role, serving as facilitators, mediators, and supportive guides in the relationship-rebuilding process. Their responsibilities include creating safe learning environments, modelling restorative communication, facilitating dialogue, and providing structured support for conflict resolution. Professional development is essential, equipping educators with skills in restorative practices, trauma-informed approaches, and effective mediation techniques. Teachers must move beyond traditional disciplinary roles to become transformative agents who support holistic learner development.

As the primary caregivers and facilitators of learning, teachers have a unique opportunity to implement and champion the Restorative Discipline approach. Some keyways teachers can contribute are:

- **Embracing the Restorative Discipline mindset:** Teachers must first internalise the principles and values of Restorative Discipline, such as a focus on building relationships, addressing root causes, repairing harm, and restoring relationships (cf. 2.7; cf. 3.6.1). This mindset shift is crucial for effectively implementing Restorative Discipline in the classroom.
- **Developing relational competencies:** Teachers need to cultivate strong relational skills, including active listening, empathy, and conflict resolution (cf. 4.5.2.2; cf. 4.6.1.4). These competencies build trust and rapport with learners, which is essential for facilitating restorative processes.
- **Implementing restorative practices:** Teachers should be equipped to facilitate various Restorative Discipline practices, such as restorative circles, victim-offender dialogues, and collaborative problem-solving (cf. 4.5.1; cf. 4.5.2; cf. 4.6.1.1).
- **Integrating Restorative Discipline into the curriculum** (cf. 4.2.2; cf. 4.3.2): Teachers should incorporate Restorative Discipline principles and activities into their lessons and classroom management approaches, reinforcing the importance of relationships, responsibility, and community-building.
- **Collaborating with families** (cf. 3.14, cf. 3.8.1): Teachers should work closely with parents/guardians to build strong partnerships, share information, and align on Restorative Discipline approaches. This collaborative effort enhances the effectiveness of the Restorative Discipline process.
- **Providing peer-to-peer support** (cf. 4.3.1): Experienced teachers can mentor and support colleagues in the implementation of Restorative Discipline, sharing best practices and strategies for navigating challenges.
- **Advocating for systemic change:** Teachers can advocate for Restorative Discipline adoption within their schools, districts, and education systems (cf. 3.13). Their perspectives can drive policy changes and resource allocation.

- **Modelling restorative behaviours** (cf. 3.12.6): Teachers should model behaviours, such as admitting mistakes, seeking forgiveness, and engaging in constructive dialogue, which learners can then emulate.

By embracing their role as Restorative Discipline champions and relationship-builders, teachers can create equitable, inclusive, and supportive learning environments where learners feel empowered, accountable, and connected to their school community.

6.9.5 Facilitators

Facilitators in Restorative Discipline are trained members of existing systems who possess specialised skills in guiding constructive dialogue and healing (cf. 4.3.2; cf. 4.5.2.4). They come from diverse backgrounds, including teachers, counsellors, school administrators, mental health professionals, and carefully selected community members trained in restorative practice principles (cf. 4.6.1.2). Their fundamental role transcends traditional disciplinary approaches, focusing instead on creating respectful spaces where meaningful understanding and repair can occur.

Facilitators navigate complex emotional landscapes with neutrality, empathy, and strategic communication (cf. 4.6.1.2). They manage group dynamics, ensure equal participation, and guide genuine reflection and accountability without judgement. However, facilitators must demonstrate exceptional interpersonal skills, including deep emotional intelligence, active listening capabilities, and a nuanced understanding of developmental psychology. Their training equips them to establish ground rules, prevent conflict escalation, and help participants explore causes of harmful behaviours while promoting personal growth and community healing (cf. 4.5.2.4). As such, they create environments where individuals can take responsibility for their actions, understand the impact of their behaviour, and develop strategies for positive change (cf. 4.6.1.2).

Advantages of Restorative Discipline facilitators include the reducing teachers' administrative burden enabling them to focus on teaching responsibilities. Facilitators mediate conflicts, repair relationships, and help learners develop emotional intelligence and communication skills. The goal is not to replace teachers, but to

enhance educational interactions through empathy and constructive dialogue. Some keyways facilitators can contribute are:

- **Specialised training and expertise:** Facilitators must be trained in restorative justice principles, conflict resolution, and group facilitation techniques (cf. 3.2.3.5; cf. 3.11, cf. 3.12.2).
- **Neutrality and impartiality:** Facilitators ensure all participants feel heard and respected, maintaining impartiality during Restorative Discipline session (cf. 4.5.2).
- **Fostering dialogue and understanding:** Facilitators create safe environments for participants share perspectives, feelings, and experiences, promoting mutual understanding and empathy (cf. 4.5.2.4).
- **Facilitating accountability and restoration:** Facilitators encourage participants to take responsibility, understand their actions' impact, and actively restore relationships (cf. 4.3.2.2).
- **Empowering stakeholders:** Facilitators empower learners, teachers, staff, and families to actively participate in the Restorative Discipline process.
- **Collaborating with school leadership** (cf. 2.7.1): Facilitators align Restorative Discipline practices with the school culture and discipline policies in collaboration with principals and administrators (cf. 2.6.2).
- **Providing ongoing support and evaluation:** Facilitators should monitor Restorative Discipline effectiveness, gather participant feedback (cf. 4.6.1.1; cf. 4.6.2), and adjust as necessary.
- **Building capacity within the school:** Facilitators train and mentor others to become Restorative Discipline facilitators, creating a sustainable network of conflict resolution champions (4.6.1.4).

6.9.6 Social Workers/Counsellors/Psychologists

As advocates for the well-being and support of learners, families, and communities, social workers/counsellors/psychologists can make significant contributions to the successful

implementation of Restorative Discipline practices. Some keyways social workers can contribute include:

- **Holistic assessments:** Social workers, counsellors, and psychologists conduct comprehensive assessments and evaluations to identify the underlying social, emotional, and environmental factors contributing to disciplinary issues or relationship breakdowns within the school community (cf. 4.5.1.1; cf. 4.6.2).
- **Connecting to resources:** They connect learners and families to relevant community resources, such as mental health services, counselling, or family support programmes, to address the root causes of behavioural challenges and strengthen their capacity for positive change (cf. 4.6.1.3).
- **Facilitating restorative processes:** With expertise in conflict resolution and group facilitation, these professionals take on the role of Restorative Discipline facilitators, guiding participants through restorative circles, victim-offender dialogues, and other Restorative Discipline interventions (cf. 4.6.1.3; cf. 4.6.2).
- **Advocating for learners:** They advocate for learners, especially those from marginalised or disadvantaged backgrounds, ensuring their needs are met and their voices are heard within the Restorative Discipline process (cf. 4.6.2; cf. 5.5.1.3).
- **Collaborating with teachers:** Social workers, counsellors, and psychologists work closely with teachers, administrators, and other school staff to share their expertise, provide training, and collaborate on the development and implementation of Restorative Discipline policies and practices (cf. 2.7.3; cf. 4.5.2; cf. 5.5.2.1).
- **Building school-community partnerships:** They leverage connections within the broader community to foster partnerships that support the Restorative Discipline approach, such as with local mental health providers, youth organisations, or community leaders (cf. 3.2.2.2).
- **Providing trauma-informed support:** They bring a trauma-informed lens to the Restorative Discipline process, ensuring that the unique needs and experiences

of learners who have faced adversity or trauma are considered (cf. 3.3; cf. 3.14; cf. 5.5.2.3).

- **Monitoring and evaluation:** They contribute to the ongoing monitoring and evaluation of Restorative Discipline interventions, gathering data, analysing outcomes, and providing recommendations for continuous improvement (cf. 4.5.3.4; cf. 4.6.2).

6.9.7 Administrative and Non-Administrative Staff

The role of administrative staff, such as secretaries, and financial clerks, and non-administrative staff, such as gardeners, security personnel, tuckshop workers, sports coaches, and school resource officers, is significant successfully implementing Restorative Discipline practices:

- **Relationship building:** Administrative and non-administrative staff often have frequent, informal interactions with learners throughout the day (cf. 4.4.4). They can leverage these interactions to build positive, trusting relationships, fostering a sense of community and belonging (cf. 5.5.2.1).
- **Early intervention:** These staff members may be among the first to witness or become aware of emerging disciplinary issues or interpersonal conflicts (cf. 2.3.1.3; cf. 5.4.3.1). They can play a role in early intervention by directly addressing situations or referring them to Restorative Discipline facilitators or administrators.
- **Modelling restorative behaviours:** By demonstrating active listening, empathy, and conflict resolution, they inspire and influence learners' behaviours and attitudes (cf. 3.12.6; cf. 4.5.2.5).
- **Providing supportive presence:** Their presence during restorative circles, conferences, or other Restorative Discipline processes offers a sense of safety, support, and community for the participants (cf. 4.3.1).
- **Sharing insights:** They often have unique perspectives on learners; daily lives and experiences (cf. 4.5.2.1). Sharing this information with teachers, administrators, and Restorative Discipline facilitators can inform a holistic understanding of the school community.

- **Participating in training:** Including them in Restorative Discipline -related training and professional development ensures they have the knowledge and skills to contribute effectively to the Restorative Discipline approach (cf. 4.6.2).
- **Advocating for systemic change:** They can advocate for adopting and institutionalising Restorative Discipline practices within the school, leveraging their proximity to learners and their unique vantage points (cf. 5.2.1.2).
- **Fostering a sense of belonging:** By actively engaging in Restorative Discipline processes and rebuilding relationships, these staff members help create an inclusive, welcoming, and supportive school environment (cf. 4.5.5).

6.9.8 School Governing Bodies

School Governing Bodies (SGBs) play a pivotal role in establishing and sustaining Restorative Discipline as a transformative approach to behavioural management and conflict resolution within educational institutions. Their fundamental responsibility extends beyond traditional administrative oversight, requiring a comprehensive commitment to reimagining disciplinary processes through a lens of empathy, accountability, and communal healing.

Their mandate is the development of clear policies that articulate the principles, procedures, and ethical foundations of Restorative Discipline (cf. 2.3.1.3; cf. 4.2.3; cf. 5.4.3.1). These policies must provide a structured framework to guide implementation, ensure legal compliance, and create a blueprint for meaningful intervention that prioritises understanding over punishment. Furthermore, strategic leadership is crucial as SGBs allocate resources and create infrastructure to support this paradigm shift. They must invest in professional development for teachers, facilitators, and support staff, ensuring that the entire school ecosystem understands and can effectively implement restorative practices.

Through these multifaceted responsibilities, SGBs become architects of schools that prioritise human dignity, collective well-being, and the development of emotionally intelligent, socially responsible individuals.

6.9.9 Department of Basic Education and District Offices

The Department of Basic Education (DBE) is responsible for developing overarching policies that provide strategic direction, ensuring consistency and quality in approach while allowing flexibility for local contexts. Establishing comprehensive frameworks to guide the implementation of Restorative Discipline across educational systems can be achieved through:

- **Legislative and regulatory frameworks:** The DBE and District Offices must create clear legislative guidelines that legitimise Restorative Discipline as a viable and valuable approach to behavioural management. This involves drafting official documentation outlining the legal standing, procedural requirements, and core principles of restorative practices within educational settings (cf. 5.2.1.2; cf. 5.4.2).
- **Capacity building and training:** A critical responsibility involves designing and implementing comprehensive training programmes for teachers, administrators, and support staff. This includes developing standardised training modules, creating certification processes, and establishing ongoing professional development opportunities that build deep understanding of restorative principles (cf. 2.6; cf. 4.7; cf. 5.5.2.3).
- **Resource allocation and support:** To establish a disciplined and purposed school environment (SASA, 1996: s 8(2)), it is important to strategically allocate financial and human resources to support the implementation of Restorative Discipline (cf. 5.2.2.1). This includes funding for training, developing support materials, providing ongoing consultancy, and creating infrastructure that enables effective implementation across different school environments.
- **Monitoring and quality assurance:** Developing evaluation mechanisms becomes essential. This involves creating standardised assessment tools, collecting comprehensive data, analysing intervention outcomes, and providing feedback mechanisms that support continuous improvement of restorative practices across educational institutions (cf. 4.6.1.1).
- **Research and development:** The DBE should invest in ongoing research into best restorative practices to understand the long-term impacts of Restorative

Discipline (cf. 3.13; cf. 4.3.1). This includes supporting academic studies, collecting longitudinal data, and developing evidence-based approaches that refine and improve restorative practices.

- **Equity and inclusion:** Ensuring that Restorative Discipline is implemented with a strong focus on equity becomes a fundamental responsibility. This involves addressing systemic inequalities, providing additional support for marginalised communities, and ensuring that restorative approaches are culturally sensitive and inclusive (cf. 4.5.5; cf. 4.6.1.3; cf. 5.4.2.1).
- **Stakeholder engagement:** To succeed in establishing nonviolent and safe schools, it is crucial for the DBE and District Offices to build sound relationships with stakeholders (cf. 4.6.2; cf. 4.4.2.2; cf. 5.4.2.3; cf. 5.5.2). This highlights the importance of creating comprehensive communication strategies that involve parents/guardians, community members, teachers, and learners. By developing platforms for dialogue, feedback, and collaborative development of restorative practices, the department will foster sound stakeholder engagement.
- **Institutional culture transformation:** Beyond practical implementation, the DBE and District Offices must champion a philosophical shift that views discipline as an opportunity for learning, growth, and community building. This involves promoting a culture of empathy, accountability, and mutual understanding across the entire educational ecosystem (cf. 4.3.2.1; cf. 4.5.2.1).

By embracing these comprehensive responsibilities, the DBE and District Offices become critical change agents, transforming disciplinary approaches from punitive models to constructive, healing-centred practices that support holistic learner development.

6.10 ASSOCIATED DOCUMENTS

Constitution of South Africa ,1996

Universal Declaration of Human Rights (UDHR), 1948

United Nations Convention on the Rights of the Child (UNCRC) 1989

African Charter on the Rights and Welfare of the Child, 1999

South African Schools Act, 1996

Alternatives To Corporal Punishment: The Learning Experience, 2000

Protocol to Deal with Incidents of Corporal Punishment, 2017

6.11 PROTOCOL STEPS

Restorative discipline protocols are inherently flexible, adaptive frameworks designed to respond to the unique complexities of human interactions and conflicts. Unlike traditional linear disciplinary processes, these protocols operate as dynamic, interconnected systems that prioritise relationship repair and meaningful understanding over rigid, prescriptive procedures.

The protocol steps' function more like an ecological system than a mechanical process. Each step—such as preparation, understanding harm, exploring impacts, and developing repair strategies—can inform and influence others simultaneously. This approach allows participants to explore harm while developing potential repair strategies or reflecting on impacts while preparing deeper dialogue.

The protocol's structure adapts to specific conflict characteristics, participants' emotional states, the complexity of relationships involved, school or community context, and individual developmental needs. Consequently, steps can be revisited, re-examined, reinterpreted, refined, and expanded as understanding deepens. The steps are flexible, with no mandatory sequential progression, are interconnected rather than hierarchical, and are participant-driven and context-sensitive.

Subsequently, the gradual implementation of restorative discipline, guided by transformative constitutionalism to promote nonviolent schools, adopts a step-based approach:

Step 1: Introduce Restorative Language and Informal Practices

The implementation process begins with reconceptualising discipline through a constitutional lens. These reframing views behavioural issues not as rule violations requiring punishment but as breaches in community relationships and others' rights that

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necessitate restoration. Schools should establish structures supporting this approach by providing staff training in restorative practices, creating safe spaces for dialogue, and developing clear protocols to ensure fair and equal treatment of all learners. These foundational elements align implementation with constitutional values of dignity, equality, and participatory democracy. Examples of informal practices are:

- **Common language development** (cf. 2.5.2): Train all staff to use consistent restorative language that focuses on relationships and repair rather than punishment. Key phrases include "What happened?", "Who was affected?", "How can we make things right?", and "What can you learn from this and do differently in future?". This shared vocabulary promotes a unified approach to addressing behaviour and conflicts.
- **Informal conversation practices** (cf. 4.4.4): Teach staff to use effective statements that express feelings and impacts in daily interactions, e.g., "I feel frustrated when..." or "It helps me when...". Such informal exchanges build emotional awareness and strengthen relationships throughout the school day (cf. 4.5.2).
- **Hallway interventions:** Guide staff in using brief restorative conversations to address minor incidents in hallways and common areas (cf. 4.4.4; cf. 4.6.2). These quick interventions help learners reflect on their actions and consider their impact on others without escalating situations.
- **Classroom management shifts:** Support teachers in replacing traditional disciplinary language with restorative questions and statements. For instance, instead of, "Go to the office," encourage, "Let's talk about what's happening and how we can fix it." This shift maintains learner dignity while addressing behavioural issues (cf. 4.2.2; cf. 4.3.2; cf. 4.6.2).
- **Staff modelling:** Encourage administrators and staff to model restorative language in their interactions with each other and learners (cf. 2.5.2; cf. 4.6.2). This includes using respectful tones, active listening, and collaborative problem-solving approaches in all school situations (cf. 4.5.5.4).
- **Professional development focus:** Provide ongoing training in restorative language through staff meetings, coaching sessions, and peer learning groups.

Include practice scenarios and role-playing to build staff confidence in using restorative approaches (cf. 4.7.4).

- **Visual reminders:** Post key restorative questions and phrases throughout the school as reminders for staff and learners. Create posters, bulletin boards, and classroom displays that reinforce restorative language and practices (cf. 4.3.2; cf. 4.5.3).
- **Communication guidelines:** Develop written guidelines for using restorative language in school communications, including emails, newsletters, and announcements. Ensure consistency in messaging across all platforms (cf. 4.3.2.3; cf. 4.5.3.4; cf. 5.5.1.1).
- **Learner leadership development:** Train learner leaders in restorative language and practices to model these approaches for peers. Involve learners in developing and promoting restorative language throughout the school (cf. 4.6.1.3; cf. 6.8.1).
- **Parent education:** Share information with families about restorative language and practices through workshops, newsletters, and school events (cf. 4.5.2; cf. 5.4.2). Help parents/guardians understand and support this approach at home.
- **Progress tracking:** Monitor the adoption of restorative language through classroom observations, staff feedback, and learner responses (cf. 4.4.4; cf. 4.6.2). Use this information to adjust training and support as needed.

Step 2: Implement Restorative Circles in Classrooms

At the preventive level, schools implement community-building circles and regular dialogues to strengthen relationships before conflicts arise. When incidents occur, structured restorative conferences bring together affected parties to understand harm, express needs, and collectively develop solutions. Throughout this process, constitutional principles guide implementation: ensuring an equal voice for all participants, protecting dignity in dialogue, and maintaining inclusive practices that accommodate diverse needs and backgrounds.

Restorative practices encompass a diverse range of circle approaches, each designed with distinct purposes and methodological nuances that serve different interpersonal and community needs. These approaches, while sharing fundamental principles of dialogue

and mutual understanding, vary significantly in their intent, structure, and implementation. The following are examples of restorative circles:

- **Community-building circles** represent a proactive, preventative approach fundamentally focused on establishing positive group dynamics and strengthening interpersonal relationships before conflicts emerge (cf. 4.6.1.3; cf. 4.5.2; cf. 6.7.4). These circles create safe spaces where participants can openly share experiences, develop shared values, and build trust through structured, supportive dialogue, typically occurring in stable environments like classrooms, workplace teams, or community groups.
- **Problem-solving circles**, in contrast, are reactive interventions specifically designed to address immediate behavioural challenges or interpersonal conflicts. These circles bring together direct stakeholders to collaboratively understand root causes, explore perspectives, and develop mutually agreeable solutions. Unlike community-building circles, they have clear objectives, targeted outcomes, and a more focused approach to resolving specific issues (cf. 4.5.5.5; cf. 4.6.1.4).
- **Healing circles** offer a profound space for emotional recovery, particularly after traumatic experiences, providing participants an opportunity to express vulnerability, process difficult emotions, and support collective healing. These circles emphasise emotional safety, compassionate listening, and creating supportive environments that acknowledge individual and collective pain (cf. 4.5.2.1; cf. 4.5.2.2).
- **Reintegration circles** serve a unique function in supporting individuals returning from suspension or exclusion, focusing on rebuilding trust, addressing potential barriers, and preparing for successful community reintegration. These circles involve carefully structured conversations to help restore relationships and create pathways for positive future interactions (cf. 4.2.2; cf. 5.4.3; cf. 5.5.1.1; cf. 6.3).
- **Conflict resolution conferences** represent a more formal approach, involving a broader range of stakeholders and requiring more extensive preparation. These conferences follow structured dialogue processes designed to address complex conflicts, ensuring comprehensive understanding and collaborative problem-solving across multiple perspectives (cf. 4.6.1.2; cf. 5.5.1.3).

- **Peace-making circles**, deeply rooted in indigenous practices, offer a holistic approach that transcends mere conflict resolution. These circles emphasise spiritual and emotional dimensions, viewing conflict as an opportunity for comprehensive community healing and transformation, integrating cultural wisdom and collective responsibility (cf. 4.5.2.1; cf. 4.5.2.2).

Each circle approach shares a fundamental commitment to restorative principles: creating spaces of mutual respect, encouraging authentic dialogue, prioritising understanding over punishment, and recognising the interconnected nature of human relationships.

The **initial selection process**, which is not about limitation but strategic implementation, allows for careful, controlled organisational learning, prevents systemic overwhelm, creates internal change champions, develops institutional capacity incrementally, and provides opportunities for evidence-based refinement. The initial selection process is handled by School Management Teams (SMT), with District Restorative Practice Coordinators in consultation with teachers, SGBs, and Department of Education representatives.

Whole-school implementation of restorative practices represents a complex, strategic transformation that demands far more than simple directive implementation. While comprehensive school-wide adoption is possible (cf. 5.5.2.1), it requires a carefully orchestrated approach that balances ambition with practical, incremental development. A step implementation strategy emerges as the most effective approach, allowing the school to develop capacity systematically and organically. The initial phase focuses on strategic classroom selection, deliberately choosing environments most conducive to initial implementation based on critical criteria such as teacher readiness, learner needs, and administrative support (cf. 4.7.4).

By selecting classrooms where teachers demonstrate volunteerism, openness to innovative approaches, and existing relational skills (cf. 4.7.4; cf. 6.8.1; cf. 6.9.4) the school creates initial implementation sites that can serve as internal change laboratories. These carefully chosen classrooms become proof points, developing internal expertise and creating narratives of success that can inspire and inform broader institutional adoption. Typically, this approach involves selecting 20-30% of teaching staff, ensuring diverse representation across grade levels, subject areas, and classroom dynamics. This strategic selection allows for controlled organisational learning, minimises systemic

resistance, and provides opportunities for evidence-based refinement of restorative practice implementation (cf. 4.6.2). The initial selection process, usually starts with the following:

- **Teacher preparation:** Provide comprehensive training for selected teachers in circle facilitation skills (cf. 3.2.3.5; cf. 4.7.4). This includes understanding circle protocols, developing question sequences, and managing group dynamics. Teachers need practice time and ongoing coaching to build confidence in leading circles effectively (cf. 4.4).
- **Circle structure development:** Establish consistent routines for circles, including regular meeting times, physical arrangement, and basic guidelines (cf. 4.6.1.4). Begin with community-building circles to develop trust before addressing more challenging topics (cf. 4.4.2.1; cf. 5.2.1.2). Create clear opening and closing rituals that help learners transition into and out of circle time.
- **Learner introduction:** Orient learners to circle practice through explicit teaching of circle values and procedures. Help learners understand the purpose of circles and their role in building classroom communities (cf. 4.5.2.1). Start with simple sharing topics and gradually progress to more complex discussions.
- **Physical setup requirements:** Arrange classroom furniture to accommodate circle formation, typically with chairs in a perfect circle without barriers. Include a designated centre space for meaningful objects or talking pieces. Ensure adequate space for all participants to see each other clearly (cf. 4.5.2.1).
- **Types of circles to implement:** Check-in circles to start with daily or weekly community-building circles to establish relationships (cf. 2.4; cf. 3.14). Gradually introduce academic circles for content discussion, problem-solving circles for addressing classroom issues, and celebration circles to acknowledge achievements (cf. 6.8.1).
- **Documentation method:** Create simple systems for recording circle topics, participation patterns, and outcomes. Track both successes and challenges to inform future implementation (cf. 4.1; cf. 6.7.5). Document learner growth in circle participation and relationship skills.

- **Support systems:** Establish mentoring relationships between experienced and new circle facilitators. Provide regular opportunities for teachers to share experiences and problem-solve challenges. Ensure administrative support for addressing issues that arise during circles (cf. 4.7.4).
- **Parent communication:** Keep parents/guardians informed about circle implementation through clear communication about purposes and practices. Consider inviting parents/guardians to observe or participate in appropriate circles. Share stories of positive circle impacts with their families (cf. 4.5.2; cf. 5.4.2).
- **Progress monitoring:** Regularly assess the effectiveness of circles through learner feedback, teacher observations, and classroom climate indicators. Use this information to adjust implementation strategies and support teacher development (cf. 4.4.4; cf. 4.6.2).
- **Expansion planning:** Based on initial successes, develop plans for expanding implementation to additional classrooms. Create peer mentoring systems where successful implementers support new teachers in adopting circles. Share positive outcomes to build broader support (cf. 4.2).

Step 3: Restorative Conferences for Conflict

Restorative conferences serve as structured dialogues that bring together those involved in and affected by school conflicts. For interpersonal conflicts between learners, such as bullying incidents or physical altercations, conferences allow both parties to share their perspectives and work toward healing relationships. When conflicts arise between learners and teachers, conferences can address patterns of classroom disruption or communication breakdowns while preserving dignity and respect. The conference process begins with careful preparation through:

- **Individual meetings** with all parties to assess their willingness to participate and identify appropriate support individuals. During the actual conference, a trained, neutral facilitator guides participants through sharing perspectives, acknowledging impacts, and collaboratively developing solutions. This process must remain voluntary, with all parties freely choosing to participate and retaining the right to withdraw.

- **Safety considerations** are paramount, requiring protocols for both physical and emotional well-being. Facilitators must be skilled in managing power imbalances and using trauma-informed approaches. The process should include appropriate representation from affected community members, support persons, relevant school staff, and cultural mediators where needed.
- **Clear referral criteria**, adequate staff training, and proper resource allocation. Schools should document conference agreements, follow-up plans, and track outcomes to ensure quality and effectiveness. Regular evaluation through participant feedback and facilitator supervision helps maintain program integrity. The process must align with constitutional values of human dignity, equality, and democracy. This includes ensuring respectful dialogue, fair access to the process, and participatory decision-making. Schools should integrate restorative conferences within their broader discipline policies while meeting district guidelines and legal requirements.

For sustainable implementation, schools need ongoing facilitator training, regular programme evaluation, and consistent community engagement. When properly implemented, restorative conferences can lead to immediate conflict resolution and long-term improvements in school climate and relationships.

Step 4: Fully Integrate Restorative Practices into School Life

Integration is not an isolated step but a continuous, dynamic process of organisational learning and cultural shift that begins with initial pilot implementation and evolves through sustained commitment and strategic adaptation. It is thus not a single post-pilot event but should begin simultaneously with pilot implementation. It involves gradual, strategic embedding of practices, ongoing organisational learning, and development alongside initial pilot experiences.

Below is a structured explanation of how to fully integrate restorative practices into all aspects of school life after the pilot phase:

1. **Classroom integration:** Daily classroom practices should embody restorative principles through morning circles that build community, regular check-ins that monitor emotional well-being, and collaborative problem-solving sessions when

issues arise. Teachers can integrate restorative language into their instruction, emphasising mutual respect, accountability, and relationship repair. Academic content can incorporate themes of justice, reconciliation, and community building.

2. **School leadership approach:** School Management Teams must model restorative principles in their leadership style by maintaining open dialogue with staff, learners, and families. This includes using restorative approaches in staff meetings, professional development sessions, and parent communications. Decision-making processes should be inclusive and consider the impact on all community members.
3. **Learner support services:** Social workers, counsellors, psychologists, and other support staff should align their practices with restorative principles. This includes focusing on relationship building, emotional literacy, and conflict resolution skills. Support services should emphasise prevention and early intervention rather than purely reactive approaches to behavioural issues.
4. **Extracurricular activities:** Sports teams, clubs, and other activities should incorporate restorative practices through team-building exercises, conflict resolution protocols, and leadership development. These settings provide natural opportunities for learners to practise relationship skills and community responsibility.
5. **School policy framework:** Discipline policies need a complete revision to prioritise restoration over punishment. This includes creating clear protocols for when and how to use restorative practices, establishing guidelines for documentation, and developing evaluation metrics that align with restorative values.
6. **Professional development:** Schools should actively involve families and community members in restorative practices through workshops, participation in circles, and shared decision-making. This creates a consistent approach between home and school while building broader community support. Furthermore, the school's physical space should support restorative practices with dedicated areas for circles, quiet spaces for reflection, and visible reminders of restorative

principles. Classroom arrangements should facilitate dialogue and community building.

7. **School culture development:** A restorative school culture emphasises relationships, responsibility, and repair. This culture is built through consistent messaging, celebrated success stories, and regular community-building activities that reinforce restorative values.
8. **Assessment and accountability:** Success requires dedicated resources, including staff time, physical space, materials, and ongoing professional development. Schools must prioritise these resources in budgeting and planning processes. Clear communication channels help maintain consistency in restorative approaches. This includes protocols for sharing information, documenting interventions, and coordinating responses across different school settings.

Success in this approach requires sustained commitment to transformative goals. Schools must regularly assess whether their practices promote genuine healing and community building rather than merely providing an alternative form of punishment. This involves monitoring both quantitative metrics (reduced violence incidents, decreased suspensions) and qualitative outcomes (improved school climate, stronger relationships). Through consistent application of these principles, schools can create environments where nonviolence becomes the norm, fulfilling the transformative vision of both restorative practice and constitutional values.

6.12 SUPPORT AND INTERVENTION

The implementation of restorative discipline requires comprehensive support systems and targeted interventions at multiple levels to ensure effective transformation in school disciplinary practices.

The Department of Education plays a pivotal role in transforming educational support through a nuanced approach to implementing restorative practices, with a particular focus on supporting Quintile 1-3 schools facing significant resource constraints. By developing targeted funding mechanisms, creating specific budget allocations, and designing comprehensive financial support packages, the Department can transform resource

limitations into opportunities for innovative, context-responsive implementation (cf. 5.2.2.1; cf. 5.2.2.2; cf. 6.9.3; cf. 6.9.9).

Training and capacity building emerge as critical components of this support strategy. The Department of Education should develop centralised, accessible training programmes that leverage online learning platforms, provide free or subsidised training modules, and implement sophisticated train-the-trainer models. Furthermore, by partnering with NGOs, the Department can leverage diverse funding sources and create multi-stakeholder support networks. Technological and human resources should be strategically integrated, providing schools with both the tools and the capacity to implement Restorative Practices effectively. This involves developing blended learning approaches, creating cost-effective implementation models, and building sustainable capacity-building ecosystems (cf. 4.7.4; cf. 5.2.2.1; cf. 5.2.2.2; cf. 5.5.2; cf. 6.8).

Individual support plans: Individual support plans must be developed for learners exhibiting challenging behaviours, incorporating input from teachers, counsellors, parents/guardians, and the learners themselves. These plans should outline specific strategies, support services, and progress monitoring mechanisms to help learners develop positive behavioural skills and address any underlying social, emotional, or academic challenges (cf. 5.4.3.1; cf. 5.4.3.3).

School-based support teams: School-based support teams play a crucial role in coordinating interventions and ensuring a holistic approach to learner support. These teams should include teachers, school counsellors, social workers, and other relevant professionals who can provide specialised services and interventions based on individual learner needs. Regular team meetings should be held to monitor learner progress and adjustment of intervention strategies as needed (cf. 2.3.1.5; cf. 6.9.2).

Parent and community partnerships: Schools should actively engage parents/guardians in the disciplinary process, providing them with resources and guidance to reinforce positive behaviours at home. Community organisations can offer additional support services, mentoring programmes, and intervention resources to complement school-based efforts. For example, schools can build networks with professionals in the community—especially in cases where schools cannot afford in-house support (cf. 6.9.2; cf. 5.2.1.2).

Professional development: Teachers must focus on building capacity for implementing restorative practices and understanding diverse learners' needs. Training should cover topics such as trauma-informed practices, cultural competency, conflict resolution, and effective communication strategies to support positive learner behaviour (cf. 6.8; cf. 6.9.3).

Regular monitoring and evaluation: Support interventions should help ensure their effectiveness and allow for timely adjustments. Schools should maintain detailed records of interventions, track learner progress, and analyse data to identify patterns and areas requiring additional support or modification of existing strategies (cf. 4.6.2; cf. 5.2.1.3).

6.13 CONCLUDING REMARKS

Restorative Discipline represents a profound paradigm shift in educational conflict management, moving beyond punitive approaches to embrace a holistic, relationship-centred model of behavioural intervention and community building.

This approach recognises that disciplinary challenges are not isolated incidents but opportunities for learning, growth, and deeper understanding. By prioritising empathy, accountability, and collective healing, restorative discipline transforms traditional disciplinary processes into meaningful experiences of personal and communal development. Its successful implementation requires a comprehensive, systemic approach involving multiple stakeholders. School Governing Bodies, the Department of Education, district offices, facilitators, and educators must collaborate to create an ecosystem that supports this transformative approach. This involves developing comprehensive policy frameworks; providing targeted training; allocating strategic resources; creating flexible, adaptive implementation strategies; and maintaining a commitment to continuous learning and improvement.

The proposed protocol's dynamic, non-linear nature allows for contextual responsiveness, recognising that each conflict and community is unique. It moves beyond a one-size-fits-all approach, instead providing a flexible framework that can be tailored to specific institutional and interpersonal contexts. Critically, Restorative Discipline is not merely a technique but a philosophical approach that reimagines discipline as an opportunity for relationship repair, personal growth, community strengthening, emotional intelligence development, and breaking cycles of harm.

For resource-constrained schools, the Department of Education plays a crucial role in providing targeted support, developing innovative training models, and ensuring equitable access to these transformative practices. Ultimately, Restorative Discipline offers more than a disciplinary approach—it provides a blueprint for creating more empathetic, understanding, and resilient educational communities. By prioritising human dignity, mutual respect, and collective responsibility, we can transform disciplinary interactions from moments of potential trauma into opportunities for meaningful connection and growth.

CHAPTER 7: CONCLUSIONS AND RECOMMENDATIONS

7.1 INTRODUCTION

The aim of this study was to explore the implementation of a restorative approach to learner discipline and to develop a protocol for implementation, guided by transformative constitutionalism, to promote nonviolent schools (see the developed proposed protocol in Appendix A; cf. 1.4). The document analysis of the *Constitution of the Republic of South Africa* (Act 108 of 1996), the *South African Schools Act* (DoE, 1996), the *Universal Declaration of Human Rights* (UDHR, 1948), the *United Nations Convention on the Rights of the Child* (UNCRC, 1989) and the *African Charter on the Rights and Welfare of the Child* (1999), along with the policy analysis of the *Alternatives to Corporal Punishment in Schools (ATCP)* (DoE, 2000) and the *Protocol to Deal with Incidence of Corporal Punishment (Protocol)* (DBE, 2017) offer the context for education policy.

In this chapter, I synthesise the preceding sections and present the study's findings to offer recommendations on how South African schools can promote nonviolence through the implementation of restorative discipline, guided by transformative constitutionalism. The chapter concludes by highlighting the study's strengths—examining its limitations, which pave the way for future research opportunities—reflecting on the challenges encountered during the research process, and elaborating on how this study has contributed to my academic and personal growth.

7.2 PURPOSE OF THE STUDY

The aim of this study was to explore the implementation of a restorative approach to learner discipline and to develop a protocol for implementation, guided by transformative constitutionalism, to promote nonviolent schools (see the developed proposed protocol in Appendix A; cf. 1.4). The document analysis of the *Constitution of the Republic of South Africa* (Act 108 of 1996), the *South African Schools Act* (DoE, 1996), the *Universal Declaration of Human Rights* (UDHR, 1948), the *United Nations Convention on the Rights of the Child* (UNCRC, 1989) and the *African Charter on the Rights and Welfare of the Child* (1999), along with the policy analysis of the *Alternatives to Corporal Punishment in*

Schools (ATCP) (DoE, 2000) and the *Protocol to Deal with Incidence of Corporal Punishment (the 'Protocol')* (DBE, 2017) offer the context for education policy.

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In this chapter, I synthesise the preceding sections and present the study's findings to offer recommendations on how South African schools can promote nonviolence through the implementation of restorative discipline, guided by transformative constitutionalism. The chapter concludes by highlighting the study's strengths—examining its limitations, which pave the way for future research opportunities—reflecting on the challenges encountered during the research process, and elaborating on how this study has contributed to my academic and personal growth.

Next, I provide specific findings that speak to the study's main and secondary research questions:

7.3 SUMMARY OF FINDINGS

Upon completion of the document analysis of the *Constitution of the Republic of South Africa* (RSA, 1996), the *South African Schools Act* (DoE, 1996), the *Universal Declaration of Human Rights* (UDHR, 1948), the *United Nations Children's Rights Commission* (UNCRC, 1989), the *African Charter* (1999), and the policy analysis of the *Alternatives To Corporal Punishment: The Learning Experience* (DoE, 2000) and the *Protocol to Deal With Incidence of Corporal Punishment* (DBE, 2017), a summary of my study's findings is herewith presented.

7.3.1 What is the General State of Learner Discipline in South African Schools?

Chapter 2 of this study addresses this question, with the aim of exploring the general state of learner discipline in South African schools (cf. 1.4). I present the findings as follows:

The growing concern over the negative impact of learner discipline issues on both learners and teachers in South African schools has garnered significant attention from scholars and researchers. A range of studies by Alvis (2015), Davids (2017), Reyneke and Reyneke (2020), and Wolhuter and van der Walt (2020) highlight the pressing need for safe and conducive educational environments as mandated by the *South African Constitution* (RSA, 1996).

However, despite these mandates, it is evident from the body of research that challenges persist in creating such environments. The issue of learner discipline remains multifaceted and contentious, resonating not only in South Africa but also internationally (Gcelu, Padagachee and Makhasane, 2020; Wolhuter and van der Walt, 2020). This is especially concerning due to the rise of violence in schools, as emphasised by Davids (2017), which threatens the fundamental rights of learners, teachers, and parents.

The literature review has delved into various dimensions of the issue, shedding light on the manifestations of ill-discipline in schools, the nature and current state of discipline issues, and the profound effects of ill-discipline and violence on the teaching and learning process. This exploration emphasises the urgency of addressing these challenges to ensure effective education and the realisation of learners' and teachers' rights. The overview of learner discipline, distinguishing between discipline and punishment, has set the stage for a deeper understanding of the complexities involved. The prevalence of violence in schools, particularly in the South African context, further underscores the need for proactive measures to create safe learning environments.

7.3.2 What is Transformative Constitutionalism, and Which Human Rights are Most Impacted by Disciplinary Measures and Violence?

This chapter explored the human rights relevant to this study, as encompassed in the *Constitution*. It underscores the imperative for proactive measures to foster safe and disciplined learning environments, especially in addressing learner discipline and violence prevalence, particularly within the South African educational context. The *Constitution* (RSA, 1996) mandates the creation of safe and conducive educational environments, emphasising the protection of children from maltreatment, ensuring their right to education in an enabling atmosphere, and highlighting the role of the state in implementing policies to achieve these objectives.

The principles of transformative constitutionalism were highlighted as guiding tools for educational transformation towards social change, with international law providing a framework rooted in human rights, sustainability, and peace. These concepts were examined for their relevance to nonviolent education initiatives. Moreover, case law addressing learner misconduct and learner responsibility illustrated the realisation of

constitutional imperatives in addressing learner discipline disputes and their impact on the realisation of social change in a peaceful manner.

This study sought to define transformative constitutionalism as the application of constitutional principles and values to adapt to evolving societal needs and drive social transformation. As elucidated in this chapter, the *Constitution* provides the foundational framework for transformative constitutionalism. However, transformative constitutionalism transcends mere compliance with legal norms, advocating for a deeper understanding and application of constitutional principles to foster social change. Thus, transformative constitutionalism challenges conventional interpretations of the *Constitution*, advocating for a more dynamic and contextually sensitive approach to constitutional law.

Moreover, this chapter concurred that to effectively integrate nonviolence and human rights into education, a careful and systematic approach is necessary.

7.3.3 What is Restorative Justice, and How Does it Relate to Learner Discipline?

This chapter provided a comprehensive exploration of restorative justice as an alternative approach to learner discipline in educational settings (cf. 4.1). By examining its importance in education, contrasting it with punitive disciplinary measures, and highlighting its alignment with nonviolence education, I established a clear understanding of the potential benefits of restorative practices in schools (cf. 4.5.2.2; cf. 4.5.3).

Traditional disciplinary measures, such as corporal punishment, have been shown to significantly impact learners' human rights, particularly their dignity and freedom from harm. This realisation underscores the urgent need for more humane and effective disciplinary approaches in schools. Throughout the discussion, the principles and practices of restorative justice were outlined, emphasising their potential to create safer school environments by repairing harm, restoring relationships, and promoting accountability (cf. 4.3.2). Unlike punitive measures, which often fail to address the root causes of misbehaviour, restorative justice offers a promising alternative grounded in understanding and dialogue (cf. 4.4.6).

The relationship between restorative justice and nonviolence education was also highlighted, illustrating how these approaches can synergise to foster a culture of peace

and understanding within schools (cf. 3.11.1; cf. 4.5.4). This integration not only addresses immediate disciplinary issues but also equips learners with valuable conflict resolution skills for their future endeavours (cf. 4.6.1). Moreover, implementing restorative justice practices in schools requires a paradigm shift and ongoing commitment to learning and adaptation (cf. 4.2.4). Despite challenges, such as addressing misconceptions and ensuring consistency, the potential benefits—including improved school climate, reduced disciplinary incidents, and enhanced learner well-being—make this approach a compelling option for teachers and policymakers (cf. 4.4; cf. 4.7).

Ultimately, this chapter provides a foundation for understanding how restorative justice can contribute to creating safer, more inclusive, and effective learning environments. By prioritising restoration over punishment, schools can fulfil their role not only as centres of academic learning but also as nurturing spaces that promote personal growth, empathy, and social responsibility. Restorative justice offers a pathway to address learner discipline in a manner that recognises and addresses longstanding inequities, fostering safe, inclusive environments where all learners feel valued and supported (Canter *et al.* 2019: 307).

Ultimately, this chapter serves as a foundation for understanding how restorative justice can contribute to creating safer, more inclusive, and effective learning environments (cf. 4.5.3; cf. 4.5.4). By prioritising restoration over punishment, schools can fulfil their role not only as centres of academic learning but also as nurturing spaces that promote personal growth, empathy, and social responsibility (cf. 4.5.5.7; cf. 4.6.2). Restorative justice offers a pathway to address learner discipline in a manner that recognises and addresses longstanding inequities, fostering safe, inclusive environments where all learners feel valued and supported (Canter *et al.* 2019: 307).

7.3.4 What is the Potential of South African Policies to Create Conditions for the Implement Restorative Discipline Guided by Transformative Constitutionalism to Promote Nonviolent Schools?

This chapter provided a comprehensive analysis of key South African policies and documents to assess their potential in implementing restorative discipline guided by transformative constitutionalism to promote nonviolent schools. While the document analysis focused on the *Constitution of the Republic of South Africa* (RSA, 1996) and international human rights framework, the policy analysis focused on the *South African*

Schools Act (1996), *Alternatives to Corporal Punishment: The Learning Experience (2000)*, and the *Protocol To Deal with Incidence of Corporal Punishment (2017)*, as well as international perspectives on restorative justice (cf. 5.1).

By employing qualitative document and policy analysis methods, this study examined the aims, objectives, and underlying values of these policies to determine their alignment with restorative discipline principles and transformative constitutionalism (cf. 5.2.1.1). The research sought to ascertain whether these policies support a shift from punitive to restorative disciplinary approaches and enshrine virtues such as human dignity, sustainable equality, and social justice from a restorative perspective (cf. 5.2.2). The combination of document analysis and policy analysis provided a framework for extracting meaningful insights relevant to the research questions. While acknowledging the limitations of document analysis, such as potential biases and insufficient data, the study overcame these challenges by complementing it with policy analysis. This comprehensive approach allowed for a deeper understanding of the potential of South African education policies in promoting restorative discipline and nonviolent schools (cf. 5.6).

The findings from this analysis indicate that, despite these policies, ill-discipline and violence persist in South African schools (cf. Chapter 2). Therefore, the current escalation of human rights violations, corporal punishment, bullying, and violence in South African schools (cf. 2.4.2) necessitates a fundamental shift in disciplinary approaches, guided by the principles of transformative constitutionalism. The *Constitution* (RSA, 1996), along with the *SASA* (DoE, 1996) and subsequent legislation, establishes a clear mandate for creating safe, dignified learning environments that respect and protect fundamental human rights. However, the persistence of punitive disciplinary practices contradicts these constitutional imperatives and undermines the transformative vision of post-apartheid education.

I contend that a protocol for implementing restorative discipline rests on its ability to bridge the gap between constitutional aspirations and educational realities. By providing a comprehensive framework for nonviolent, dignity-affirming discipline, such a protocol can advance the transformative constitutional project while addressing practical challenges in South African schools. This approach not only responds to current problems but also builds foundations for more equitable, peaceful, and effective educational environments aligned with South Africa's democratic values and human rights commitments.

7.3.5 What Protocol Should Be Followed When Implementing Restorative Practices Guided by Transformative Constitutionalism in Building Nonviolent Schools?

Based on all chapters towards the realisation of the aim of this study, namely, to develop a protocol for the implementation of restorative discipline, guided by transformative constitutionalism, to promote nonviolent schools (cf. 1.4: cf. 6.1) - the aim has been achieved.

The proposed protocol for the implementation of restorative discipline serves as a guideline and framework designed to create a safe and inclusive environment that prevents and addresses ill-discipline and violence in schools.

The suggested protocol represents a profound paradigm shift in educational conflict management, moving beyond punitive approaches to embrace a holistic, relationship-centred model of behavioural intervention and community building. Its successful implementation requires a comprehensive, systemic approach involving multiple stakeholders. School Governing Bodies, the Department of Education, district offices, facilitators, and teachers must collaborate to create an ecosystem that supports this transformative approach. This involves developing comprehensive policy frameworks, providing comprehensive training, allocating strategic resources, creating flexible, adaptive implementation strategies, and maintaining a commitment to continuous learning and improvement.

I propose that the protocol for Restorative Discipline offers more than a disciplinary approach—it provides a blueprint for creating more empathetic, understanding, and resilient educational communities. By prioritising human dignity, mutual respect, and collective responsibility, schools can transform disciplinary interactions from moments of potential trauma to opportunities for meaningful connection and growth.

7.4 RECOMMENDATIONS

In this section, I make some suggestions based on the findings of Chapter 2-5, which I believe strengthen the protocol that I developed for restorative discipline, guided by transformative constitutionalism to promote nonviolent schools (cf. Chapter 6 and Appendix A).

7.4.1 Recommendation One: Constitutional Principles in Disciplinary Approaches

The foundation of transformative school discipline must be firmly grounded in constitutional principles that uphold human dignity, equality, and justice. When schools align their disciplinary practices with these fundamental values, they create environments where every learner's rights are protected while maintaining effective behavioural management. This approach ensures that disciplinary procedures contribute to both individual growth and collective well-being, moving beyond mere punishment to embrace restorative and developmental strategies.

Human dignity serves as the cornerstone of constitutionally aligned discipline. Every interaction within the disciplinary process must affirm the inherent worth of learners, even in challenging situations. This involves developing procedures that maintain respect, ensure fair hearing, and focus on restoration rather than retribution. By centering human dignity, schools create spaces where learners feel valued and respected, leading to increased engagement and a stronger sense of belonging. Disciplinary measures should build self-worth, recognising that maintaining dignity is crucial for effective behavioural change.

The principle of equality demands careful consideration in disciplinary implementation. Schools must ensure that their practices do not discriminate, either directly or indirectly, against any group of learners. This requires regular monitoring of disciplinary outcomes, transparent decision-making processes, and clear, objective criteria for addressing behavioural challenges. Equal treatment entails similar responses to similar infractions while still considering individual circumstances. Regular analysis of disciplinary data helps identify and address patterns of disproportionate impact on particular groups. In restorative discipline, the best interest of the child is paramount, with equal treatment principles considering individual needs while maintaining consistent response frameworks. Accountability should be balanced with rehabilitation and support, ensuring fair, proportionate interventions tailored to specific situational contexts.

From the victim's perspective, safety and emotional healing should be prioritised by providing support, agency in the resolution process, and opportunities for meaningful dialogue. Conversely, for offenders, the focus should be on understanding the harm

caused, promoting accountability, and encouraging behavioural learning. Developmental support and skill-building opportunities should also be provided. Bystanders need to be encouraged to engage constructively, fostering community responsibility and empathy that creates supportive conditions.

From a human rights perspective, respecting the dignity of all participants protects the fundamental rights of learners and teachers. This approach promotes inclusive, equitable conflict resolution and ensures transparent, non-discriminatory processes.

The proposed protocol (cf. Chapter 6 and Appendix A) provides several key implementation strategies, such as *inter alia*: individualised assessments, structured dialogue mechanisms, restorative practices training, ongoing support, and clear, consistent procedural guidelines.

The study found a restorative approach emphasises repairing harm, restorative learning, and community restoration over punitive measures, prioritising the holistic development of all involved parties. Just administrative action within school discipline requires clear, well-documented procedures ensuring fairness and transparency (cf. 3.2.3.1; cf. 5.5.2.3; cf. 6.3). This includes providing adequate notice of disciplinary proceedings, ensuring the right to be heard, and maintaining detailed records. Parents and learners must be fully informed of their rights and have access to appeal mechanisms when necessary. Procedural fairness not only protects rights but also teaches important lessons about justice and due process, contributing to learners' understanding of human rights and restorative discipline (cf. 5.5.2.2; cf. 6.9.7).

Restorative discipline fundamentally represents a human rights-centered approach to conflict resolution, moving beyond traditional punitive models. At its core, Restorative Discipline recognises the inherent dignity of all participants, treating everyone as a rights-holder with fundamental entitlements to respect, participation, and personal development (cf. 2.5.3; cf. 3.4.2; cf. 4.2; cf. 5.4.1.1). Unlike disciplinary hearings, which often focus on procedural compliance, Restorative Discipline embeds human rights principles directly into practice. This ensures rights are not merely a checklist but an active, lived experience throughout the resolution process. Every interaction is designed to protect, promote, and fulfil the human rights of victims, offenders, and bystanders (cf. 6.7.5). The process ensures procedural rights through transparent, voluntary participation, where individuals

are fully informed and have genuine opportunities to share their perspectives (cf. 3.2; cf. 4.3.1). Substantive rights are protected by creating safe spaces that prioritise emotional well-being, personal growth, and psychological safety (cf.3.10; cf. 3.12).

Restorative Discipline transforms rights from abstract legal concepts into practical, relational experiences (cf. 4.1.6.6; cf. 5.5.2.3). It achieves this by centering dialogue, mutual understanding, and collective healing. The approach recognises that true human rights protection goes beyond preventing harm—it actively creates conditions for individuals to thrive and communities to rebuild trust (cf. 4.5.5.2; cf. 5.4.1.1). By focusing on understanding, accountability, and collective responsibility (cf. 4.6.1.2), Restorative Discipline offers a more holistic human rights framework that addresses the root causes of conflict while maintaining the fundamental dignity of all involved (cf. 4.5.2.1; cf. 4.6.2).

The right to education must be protected even when addressing behavioural challenges. Schools should prioritise interventions that keep learners engaged in their education while effectively addressing misconduct (cf. 4.5.2.1). This might include alternative dispute resolution methods, such as mediation and restorative conferences, which help resolve conflicts while minimising disruption to learning (cf. 4.6.1.3; cf. 4.4.4; cf. 5.5.2.1). Support systems should be established to help learners address underlying issues that may contribute to behavioural challenges, ensuring that discipline serves an educational rather than purely punitive function (cf. 4.5.2.2; cf. 5.2.1.2).

Schools should establish comprehensive, inclusive mechanisms for developing and reviewing disciplinary policies that actively engage multiple stakeholders (cf. 2.5.3; cf. 5.4.3.1). By creating structured collaboration frameworks, schools can ensure that their disciplinary approaches are constitutionally aligned, responsive to community needs, and grounded in shared values, beliefs and understanding (cf. 2.3.1.3; cf. 4.3.2). However, the primary recommendation is to form multi-stakeholder policy review committees that systematically integrate perspectives from parents/guardians, community leaders, teachers, and learners (cf. 2.7.2; cf. 3.6.3; cf. 4.2.3). These committees should meet quarterly to review policies, discuss emerging challenges, and co-create responsive disciplinary frameworks. The composition of these committees must reflect the demographic diversity of the school community, ensuring representative input and genuine dialogue (cf. 3.2.2.3; cf. 6.8.1).

Communication and transparency are critical to successful implementation (cf. 5.4.2.3; cf. 6.8.1). Schools should develop clear, accessible protocols for sharing draft policies, gathering feedback, and demonstrating how stakeholder input influences final decisions. This might include digital platforms for ongoing consultation, community town halls, and regular reporting on policy evolution (cf. 4.4.7; cf. 4.5.2.1). Such approaches transform disciplinary policy from an institutional decree to a collaborative, community-driven process.

Training will be essential to support this collaborative model (cf. 4.5.2.5; cf. 5.2.2.1). Facilitators and school leaders must develop skills in inclusive dialogue, conflict resolution, and participatory decision-making (cf. 4.5.2.4; cf. 6.8.3). This ensures that stakeholder engagement is meaningful, structured, and conducive to constructive policy development (cf. 4.5.2.6). The ultimate objective is to create disciplinary approaches that are not only legally compliant but also culturally responsive, educationally sound, and community supported. By embedding collaborative mechanisms into policy development, schools can build trust, promote shared accountability, and develop more effective, humane disciplinary practices that support positive behavioural change (cf. 4.5.2.7).

This study recommends that the Department of Education should develop a comprehensive preventative strategy that shifts the paradigm from reactive disciplinary measures to proactive intervention and support systems (cf. 6.9.9). This approach recognises that preventing behavioural challenges is fundamentally more effective and nurturing than responding to them after they escalate (cf. 2.4.1; cf. 2.6.4; cf. 6.8.1). This can be achieved by:

- Developing clear, evidence-based guidelines that:
 - Mandate early identification of potential behavioural risks.
 - Establish comprehensive support mechanisms.
 - Integrate preventative approaches into school management frameworks (cf. 6.9.9).

The proposed protocol recommends some practical intervention mechanisms; *inter alia*:

- Early warning systems by developing monitoring tools to identify learners at risk of behavioural challenges, create individualised support plans before issues become disciplinary concerns, and train teachers in recognising subtle behavioural indicators (cf. 3.5.8; cf. 4.7.2, cf. 5.2.2.1).
- Comprehensive support infrastructure would establish school-based social work, counselling and psychological support services, assist in developing targeted intervention programmes for at-risk learners, and in creating mentorship and guidance frameworks (cf. 4.6.1.3; cf. 4.6.2).

This study recommends that the Department should build capacity for teachers by providing specialised training in preventative discipline strategies to equip teachers with skills in conflict resolution and emotional intelligence and develop professional development programs focusing on understanding learner behavioural dynamics (cf. 6.9.9).

Based on the proposed protocol (cf. Chapter 6 and Appendix A), this study recommends that the Department should assist with:

- Systemic resource allocation, redirecting disciplinary resources towards prevention, funding comprehensive support programmes, and investing in school-based social and emotional learning initiatives. cf. 2.6; cf. 4.7; cf. 5.5.2.3).

The Department should foster a collaborative approach involving:

- Schools (learners, teachers, administrative and non-administrative staff),
- Parents/guardians,
- Community organisations,
- Mental health professionals such as social workers/counsellors/psychologists,
- Social service agencies (cf. 4.5.2.2; cf. 6.9).

Implement robust monitoring mechanisms to:

- Track preventative intervention effectiveness (cf. 4.6.2; 6.8.1).

- Continuously refine strategies (cf. 4.5.1; cf. 4.5.2.5; cf. 5.5.2.2).
- Demonstrate tangible improvements in school climate and learner well-being (cf. 6.8.1; cf. 6.8.2; cf. 6.9.6; cf. 6.9.9).

It is my contention that the expected outcomes of a restorative discipline approach, guided by transformative constitutionalism, would:

- Reduce behavioural incidents (cf. 3.2.1; cf. 4.5.2.1).
- Improve learner emotional resilience (cf. 3.14; cf. 5.2.2.2).
- Enhance learning environments (cf. 2.5.1; cf. 2.7.2).
- Promote holistic learner development.
- Encourage long-term social and academic success (cf. 2.4.3.1; cf. 2.5.1).
- Promote nonviolent and safe schools (cf. 4.5.3.2; cf. 5.2.1.1; cf. 6.8; cf. 6.11).

This preventative approach represents a fundamental shift from punitive to supportive disciplinary models (cf. 4.6.2). By investing in early intervention and comprehensive support, the education system can address the root causes of behavioural challenges, promoting learner growth and institutional effectiveness (cf. 5.2.1.3). Moreover, it is my contention that through careful attention to human dignity, equality, just administration, and the right to education, schools can create disciplinary systems that not only maintain order but actively contribute to the development of democratic citizens (cf. 5.2.1.1). This approach has the potential to transform school discipline from a purely managerial function into a powerful tool for social justice and educational excellence (cf. 4.5.2.2; cf. 6.2).

7.4.2 Recommendation Two: Apply Restorative Practises in Schools

This study recommends that the proposed protocol of restorative discipline be applied in schools as it represents a transformative approach to building positive school cultures and managing behavioural challenges (cf. Chapter 6 and Appendix A). By shifting from punitive discipline to restorative approaches, schools could create environments where relationships are valued, harm is repaired, and learning opportunities emerge from conflict.

However, this approach requires systematic planning, consistent implementation, and commitment from all stakeholders (cf. 6.9). This can be achieved by:

- At the classroom level, restorative practices should begin with proactive community building. Teachers embracing the Restorative Discipline mindset should establish regular circle times where learners can share experiences, build connections, and collectively address concerns (cf. 6.9.4). These daily practices create a foundation of trust and mutual understanding, making it easier to address conflicts when they arise (cf. 5.4.1.1). Using affective statements and restorative questions, teachers help learners understand the impact of their actions while maintaining supportive relationships that foster growth and learning (cf. 2.7; cf. 3.6.1).
- Staff development is crucial for successful implementation. Teachers, administrative and non-administrative staff require comprehensive training in restorative philosophy and practical skills such as circle facilitation, conferencing techniques, and restorative dialogue (cf. 6.9.7). Ongoing coaching and support help staff navigate challenges and maintain fidelity to restorative principles (cf. 4.6.2; cf. 4.7.4). Professional learning communities provide spaces for staff to share experiences, problem-solve together, and refine their practices (cf. 5.5.5.1).
- School-wide systems support restorative approaches through clear policies and procedures (cf. 5.6; cf. 6.7.7; cf. 6.8.1). Dedicated spaces for restorative conferences provide safe environments for addressing conflicts. Learner leadership programmes empower learners as peer mediators and circle keepers, actively contributing to a culture of peace. Regular assemblies and school events incorporate restorative themes, celebrating successes and reinforcing commitment to restorative values (cf. 4.5.2.1).
- Parent/guardians and community engagement strengthen restorative practices through expanded support networks. Schools should organise regular workshops to introduce families to restorative principles and build their capacity to support these approaches at home (cf. 2.3.1.2; cf. 5.2.1.2; cf. 5.2.1.2; cf. 5.4.1.1 cf. 6.9.2). Community partnerships provide additional resources and expertise, creating a comprehensive support system for learners and their families (cf. 6.8.1). Clear

communication channels ensure that all stakeholders understand and contribute to restorative processes (cf. 3.14; cf. 4.6.1.1; cf. 6.8.1).

- Prevention is a key focus of restorative practices, emphasising building strong relationships and addressing potential conflicts early (cf. 4.5.5.4; cf. 2.1; cf. 5.2.2.2; cf. 5.5.2.1; cf. 6.8.1). Regular check-ins, community-building activities, and social-emotional learning help create positive school climates where serious behavioural issues are less likely to occur (cf. 6.8.3). When conflicts do arise, established restorative processes provide clear pathways for resolution while maintaining relationships and dignity.
- Monitoring and evaluation ensure the effectiveness of restorative approaches. Schools should regularly collect data on implementation quality, behavioural outcomes, and stakeholder satisfaction. (cf. 4.6.2; cf. 5.2.1.3) This information guides continuous improvement efforts and helps identify areas needing additional support. Success stories and challenges provide valuable learning opportunities for the whole school community (cf. 4.7; cf. 5.2.2.1)
- Sustainability requires embedding restorative practices in school culture and systems. Clear policies, regular training, and consistent support help maintain momentum even when facing challenges. Leadership commitment ensures that necessary resources and focus remain available for long-term success. Documentation of processes and outcomes helps build institutional memory and support continuous improvement.

Lastly, it is recommended that schools give special consideration to addressing serious behavioural incidents through restorative approaches. While maintaining appropriate accountability, schools can use restorative conferences and circles to address harm, support healing, and rebuild relationships. However, it should be noted that the journey toward becoming a restorative school requires patience, commitment, and systematic effort. Through consistent application of restorative practices at all levels - from daily classroom interactions to serious incident response - schools can create environments where relationships flourish, learning thrives, and conflict becomes an opportunity for growth and community building.

The proposed protocol for restorative discipline represents a critical opportunity to fundamentally reimagine school disciplinary approaches. The Department of Education should seriously consider implementing this protocol because it offers a comprehensive strategy for creating nonviolent educational environments that prioritise healing, understanding, and human dignity.

Schools experiencing persistent challenges with discipline and violence should recognise this protocol as a systematic approach to creating safer, more supportive learning environments. In brief, the implementation focuses on:

- Addressing underlying causes of conflict.
- Promoting dialogue and mutual understanding.
- Supporting both learners who cause harm and those who are harmed.
- Developing critical social-emotional skills.

This approach not only promises to reduce school violence but also cultivates a school culture that respects individual dignity, promotes equity, and provides learners with transformative tools for conflict resolution that extend far beyond the classroom. Therefore, by adopting this protocol, schools can move from reactive punishment to proactive healing, ultimately creating school environments that reflect the highest principles of social justice and constitutional values.

7.5 REFLECTION ON MY STUDY

Throughout my three-year academic journey, I gained valuable insights that shaped both my research and personal development. While the study yielded significant strengths and contributions, I also faced notable challenges. Rather than hindering my progress, these obstacles became opportunities for growth and highlighted promising directions for future research. This experience fostered my development as a scholar and individual, teaching me to learn from both successes and setbacks.

7.5.1 Strengths of the Study

I consider the research topic, namely 'building nonviolent schools: a protocol for the implementation of restorative discipline, guided by transformative constitutionalism,' as a strength. This topic addresses the critical need for systemic change in school disciplinary

practices. The focus on building nonviolent schools through a restorative discipline protocol demonstrates a thoughtful and progressive approach to educational reform. By incorporating transformative constitutionalism as a guiding framework, the research establishes a strong theoretical foundation while maintaining practical applicability.

The solution-oriented nature of this research further enhances its strength. Rather than merely highlighting problems within current school disciplinary systems, it proposes a structured protocol for implementing positive change. This practical approach, combined with the theoretical underpinning of transformative constitutionalism, creates a comprehensive framework for meaningful educational transformation.

Moreover, the research topic's strength lies in its potential for lasting impact (cf. 4.6.2: cf. 5.4.3.1). By focusing on nonviolent schools and restorative discipline, it addresses both immediate behavioural concerns and long-term cultural change within educational institutions (cf. 5.4.3.1). The integration of constitutional principles ensures that the proposed changes align with broader societal values and legal frameworks, making the research both relevant and sustainable.

The combination of practical protocol development, theoretical grounding, and transformative goals positions this research as a valuable contribution to both academic discourse and educational practice. This holistic approach to school discipline reform demonstrates clear potential for creating meaningful change in educational environments (cf. 4.6.2; cf. 5.4.1.1)

7.5.2 Challenges of the Study

A significant challenge lies in the practical implementation of restorative discipline protocols within diverse school environments. Schools vary greatly in their resources, cultural contexts, and existing disciplinary frameworks, making it complex to develop a protocol that can be effectively adapted across different settings. The successful integration of new disciplinary approaches requires substantial buy-in from multiple stakeholders, including administrators, teachers, learners, and parents. Another notable challenge involves overcoming resistance to change within established educational systems. Traditional punitive disciplinary methods are deeply ingrained in many school cultures, and shifting towards restorative practices requires not only procedural changes

but also fundamental transformations in mindsets and beliefs. This cultural shift can be particularly challenging when faced with scepticism from teachers who may be comfortable with existing disciplinary methods.

The theoretical complexity of combining transformative constitutionalism with educational practice presents an additional challenge. Translating constitutional principles into practical, day-to-day disciplinary protocols requires careful consideration and clear articulation of how these abstract concepts can be meaningfully applied in school settings. This translation process must be both academically rigorous and practically applicable.

Resource constraints pose another significant challenge. Implementing new disciplinary protocols often requires additional training, time, and support systems, which many schools may struggle to provide. The sustainability of such programs depends heavily on continued resource allocation and institutional commitment, which can be difficult to secure in resource-limited educational environments.

Measuring and evaluating the effectiveness of the proposed protocols also presents a considerable challenge. Developing appropriate metrics to assess the success of nonviolent and restorative approaches, while accounting for various contextual factors, requires sophisticated research methodologies and long-term observation periods.

7.6 LIMITATIONS AND OPPORTUNITIES FOR FUTURE RESEARCH

The study's limitations primarily stem from its contextual boundaries and methodological constraints. While the research aims to develop a comprehensive protocol for nonviolent schools, its implementation may be limited by the specific educational and cultural context in which it is conducted. This geographical and institutional specificity may affect the broader applicability of findings to diverse school environments. Additionally, the complexity of measuring abstract concepts like transformation and restoration in concrete terms presents a significant methodological challenge.

Time constraints pose another notable limitation, as the full impact of restorative discipline protocols may only become apparent over extended periods. The study's inability to capture comprehensive data from all stakeholder groups might also be restricted, potentially leaving some perspectives underrepresented in the findings. The reliance on

only document and policy analysis methods could introduce bias into the data collection process, affecting the overall validity of the results.

However, these limitations open numerous exciting opportunities for future research. Longitudinal studies could provide valuable insights into the long-term effectiveness and sustainability of restorative discipline protocols. Such extended research could track how transformative practices evolve within school settings and their lasting impact on school culture and student behaviour.

Comparative research presents another promising avenue, examining how these protocols perform across different educational contexts, socio-economic settings, and cultural environments. This could include international comparisons to understand how transformative constitutionalism and restorative practices adapt to various legal and educational frameworks.

Future studies could also focus on specific stakeholder experiences, exploring how different groups within the school community engage with and are affected by these protocols. This could include detailed investigations of teacher adaptation, student response, administrative support, and parental involvement. Additionally, research into policy implications could examine how the proposed protocol (cf. Chapter 6 and cf. Appendix A) influences broader educational reform efforts and their alignment with constitutional principles.

These future research opportunities could significantly contribute to developing more effective and inclusive approaches to school discipline, ultimately advancing the goal of creating truly nonviolent educational environments.

7.7 SCHOLARLY AND PERSONAL GROWTH

My research journey offered significant opportunities for scholarly development through deep engagement with interdisciplinary concepts and methodologies. The process of examining restorative discipline through the lens of transformative constitutionalism enhanced my theoretical understanding and analytical capabilities. The research demanded sophisticated engagement with various academic fields, including educational theory, constitutional law, case law, restorative justice, and behavioural psychology, thereby broadening my scholarly expertise.

The development of implementation protocols required rigorous academic investigation and synthesis of existing literature, strengthening research skills and scholarly writing abilities. Through this process, I gained significant expertise in research methodology, data analysis, and academic argumentation. The challenge of bridging theoretical frameworks with practical applications also enhanced valuable skills in translating complex concepts into actionable strategies.

Moreover, engaging with this research topic contributed to the growing body of knowledge in educational reform and restorative practices. It provided opportunities to participate in academic discourse through conference presentations, publications, and collaborative research initiatives. This engagement with the broader academic community enhanced my scholarly networking and professional development opportunities.

On a personal level, this research journey fostered significant personal development and transformation. Working with concepts of nonviolence and restorative justice naturally encouraged self-reflection and personal value alignment. The process challenged my existing assumptions about discipline, justice, and educational practices, promoting personal philosophical growth.

The research also developed important leadership and advocacy skills as I worked to promote positive change in educational systems. Managing the complexities of protocol implementation and stakeholder engagement built valuable interpersonal and organisational capabilities. The experience of navigating challenges and resistance to change strengthened my resilience and problem-solving abilities.

A fundamental challenge in this research emerged from the absence of formal legal education in my background. The integration of transformative constitutionalism within the educational framework required an intensive self-directed learning journey to comprehend complex legal concepts and terminology. This knowledge gap initially presented a formidable obstacle, demanding countless research hours and determined self-study to achieve a post-graduate level understanding of constitutional principles and legal frameworks. The learning curve was particularly steep as I navigated through unfamiliar legal jargon, constitutional theories, and judicial interpretations. Each legal concept required meticulous study, often involving repeated readings of constitutional cases, academic papers, and legal commentaries to grasp their full meaning and implications.

The process of understanding how transformative constitutionalism intersected with educational reform demanded not just surface-level comprehension, but deep analytical engagement with legal principles.

This challenge, however, transformed into a remarkable journey of academic growth and personal resilience. Over several months, through persistent self-study and dedicated research hours, I gradually built a solid foundation in legal concepts relevant to my research. The process of teaching myself complex legal principles to a post-graduate level demonstrated both the challenges and possibilities of cross-disciplinary research. This experience not only enhanced my academic capabilities but also strengthened my commitment to bridging the gap between legal theory and educational practice.

The intensive self-learning process, while demanding, ultimately enriched my research perspective. It enabled me to uniquely position my study at the intersection of education and constitutional law, despite the initial challenge of not having a formal legal background. This experience underscores the value of persistence and self-directed learning in academic research, particularly when venturing into interdisciplinary territories that require expertise outside of education.

I believe my research journey culminated in a significant contribution to understanding how South African schools can foster nonviolent environments through the implementation of restorative discipline, fundamentally guided by transformative constitutionalism principles. The study's strength lies in its innovative integration of educational reform with constitutional frameworks, presenting a practical protocol while maintaining strong theoretical foundations. This approach addresses a critical need in South African education, offering systematic solutions for building nonviolent school environments through restorative practices.

The research's particular strength emerged from its practical applicability combined with theoretical rigour, providing actionable recommendations for South African schools while grounding these suggestions in robust constitutional principles. The development of a restorative discipline protocol offers concrete guidance for schools seeking to transition from traditional punitive approaches to restorative disciplinary practices. However, the study encountered notable limitations and challenges, particularly in bridging the gap between legal theory and educational practice. A significant personal challenge emerged

from my lack of legal background, necessitating months of intensive self-study to achieve post-graduate level understanding of constitutional concepts and legal terminology. This journey of self-directed learning, while demanding, ultimately enriched the research perspective and demonstrated the possibility of meaningful cross-disciplinary work.

The research process revealed several limitations, including contextual boundaries and methodological constraints, which open avenues for future research. These opportunities include longitudinal studies examining long-term impacts, comparative analyses across different school contexts, and deeper investigations into stakeholder experiences. Future researchers could build upon this foundation to explore how restorative protocols adapt to various South African educational environments and how they align with evolving constitutional interpretations.

This study has contributed significantly to both scholarly and personal growth. Academically, it has enhanced my understanding of interdisciplinary research approaches and strengthened analytical capabilities. The process of developing implementation protocols while navigating complex legal and educational frameworks has built valuable research and practical skills. Personally, the journey has fostered a deeper appreciation for transformative approaches to education and the importance of persistence in academic pursuit.

The investigation's findings and recommendations provide a framework for South African schools to implement restorative discipline practices that align with transformative constitutionalism. This alignment ensured that disciplinary approaches not only address immediate behavioural concerns but also contribute to broader societal transformation, as envisioned in the *South African Constitution*. Through this research, a path forward emerged for schools seeking to create more peaceful, just, and transformative educational environments.

The challenges encountered, particularly in self-teaching legal concepts to a postgraduate level, underscore the dedication required for meaningful interdisciplinary research. These challenges, while significant, ultimately strengthened the research's contribution by bringing fresh perspectives to the intersection of educational and constitutional studies. This journey demonstrates how personal growth, and academic advancement can emerge from confronting and overcoming significant research challenges.

7.8 CONCLUSION

I undertook this study with the intention of exploring the implementation of a restorative approach to learner discipline, guided by transformative constitutionalism, to promote nonviolent schools. My interest was stirred by the positive relationship between school culture and learner disciplinary problems, following the completion of my master's degree in education, *Collective Ownership: How Parents and Schools Can Maintain Discipline within the Existing Education Policy Framework* (Davids, 2017). This notion, alongside my personal research on the role of parents in schools (Jacobs et al. 2020) further prompted me to learn more about restorative justice in South African schools, since research on restorative discipline and the implementation thereof is limited.

In this chapter, I used the analysed document, namely the *Constitution of the Republic of South Africa* (Act 1996), the *South African Schools Act* (1996), the *Universal Declaration of Human Rights* (UDHR) (1948), the *United Nations Convention on the Rights of the Child* (UNCRC) (1989), and the *African Charter on the Rights and Welfare of the Child* (1999), along with the policy analysis of the *Alternatives to Corporal Punishment in Schools* (ATCP) (2000), and the *Protocol to Deal with Incidence of Corporal Punishment* ('Protocol') (2017), to provide the context for education policy.

- Chapter 1 introduced the study's background, the problem statement justifying the research, the key research questions, the research methodology, and the significance of the study.
- In Chapter 2, I explored the current state of learner ill-discipline and conceptualised the issues of learner discipline and the prevalence of school violence in South Africa through a literature review.
- Chapter 3 presented a document analysis of what transformative constitutionalism entails and identified the human rights that promote restorative discipline with respect to nonviolent education initiatives. This chapter concurred that to effectively integrate nonviolence and human rights into education, a careful and systematic approach is necessary.
- Chapter 4 conceptualised restorative justice as an approach to learner discipline. The chapter was designed to determine how the reconceptualising of restorative

justice as an alternative approach to learner discipline can promote safe and nonviolent schools.

- Chapter 5 explored the potential of South African documents and policies to implement restorative discipline guided by transformative constitutionalism in schools to support nonviolent schools.
- Chapter 6 drew on my entire study to draft a proposed protocol for the implementation of restorative discipline guided by transformative constitutionalism to promote nonviolent schools in South Africa. By developing this protocol, the study concluded that such an approach has the potential to promote nonviolent and safe schools.
- Chapter 7 synthesised the preceding chapters, presented the study's findings, and offered recommendations on how South African schools can promote nonviolence through the implementation of restorative discipline, guided by transformative constitutionalism.

Based on my study's findings from the document policy analysis, I proposed two recommendations that complement the proposed protocol to implement restorative discipline to promote nonviolent schools. The first recommendation advocates for the inclusion of constitutional principles in disciplinary approaches. The second recommendation outlines how to apply restorative practices in schools.

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APPENDIX A: PROTOCOL FOR RESTORATIVE DISCIPLINE

1.1 INTRODUCTION

This chapter contains a proposed protocol for the implementation of restorative discipline guided by transformative constitutionalism to promote nonviolent schools. Consequently, all chapters in this study contributed towards the realisation of this aim, to develop a protocol for the implementation of restorative discipline guided by transformative constitutionalism to promote nonviolent schools. The purpose of implementing a protocol for restorative discipline guided by transformative constitutionalism is to promote nonviolent school environments.

Figure 2 represents the proposed protocol which will be discuss from section 1.2 onwards (see Annexure C as well):

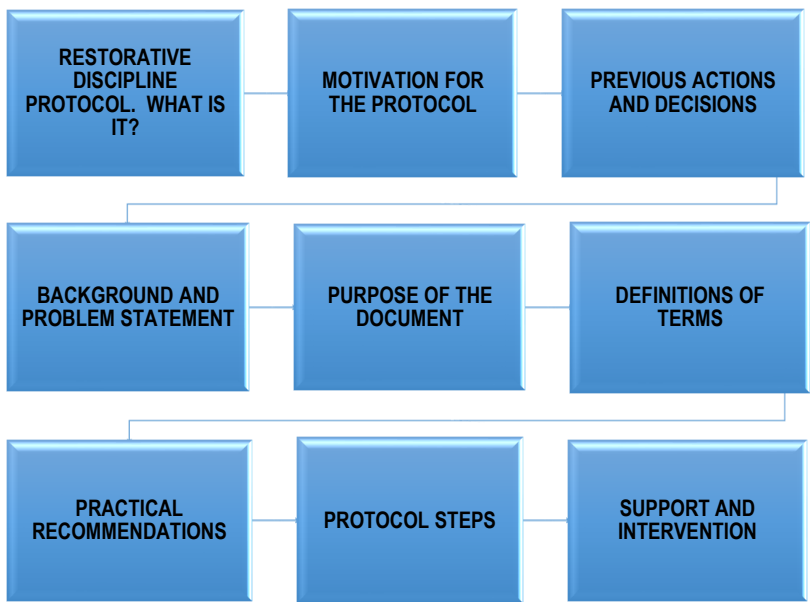


Figure 2: Davids Protocol for restorative discipline in schools (Davids, 2024).

1.2 PROTOCOL FOR RESTORATIVE DISCIPLINE: WHAT IS IT?

A protocol is a detailed, standardised set of procedures that must be followed in a specific sequence to achieve a particular outcome. It provides explicit, step-by-step instructions with little room for interpretation or deviation.

Protocols differ from guidelines in three ways. Firstly, their flexibility level - protocols are rigid and prescriptive, requiring exact compliance, while guidelines offer flexibility and allow professional judgement. Secondly, their detail level - protocols contain specific actions, precise timing, and exact measurements, while guidelines provide **broader principles and general suggestions**. Thirdly, their purpose - protocols ensure exact replication and strict standards for critical procedures, while guidelines offer best practices and support adaptable decision-making.

In schools, both serve distinct purposes: protocols for situations requiring exact replication (like emergency procedures), and guidelines for scenarios needing professional judgement (like classroom management). Understanding this distinction helps teachers choose the appropriate tool for different situations.

The protocol for the implementation of restorative discipline involve several steps and serves as a framework, developed to create a safe, and inclusive environment that prevents and addresses ill-discipline and violence in schools. The protocol is consistent with and supports the *Constitution of South Africa* (RSA, 1996) and must therefore be read together with it.

1.3 MOTIVATION FOR THE PROTOCOL DEVELOPMENT

Research on restorative justice in South Africa remains limited, especially on restorative discipline. This is also true for implementation; therefore, one would want to put measures in place to expand its implementation rapidly. This is especially the case as it relates to how restorative justice might enable a school to shift away from current punitive discipline practices in schools toward a restorative discipline approach that promotes a culture of basic human rights and nonviolence. An additional restorative discipline policy document is necessary despite the abundance of traditional legal and policy frameworks governing school discipline. While existing legal documents address learner rights and due process, restorative approaches require additional considerations around fairness, equity, and

conflict resolution. New policies must outline specific procedures for restorative conferences, mediation processes, and reintegration plans while ensuring compliance with legal requirements and protection of learner rights. Subsequently, while existing documents provide important legal and procedural frameworks, new restorative discipline policies are necessary to bridge the gap between traditional disciplinary approaches and modern, research-based practices that better serve our educational communities.

This protocol has been developed to provide a feasible solution to effectively involve all role-players in a school community to build on and to encourage a change in the current school climate and culture from one based on a punitive disciplinary system to a restorative disciplinary system that ultimately promotes several human rights.

1.4 PREVIOUS ACTIONS AND DECISIONS

In South African schools, discipline has historically been marked by authoritarian and punitive approaches, including corporal punishment, which was banned in 1996 under the *South African Schools Act* (DoE, 1996). This shift necessitated the development of alternative disciplinary measures that align with constitutional values and human rights principles.

Traditional disciplinary practices often relied on exclusionary measures such as suspensions and expulsions, which have been shown to disproportionately affect marginalised learners and contribute to increased dropout rates. These approaches frequently failed to address the root causes of behavioural issues or support learner development.

The Department of Basic Education (DBE) has implemented various initiatives to promote positive discipline in schools, including the development of codes of conduct and disciplinary guidelines. However, implementation challenges persist, with many schools struggling to effectively transition from punitive to more constructive disciplinary approaches.

Recent court decisions have emphasised the importance of considering children's rights in disciplinary matters, highlighting the need for procedural fairness and proportionality in disciplinary actions. Cases such as the Constitutional court's ruling against corporal

punishment have reinforced the commitment to human dignity and children's rights in educational settings.

Provincial Education Departments have undertaken various interventions to support schools in implementing alternatives to corporal punishment, including training programmes on positive discipline and conflict resolution. These efforts reflect a growing recognition of the need for more restorative and rights-based approaches to school discipline.

Despite these developments, research indicates that many schools continue to face challenges in effectively implementing alternative disciplinary measures, highlighting the need for more comprehensive support and resources to facilitate the transition to restorative practices aligned with constitutional principles.

1.5 BACKGROUND AND PROBLEM STATEMENT

The background and problem statement for this protocol is based on the given the high prevalence of violence in South Africa (Baruth and Mokoena, 2016: 95), learners are directly or indirectly exposed to violence across the most important spheres in their lives, namely, home, school, and experiencing politically driven violence in their communities. The prevalence of violence and many forms of violence, such as gang violence, and abusive family relationships, among others, impact the learner's behaviour negatively and is mostly linked to trauma experienced because of exposure to a violent society.

Children who experience trauma because of being exposed to violence, do not have the advantage of a place to connect with others. Schools are supposed to be that safe place; however, a lack of a support system and the current punitive discipline system do not allow learners to connect with teachers and fellow learners. Therefore, if learners get the opportunity to learn alternatives to respond positively to conflict such as restorative practices, the impact of negativity can be addressed. It is the responsibility of schools to respect and protect human rights, thus also through their discipline practices.

1.6 PURPOSE OF THE DOCUMENT

The general purpose of protocols is to ensure standardisation and safety. They maintain consistency, quality control, and predictable processes while minimising errors, protecting

participant wellbeing, and ensuring legal compliance through clear accountability measures.

The purpose of drafting a protocol for restorative discipline guided by transformative constitutionalism is to promote nonviolent school environments. Traditional punitive disciplinary approaches in many schools, such as zero-tolerance policies and exclusionary measures like suspensions and expulsions, have been shown to disproportionately impact marginalised learners. These punitive measures often worsen trauma, disrupt learning, and contribute to the school-to-prison pipeline.

In contrast, a restorative justice framework emphasises repairing harm, restoring relationships, and addressing the root causes of learner misbehaviour. By adopting a restorative mindset and implementing collaborative, trauma-informed disciplinary processes, schools can promote safer school environments. Grounding this restorative approach within the principles of transformative constitutionalism further strengthens the framework. Aligning discipline policies and practices with constitutional tenets of human dignity, equality, and freedom helps dismantle systemic inequities and enshrine the right of all learners to learn in safe, supportive environments.

The overarching purpose of this protocol, therefore, is to promote, nonviolent, and nurturing school climates that prioritise learner wellbeing, build strong relationships, and empower marginalised communities. By shifting away from punitive measures and towards restorative, constitutionally grounded practices, schools can create the conditions for holistic learner success and thriving school communities.

1.7 DEFINITIONS OF TERMS

1.7.1 Learner discipline

Learner discipline is the systematic process of guiding, supporting, and managing learner behaviour to create an orderly, safe, and conducive learning environment. It encompasses both preventive measures and responsive interventions aimed at developing self-discipline, responsibility, and positive conduct among learners.

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encompassing both preventive measures and responsive interventions aimed at developing self-discipline, responsibility, and positive conduct among learners.

1.7.2 Human Rights Education

Human rights education embodies a transformative learning process that cultivates understanding of fundamental human rights and instils values of human dignity, equality, and social justice.

1.7.3 Restorative Justice in Education

Restorative justice in education can be defined as an approach that prioritises repairing harm, fostering empathy, and promoting inclusive dialogue among all affected parties when addressing conflicts and disciplinary issues.

1.7.4 Restorative Circles

Restorative circles are a facilitated dialogue process rooted in indigenous traditions, where individuals affected by conflict or harm come together to share perspectives and work towards resolution. These circles focus on building understanding and healing relationships among participants, with the potential to improve school climate through supporting conflict resolution and community building.

1.7.5 Restorative Conferences

Restorative conferences are like circles but often involving a larger group, most likely including community members, to address more serious conflicts or harm. Moreover, restorative conferences serve as a tool for addressing conflicts and repairing harm which typically involve bringing together those directly impacted by an incident, including victims, offenders, and relevant stakeholders, to discuss the harm caused and collectively determine how to move forward.

1.7.6 Restorative Discipline

Restorative Discipline is a learner behaviour management approach that prioritises repairing harm and rebuilding relationships.

1.7.5 Restorative Practices

Restorative Practices refer to a collaborative and relational approach focused on building, maintaining, and repairing relationships within a community through inclusive processes that promote dialogue, accountability, and healing.

1.7.6 Social Justice

Social justice refers to the fair and equitable distribution of opportunities, resources, privileges, and obligations within society, while ensuring equal access to fundamental human rights and dignity for all individuals. It encompasses the principles of fairness, equality, human dignity, and non-discrimination in addressing systemic inequities and promoting inclusive social transformation.

1.7.7 Transformative Constitutionalism

Transformative constitutionalism refers to the application of constitutional principles and values to adapt to evolving societal needs and drive social transformation. Transformative constitutionalism is a legal-political process that uses the *Constitution* as an instrument to transform society from a past characterised by inequality, injustice, and authoritarianism to a future founded on democratic values, social justice, and fundamental human rights. It combines constitutional interpretation with practical mechanisms to achieve meaningful social change while promoting dignity, equality, and participatory democracy. This definition helps to understand how transformative constitutionalism guides the development of safe schools and restorative justice approaches in education by providing a framework that prioritises dignity, equality, and democratic participation while addressing **historical injustices**.

1.8 PRACTICAL RECOMMENDATIONS FOR IMPLEMENTATION

Restorative discipline guided by transformative constitutionalism offers an approach to promote nonviolent schools and positive learner outcomes. This framework emphasises repairing harm, restoring relationships, and addressing the root causes of learner misbehaviour through collaborative, trauma-informed practices. The protocol recommends the following for implementation:

1.8.1 Preventing Conflict and Misconduct

The meaning of preventing conflict and misconduct such as theft, vandalism, not doing their homework, bullying, etc focus on taking actions before disagreements turn into serious problems. Conflict prevention involves recognising potential problems early and addressing them proactively. Conflict prevention and misconduct can be achieved through six key methods:

- Firstly, early identification of tension signals helps address issues before they worsen.
- Secondly, open and honest communication ensures transparency and understanding among all involved parties.
- Thirdly, creating respectful environments encourages people to voice their concerns freely.
- Fourthly, implementing clear rules and fair processes provides a structured approach to handling disagreements.
- Fifthly, identifying shared interests helps unite diverse groups and builds common ground.
- Lastly, teaching constructive conflict resolution skills equips people to handle disagreements effectively.

The relevance of preventing conflict and misbehaviour as an attribute of restorative discipline lies in its fundamental goal of creating a positive and supportive environment that addresses behavioural issues before they escalate into serious problems. Relationship building is the first key connection, which establishes trust between learners, teachers, and staff. This creates a safe environment where concerns can be freely expressed, and community members develop empathy and understanding for one another. Practical ways to build relations and prevent conflict and learner misbehaviour through restorative discipline can be achieved by:

- **Restorative Circles** with learners where both learners and teachers can share experiences. This creates structured opportunities for everyone to speak and be heard.
- **Collaborative Rule-setting**, is important when involving learners in creating classroom guidelines and discussing the reasons behind the rules, establishing shared ownership of behavioural expectations.
- **Active Listening Practices** teach and model active listening skills, especially when using the “I” statements to express feelings. Teachers could also implement peer mediation programmes.
- **Positive Recognition Systems** acknowledging positive behaviours regularly, by creating opportunities for learners to recognise each other. These systems focus on growth and improvement rather than just rule compliance
- **Preventive Check-ins** when regularly having one-on-one conversations with learners create the opportunity to monitor their emotional well-being that leads to early identification of potential issues.
- **Community Building Activities** may include team-building exercises, cross-grade mentoring programmes, and collaborative projects that foster cooperation.
- **Clear Communication Channels** is essential for maintaining discipline therefore it is necessary to establish multiple ways for learners to voice concerns, through regular feedback sessions, and open-door policies for discussing issues.

These strategies can help create the foundation of trust and understanding necessary for effective restorative discipline.

The second connection focuses on social skills development. Learners gain emotional awareness and self-regulation abilities, while acquiring effective communication and problem-solving tools to recognise and manage potential conflicts. Key strategies for developing social skills as part of restorative discipline include:

- **Social-Emotional Learning (SEL) Instruction**, where teachers can teach emotional vocabulary and recognition, practising identifying and labelling feelings

with the learners. Using role-play scenarios to explore emotional responses with regular mindfulness and self-awareness exercises enhance learners' social skills.

- **Conflict Resolution Training** involves teaching specific steps for conflict resolution, where teachers can practise negotiation skills and teach learners to use "I" messages. As such learners will understand different perspectives in conflicts.
- **Communication Skills Development** with active listening exercises, non-verbal communication awareness, learners are practising respectful disagreement, especially when they take turns in conversations.
- **Peer Mediation Programmes** by training learner mediators establish sound peer support systems. Teachers could create structured mediation protocols, which teaches learners conflict analysis skills.
- **Self-Reflection Activities** is important in preventing conflict and misbehaviour by regular journaling, group discussion of social situations, where learners can analyse their behavioural choices through self-assessment exercises. As such learners set their own personal growth goals.

The abovementioned suggested strategies could help learners develop the essential social skills needed for positive relationships and effective conflict management.

Thirdly, a proactive approach addresses behavioural issues at their root cause rather than merely responding to misconduct. This establishes clear behavioural expectations and implements preventive measures before incidents arise. To implement a proactive approach that addresses root causes and establishes clear behavioural expectations, schools can achieve this by:

- **Adopting a comprehensive, multi-faceted strategy.** This begins with root cause analysis, which involves conducting individual behaviour assessments, identifying triggering factors, and performing detailed environmental and social dynamics evaluations. By understanding the complex interplay between academic performance, family situations, and individual behavioural patterns, teachers can develop more targeted interventions.

- **Establishing Clear Behavioural Expectations** is crucial in this process. This involves creating written guidelines, developing visual reminders throughout the school, and ensuring consistent language and modelling of expected behaviours across all staff members. Age-appropriate explanations and a transparent consequences framework help learners understand and internalise these expectations.
- **Preventive Measures** play a critical role in this approach. Schools can implement regular check-in meetings, develop early warning systems, and utilise behaviour screening tools. Structured daily routines, transition support strategies, and clear communication channels further reinforce positive behavioural development.
- **Support Systems** are essential to this framework. This includes providing counselling services, establishing peer mentoring programmes, strengthening teacher-learner relationships, developing family engagement plans, and offering academic and social skills support. Resource referrals ensure that learners receive comprehensive assistance tailored to their specific needs.
- **Data-Driven Interventions** allow for continuous improvement. By implementing behaviour tracking systems, conducting regular data analysis, and systematically monitoring progress, schools can develop targeted interventions, evaluate outcomes, and adjust strategies to maximise effectiveness.
- Professional development is key to successful implementation. Staff must receive comprehensive training on prevention, behaviour management, de-escalation techniques, cultural competency, and trauma-informed practices. This ensures that all teachers are equipped with the necessary skills to support learners effectively.
- Creating a safe environmental structure supports these efforts. This includes designing organised classroom layouts, creating quiet spaces, developing visual schedules, considering sensory needs, and establishing predictable routines that provide a sense of safety and structure.

By integrating these strategies, schools can create a proactive, supportive environment that addresses behavioural challenges at their root, promotes positive learner

development, and establishes a culture of understanding, support, and continuous improvement.

- **Community involvement** forms the fourth connection, engaging all stakeholders in maintaining a positive school climate. This approach promotes collective responsibility and collaborative problem-solving among community members. Implementing community involvement in restorative discipline requires a holistic and strategic approach that actively engages all stakeholders in creating a supportive educational ecosystem. The foundation of this approach lies in comprehensive stakeholder engagement programmes that establish sound connections between schools, families, and the broader community.
- **Stakeholder Engagement** begins with creating structured platforms such as parent advisory committees, Learner Leadership Councils, and community-school partnerships. These platforms facilitate meaningful dialogue, ensuring that diverse perspectives are heard and integrated into school decision-making processes. Cultural liaison programmes and mentoring initiatives further bridge gaps between different community segments, while strategic collaborations with businesses and NGOs bring additional resources and expertise.
- **Effective Communication** systems are critical to maintaining transparency and fostering ongoing engagement. This involves developing multi-language communication channels, including regular newsletters, digital platforms, parent portals, and social media engagement. These systems ensure that all community members, regardless of linguistic or technological barriers, can access information and provide feedback.
- **Collaborative Events** serve as powerful mechanisms for building community cohesion. Family nights, cultural celebrations, community service projects, and student-led conferences create opportunities for meaningful interactions. These events not only strengthen relationships but also demonstrate the school's commitment to inclusive, participatory education.
- **Support Networks** play a crucial role in providing comprehensive assistance. Parent volunteer programmes, community mentoring initiatives, after-school partnerships, and resource-sharing networks ensure that students receive holistic

support. Translation services and family support groups further enhance accessibility and inclusivity.

- **Professional Development** is essential for staff to effectively implement community involvement strategies. This includes training in cultural competency, such as culturally responsive training, community engagement skills, cross-cultural communication, and restorative practices. Such development ensures that teachers can facilitate meaningful, respectful interactions across diverse community contexts.
- **Decision-making Structures** must be fundamentally collaborative, incorporating shared governance models, community input processes, and joint policy development. Problem-solving committees and implementation workgroups ensure that decision-making is inclusive, transparent, and representative of diverse community needs.
- **Recognition Systems** are vital for sustaining engagement and motivating continued participation and the inherent worth and dignity of every individual. Community achievement awards, partnership celebrations, volunteer appreciation, and success story sharing validate and celebrate community contributions, creating a positive feedback loop of involvement and support.

By integrating these comprehensive strategies, schools can create a dynamic, inclusive community that views education as a collective responsibility. This approach transforms traditional educational models, replacing punitive discipline with collaborative, restorative practices that strengthen social relationships, promote mutual understanding, and support holistic learners. Such a model recognises that effective education extends far beyond classroom walls, requiring active, meaningful engagement from all community stakeholders. The emphasis on learning treats conflict as a growth opportunity. By understanding how actions impact others, learners develop valuable skills for preventing future conflicts, turning challenging situations into learning experiences.

The above can contribute to the cultivation of a culture of care and a sense of belonging by fostering an environment where learners feel safe, valued, and connected to their school. In cultivating a culture of care, conflict prevention creates an atmosphere where empathy and mutual understanding flourish. When learners feel secure in expressing their

needs and concerns without fear of hostility, they are more likely to develop genuine care for one another.

The sense of belonging is enhanced when conflict prevention strategies prioritise inclusive dialogue and active participation. When learners know their voices will be heard and their perspectives respected, they develop a stronger attachment to the group. To enhance sense of belonging through inclusive dialogue and active participation, this can be achieved by:

- **Having Restorative Circles** for example regular morning check-in circles, weekly connection circles, problem-solving circles, celebration circles, and gratitude circles. Features include, talking piece rotation, equal speaking time, non-judgmental listening, shared leadership roles.
- **Learner Voice Forums** may include *inter alia*, class meetings, learner councils, focus groups, suggestion boxes, learner-led initiatives, peer feedback sessions, and leadership opportunities.
- **Inclusive Dialogue Practices** may include, "round robin" sharing, think-pair-share activities, small group discussions, anonymous input options, multi-language support, cultural expression opportunities, and different communication styles.
- **Active Participation Structures** may involve role assignments, classroom responsibilities, leadership projects, peer mentoring, serving on committees, participation in event planning foster decision-making involvement.
- **Trust Building Activities** may involve team-building exercises, partner activities, group challenges, shared goals, collaborative projects, cross-cultural exchanges and identity sharing.
- **Creating Safe Space** may involve group agreements, respect protocols, confidentiality rules, emotional safety guidelines, cultural sensitivity, validating different perspectives.
- **Recognition and Validation** is where teachers acknowledge learners' contributions by celebrating diversity, sharing of success stories, recognise the

different cultures, showing appreciation of the individual and group achievements, and celebrating progress achieved.

In achieving the above-mentioned school should first shift from a punitive to a restorative mindset. They should move away from zero-tolerance policies and exclusionary disciplinary measures like suspensions and expulsions, which disproportionately impact marginalised learners. Instead, schools should adopt a restorative justice philosophy focused on accountability, healing, and community restoration. Schools can develop and implement a policy that promotes a restorative discipline approach and mindset. This can be achieved by:

- **A Policy Development Process**, with diverse committees consisting of staff, learners, and parents do research on restorative practices, drafting clear guidelines aligned with existing policies. Importantly is to create implementation timelines and establish review processes.
- **Drafting Key Policy Components**, with a clear restorative philosophy statement, defining restorative principles, with specific procedures, processes and protocols, rights and responsibilities, behavioural expectations, intervention levels/tiers, and establishing support systems.
- **Compile an Implementation Strategy** with a staff training schedule, resource allocation, communication plan, pilot programme phases, monitoring systems, evaluation methods, and adjustment procedures.
- **Establishing Staff Development Plan** for initial training workshops, ongoing professional development, mentoring systems, practice opportunities, resource materials, support networks, and regular refresher sessions.
- **Drafting a Communication Plan** that includes parent information sessions, learner orientation, community updates, clear policy documentation, regular newsletters updates and on digital platforms.
- **Drafting a Monitoring and Evaluation Plan** that includes data collection systems, progress indicators, regular assessments, feedback mechanisms, success measures, impact analysis, and policy adjustments.

- **Establishing Support Structures** such as restorative coordinators, mentor teachers, learner leadership, parent liaisons, community partners, resource allocation, and professional networks.

In preventing conflict and misbehaviour it is important that all staff should receive training on restorative practices, trauma-informed care, and implicit bias. If schools adopt a restorative justice philosophy focused on accountability, healing, and community restoration, they should adopt a policy on the discipline approach of the school that promotes a restorative mindset.

1.8.2 Repairing Harm

Repairing harm is a restorative process that focuses on addressing and healing damage caused by misconduct or conflict in a constructive way. It involves identifying who was harmed, understanding the nature of the harm, and taking responsibility for one's actions. The process requires active participation from all affected parties to make amends, rebuild damaged relationships, and restore trust within the community.

In the educational context, repairing harm moves beyond traditional punitive approaches by emphasising accountability while maintaining learner dignity. This process teaches valuable conflict resolution skills and helps build stronger school communities through understanding and dialogue. The goal is not punishment, but rather healing relationships, preventing future harm, and supporting positive behavioural change.

Repairing harm is silent in the *Constitution* (RSA, 1996); the *SASA* (DoE, 1996), the *UDHR* (1989), the *UNCRC* (1990), the *African Charter* (1999), the *ATCP* (DoE, 2000), '*Protocol*' (DBE, 2017), hence the necessity for schools to adopt a learner discipline approach aligns with transformative constitutionalism. Schools should then implement restorative discipline practices. This includes utilising circle processes for conflict resolution, problem-solving, and community building. Learners should be empowered to play active roles in addressing harms and repairing relationships. Restorative conferences, mediation, and reintegration plans should also be incorporated. In practices this is done by:

- **Restorative Circle Processes** with structured dialogue formats, equal speaking opportunities, non-hierarchical seating, inclusive participation, emotional safety protocols, etc.
- **Conflict Resolution Strategies** that inter alia include peer mediation programmes, guided dialogue techniques, active listening training, perspective-taking exercises, empathy development, win-win problem-solving, harm acknowledgment processes, etc.
- **Community Building Approaches** through regular community circles, shared goal-setting sessions, collective responsibility practices, relationship repair workshops, trust-building activities, collaborative decision-making, mutual respect cultivation.

- **Learner Empowerment Methods** by providing learner leadership training, conflict resolution roles, establishing peer support networks, creating decision-making opportunities, responsibility assignments, skill development workshops, reflective practice sessions.
- **Harm Repair Processes** include restorative conferences, individual reflection sessions, group accountability meetings, collaborative repair plans, restitution opportunities, emotional reintegration support, reconciliation frameworks, etc.
- **Mediation Techniques** include *inter alia*, neutral facilitator training, structured dialogue protocols, confidentiality guidelines, voluntary participation, interest-based negotiation, emotional regulation strategies, mutually acceptable outcome focus, etc.
- **Reintegration Support** that could include individual support plans; gradual re-engagement strategies, monitoring and follow-up systems; skill-building interventions. Emotional support mechanisms such as success celebration.

This above framework ensures that restorative discipline is not just a punitive measure, but a transformative process that builds community, develops social-emotional skills, and creates opportunities for personal and collective growth.

1.8.3 Rebuilding Relationships

Transitioning a school towards a restorative, nonviolent approach to discipline requires a comprehensive effort to rebuild relationships and align the institution with the transformative ideals of the *Constitution*. This process begins by acknowledging any history of punitive or exclusionary disciplinary practices that may have strained the school's relationships with learners' families, and the broader community.

Through facilitated discussions, the school must make a genuine effort to understand the perspectives and experiences of those impacted by past disciplinary measures. This open acknowledgment of past issues is a crucial first step in rebuilding trust and credibility with the community.

As the school moves away from a punitive model, it must demonstrate a sincere commitment to addressing harms, empowering students, and collaborating with families

and community members in a transparent manner. Establishing clear communication channels and feedback mechanisms allows for ongoing dialogue and the co-creation of restorative discipline policies.

Aligning with the principles of transformative constitutionalism, the school can work with the community to identify shared values around human dignity, equality, and restorative justice. This helps establish a collaborative framework for addressing disciplinary issues, moving away from a one-size-fits-all approach towards a more contextual, relationship-centred model.

Transitioning to a restorative justice model requires the school to co-create with learners, families, and staff new behavioural expectations, accountability measures, and conflict resolution processes that prioritise healing and community restoration. By making relationship-building a central tenet, restorative discipline seeks to repair harm, address root causes, and restore a sense of community - rather than simply meting out punishment. This holistic approach is crucial for creating safe, inclusive, and equitable school environments that foster learner success.

The relevance of rebuilding relationships is what distinguishes restorative discipline from more traditional, punitive models, and aligns it with the broader principles of transformative constitutionalism and social-emotional learning. Rebuilding relationships is silent in the *Constitution* (RSA, 1996); the *SASA* (DoE, 1996), the *UDHR* (1989), the *UNCRC* (1990), the *African Charter* (1999), the *ATCP* (DoE, 2000), *'Protocol'* (DBE, 2017), therefore schools can achieve the rebuilding of relationships by:

- **Creating dedicated spaces** for open dialogue between affected parties, implementing structured conferencing that brings together offenders and those impacted by their actions, having trained facilitators guide constructive conversations to address harm and identify solutions, promoting honest expression of feelings and needs, and developing clear action plans for making amends and restoring trust. The key is establishing consistent processes that prioritise understanding, accountability, and the repair of damaged relationships over punishment alone.
- **Peer Mediation Programmes** can be highly effective, where trained learner mediators help resolve conflicts between their peers. For example, if two learners

have a dispute over social media posts, peer mediators would create a safe space for both learners to express their feelings, understand each other's perspectives, and develop a mutually agreeable solution.

- **Circle Processes** provide structured opportunities for dialogue and healing. A teacher might facilitate a circle after a classroom disruption, where learners sit in a circle and pass a talking piece. Each person shares how the incident affected them and suggests ways to make things right. For instance, if a learner repeatedly interrupted class, the circle would allow classmates to express how this impacted their learning while giving the disruptive learner a chance to understand these effects and commit to specific behavioural changes.
- **Conflict Resolution Conferences** bring together those involved in more serious incidents. For example, if learners were involved in a physical altercation, a trained facilitator would guide a conference where each learner shares their perspective, describes the impact of the incident, and works collaboratively to determine appropriate ways to repair harm - such as writing letters of apology, doing community service together, or creating an anti-violence campaign.
- **Check-in/Check-out Systems** provide daily opportunities for relationship building between learners and designated staff mentors. A learner struggling with behavioural issues might start and end each day with a brief meeting with their mentor to set goals, review progress, and receive positive reinforcement.
- **Collaborative Problem-Solving** involves working with learners to identify and address the root causes of behavioural issues. Rather than simply punishing a chronically tardy learner, a counsellor would meet with them to understand underlying challenges (like transportation difficulties or family responsibilities) and develop practical solutions together.
- **Community Service Projects** can help rebuild relationships on a broader scale. Learners who damaged school property might work with maintenance staff to repair the damage and then initiate a school beautification project, helping them develop respect for the facility and those who maintain it.

- **Skill-Building Workshops** focused on communication, emotional regulation, and conflict resolution give learners practical tools for maintaining healthy relationships. These might include role-playing exercises where learners practice active listening, "I" statements, and peaceful problem-solving strategies.
- **Restorative Contracts** formalise commitments to changed behaviour and relationship repair. After a bullying incident, for example, the involved learners might develop and sign a contract outlining specific actions they will take to make amends and prevent future incidents, with regular check-ins to monitor progress.
- **Parent- Learner -Teacher Conferences** that follow restorative principles help rebuild relationships among all stakeholders. Rather than simply reporting problems, these meetings focus on collaborative problem-solving and creating support systems for learner success.

These approaches are most effective when implemented as part of a comprehensive restorative framework, with proper training for staff and consistent application throughout the school. The goal is to create a culture where relationship repair becomes the natural response to conflict, rather than punishment and exclusion.

Effective relationship rebuilding in school disciplinary contexts requires a comprehensive understanding of stakeholder roles and shared accountability. Each participant in the school ecosystem - including learners, teachers, school management, parents/guardians, and community members - bears distinct yet interconnected responsibilities in creating and maintaining supportive, healing-centred environments. The success of restorative approaches fundamentally depends on clear role definition, mutual commitment, and a collective understanding of accountability beyond traditional punitive frameworks.

1.9 STAKEHOLDERS

Effective relationship rebuilding in school disciplinary contexts requires a comprehensive understanding of stakeholder roles and shared accountability. Each participant in the school ecosystem - including learners, teachers, school management, parents, and community members - bears distinct yet interconnected responsibilities in creating and maintaining supportive, healing-centred environments. The success of restorative

approaches fundamentally depends on clear role definition, mutual commitment, and a collective understanding of accountability beyond traditional punitive frameworks.

Stakeholders and their roles and responsibilities are set below:

1.9.1 Learners

In the context of restorative discipline (RD) and rebuilding relationships in schools, the role of learners is critical and multifaceted. Their responsibilities extend beyond merely following rules to actively participating in conflict resolution, demonstrating empathy, and taking accountability for their actions. This involves developing emotional literacy, practising active listening, engaging genuinely in restorative circles, and committing to personal growth. Learners must be empowered to understand the impact of their behaviours, reflect on underlying causes of conflict, and actively contribute to repairing harm and rebuilding trust within their school community.

- **Active Participation:** Learners are not mere passive recipients of discipline, but rather active participants in the process. RD approaches emphasise the importance of engaging learners in dialogue, problem-solving, and collaborative decision-making around disciplinary issues.
- **Sharing Perspectives:** Learners are empowered to share their perspectives, experiences, and feelings openly. This allows the school community to better understand the root causes of conflicts and misbehaviour from the learner's point of view.
- **Taking Responsibility/Accountability:** Rather than simply being punished, learners in RD are encouraged to take responsibility for their actions, understand the impact on others, and actively participate in making amends and repairing harm. Before meaningful restoration can occur, individuals must first acknowledge their direct role in creating harm and demonstrate a genuine understanding of their actions' impact. Responsibility begins with honest self-reflection and a willingness to be emotionally vulnerable. It requires individuals to move beyond defensive mechanisms of denial or blame, and instead openly recognise the consequences of their behaviour on others and the broader community. The psychological readiness to take responsibility involves several key elements. Firstly, there must

be a clear acknowledgment of the specific behavior that caused harm. Secondly, the individual must demonstrate empathy by understanding the emotional and practical consequences of their actions. Thirdly, they must express genuine remorse and a commitment to preventing similar incidents in the future.

This process is not about punishment, but about personal growth and community healing. By taking responsibility, individuals transform disciplinary interactions from punitive encounters into opportunities for learning, understanding, and meaningful repair. Age and individual developmental stages significantly influence one's capacity to take responsibility. Younger individuals may require more guided support and scaffolding to develop accountability skills, such as:

- **Developing Empathy:** The relational aspect of RD requires learners to develop empathy towards their peers, teachers, and the broader school community. This helps foster a culture of mutual understanding and compassion.
- **Building Conflict Resolution Skills:** Through RD processes, learners could develop conflict resolution, communication, and problem-solving skills that they can apply both in school and in their broader lives.
- **Co-creating Policies:** Learners can be involved in the co-creation of school policies, behavioural expectations, and disciplinary procedures, ensuring that their voices and perspectives are represented.
- **Peer-to-Peer Mentoring:** In some RD models, older or more experienced learners may take on mentorship roles, supporting their younger peers in navigating conflicts and rebuilding relationships.
- **Reintegration and Restoration:** When a learner has caused harm, RD focuses on their reintegration into the school community through restorative practices, such as victim-offender dialogues or community service, rather than simply punitive measures.

By placing learners at the centre of the RD process, schools can empower students, strengthen relationships, and cultivate a sense of shared responsibility and ownership over the school's climate and culture. This aligns with the principles of transformative

constitutionalism and helps create a more equitable, inclusive, and supportive learning environment for all.

1.9.2 Parents/Guardians

In the context of restorative discipline (RD) and rebuilding relationships in schools, the role of parents is crucial. Some keyways that parents/guardians can contribute are:

- **Collaborative Partnerships:** RD requires strong collaborative partnerships between schools and parents/guardians. Parents/guardians should be actively involved in the development and implementation of RD policies and practices.
- **Shared Understanding:** Parents/guardians can work with schools to develop a shared understanding of RD principles, such as the emphasis on addressing root causes, restoring relationships, and developing social-emotional skills. As such parents/guardians could offer valuable insights into their child's background, needs, and triggers, which can help the school tailor RD interventions more effectively.
- **Supporting Accountability:** When their child has caused harm, parents can support the RD process by encouraging their child to take responsibility, make amends, and actively participate in the restoration of relationships.
- **Modelling Restorative Behaviours:** Parents can model restorative behaviours at home, such as conflict resolution, empathy, and open communication, which can reinforce the school's RD approach.
- **Advocating for Restorative Discipline:** Parents can be powerful advocates for the adoption and implementation of RD approaches in their child's school, helping to shift the broader school culture.
- **Participating in Conferences:** Parents should be actively involved in restorative conferences, circles, and other RD processes, where they can share their perspectives and work collaboratively to find solutions. As such parents can then provide feedback, suggest improvements, and help evaluate the overall impact on the school community.

- **Providing Feedback:** Parents can offer ongoing feedback to the school on the effectiveness of the ROAD approach, suggest improvements, and help evaluate the overall impact on the school community.

1.9.3 Principals

Principals stand at the critical intersection of leadership, policy implementation, and cultural transformation in school disciplinary approaches. As primary institutional leaders, they bear the ultimate responsibility for creating environments that embody restorative principles, moving beyond traditional administrative roles to become visionary architects of relational school cultures. Their leadership determines the depth and authenticity of restorative practices, influencing every aspect of school interactions from classroom dynamics to systemic policy development. Keyways that principals can contribute are:

- **Championing the Restorative Discipline Approach:** Principals need to be the driving force behind the adoption and institutionalisation of RD within their schools. They must clearly articulate the vision, values, and benefits of RD to the entire school community.
- **Providing Resources and Support:** Principals are responsible for allocating the necessary resources, including funding, training, and staffing, to ensure the successful implementation of RD practices. This includes ensuring that teachers and staff are equipped with the skills and knowledge to facilitate restorative processes.
- **Modelling Restorative Behaviours:** As the school leaders, principals must model the restorative behaviours and attitudes they expect from their teachers, staff, and learners. This includes demonstrating empathy, conflict resolution, and a focus on rebuilding relationships.
- **Fostering a Collaborative Culture:** Principals play a crucial role in cultivating a school culture that is conducive to RD. This involves promoting open communication, shared decision-making, and a sense of collective responsibility among all stakeholders. Moreover, principals must ensure that the school's disciplinary policies, codes of conduct, and overall operations are aligned with the

principles of RD. This may require revising existing policies and co-creating new ones with the input of the school community.

- **Providing Ongoing Support and Evaluation:** Principals should closely monitor the implementation of RD, gather feedback from stakeholders, and adjust as needed. This includes providing ongoing professional development and support for teachers and staff.
- **Serving as a Bridge to the Community:** Based on principals' key functions is to interact with SGB and the Department of Education, principals can also act as a bridge between the school and the broader community, fostering partnerships and collaborations that support the RD approach and the rebuilding of relationships.
- **Advocating for System-Level Change:** Based on their interaction with SGBs and the Department of Basic Education, principals can also advocate for system-level changes, such as policy reforms and resource allocation, to support the widespread adoption of RD practices within their district or state.

By taking on these multifaceted responsibilities, principals can play a pivotal role in transforming their schools into hubs of restorative justice, where the promotion of dignity and rebuilding of relationships is at the heart of addressing disciplinary issues and supporting learner success. However, when learners do not take accountability - then school must revert to punitive processes such as disciplinary hearing. Consequently, teachers therefore need to work hard on teaching children to take responsibility for their actions so that they can move away from punishment. As teachers can never abandon punishment completely - it will just become the last option and not the first choice. In this regard, punishment will also look differently and reflect dignity and compassion more.

1.9.4 Teachers

In the context of RD and rebuilding relationships in schools, the role of teachers is instrumental. As the primary caregivers and facilitators of learning, teachers have a unique opportunity to implement and champion the RD approach. Some keyways teachers can contribute are:

- **Embracing the RD Mindset:** Teachers must first internalise the principles and values of RD, such as a focus on building relationships, addressing root causes,

repairing harm, and restoring relationships. This mindset shift is crucial for effectively implementing RD in the classroom.

- **Developing Relational Competencies:** Teachers need to cultivate strong relational skills, including active listening, empathy, and conflict resolution. These competencies allow them to build trust and rapport with learners, which is essential for facilitating restorative processes.
- **Implementing Restorative Practices:** Teachers should be equipped with the knowledge and skills to facilitate various RD practices, such as restorative circles, victim-offender dialogues, and collaborative problem-solving. They can use these strategies to address conflicts and misbehaviour in a constructive manner.
- **Integrating RD into the Curriculum** for teachers to incorporate RD principles and activities into their academic lessons and classroom management approaches. This helps reinforce the importance of relationships, responsibility, and community-building.
- **Collaborating with Families;** Teachers should work closely with parents and guardians to build strong partnerships, share information, and align on RD approaches. This collaborative effort enhances the effectiveness of the RD process.
- **Providing Peer-to-Peer Support** where experienced teachers can mentor and support their colleagues in the implementation of RD, sharing best practices and strategies for navigating challenges.
- **Advocating for Systemic Change:** Teachers can be influential advocates for the widespread adoption of RD within their schools, districts, and education systems. Their voices and perspectives can drive policy changes and resource allocation.
- **Modelling Restorative Behaviours.** As role models, teachers can demonstrate restorative behaviours, such as admitting mistakes, seeking forgiveness, and engaging in constructive dialogue, which learners can then emulate.

By embracing their role as RD champions and relationship-builders, teachers can create more equitable, inclusive, and supportive learning environments, where learners feel empowered, accountable, and connected to their school community.

1.9.5 Facilitators

Facilitators in Restorative Discipline can be individuals who are carefully trained members of existing systems who possess specialised skills in guiding constructive dialogue and healing. Facilitators emerge from diverse backgrounds, including teachers, counsellors, school administrators, mental health professionals, and carefully selected community members who undergo comprehensive training in restorative practice principles. Their fundamental role transcends traditional disciplinary approaches, focusing instead on creating safe, respectful spaces where meaningful understanding and repair can occur.

The necessity of facilitators lies in their unique ability to navigate complex emotional landscapes with neutrality, empathy, and strategic communication. They are trained to manage group dynamics, ensure all voices are heard equally, and guide participants toward genuine reflection and accountability without judgement or punitive measures. However, facilitators must demonstrate exceptional interpersonal skills, including deep emotional intelligence, active listening capabilities, and a nuanced understanding of developmental psychology. Their training equips them to establish ground rules, prevent conflict escalation, and help participants explore the underlying causes of harmful behaviours while promoting personal growth and community healing. As such, they create environments where individuals can take responsibility for their actions, understand the impact of their behaviour, and develop strategies for positive change.

Advantages of RD facilitators include the reducing of administrative burden on teachers that allows teachers to focus on core teaching responsibilities. This promotes a proactive rather than reactive approach. Facilitators are responsible for guiding and supporting the various restorative processes that take place within the school community. Schools can transform disciplinary processes from time-consuming, reactive interventions into efficient, constructive learning opportunities that minimise disruption and maximise educational continuity. While teachers deliver curriculum and manage classroom learning, facilitators mediate conflicts and repair relationships, and can help learners develop emotional intelligence and communication skills. However, the goal is not to replace teachers with

facilitators, but to enhance educational interactions through understanding, empathy, and constructive dialogue. Some keyways facilitators can contribute are:

- **Specialised Training and Expertise:** Facilitators should have specialised training and expertise in restorative justice principles, conflict resolution, and group facilitation techniques. This ensures they are equipped to effectively lead RD processes.
- **Neutrality and Impartiality:** Facilitators must maintain a neutral and impartial stance during RD sessions, ensuring that all participants feel heard and respected, regardless of their role or position in the conflict.
- **Fostering dialogue and Understanding:** Facilitators are responsible for creating a safe and inclusive environment where participants can openly share their perspectives, feelings, and experiences. They guide the dialogue in a way that promotes mutual understanding and empathy.
- **Facilitating Accountability and Restoration:** Facilitators help participants take responsibility for their actions, understand the impact of their behaviour, and actively participate in the process of making amends and restoring relationships.
- **Empowering Stakeholders:** Facilitators empower learners, teachers, staff, and families to be active participants in the RD process, ensuring that their voices and needs are prioritised.
- **Collaborating with School Leadership:** Facilitators work closely with school principals, administrators, and teachers to align RD practices with the overall school culture and discipline policies.
- **Providing Ongoing Support and Evaluation:** Facilitators should monitor the effectiveness of RD interventions, gather feedback from participants through restorative dialogue and communication, and adjust as needed to continuously improve the process.
- **Building Capacity Within the School:** Facilitators can train and mentor teachers, staff, and even learners to become RD facilitators themselves, building a sustainable network of conflict resolution champions within the school.

1.9.6 Social Workers/Counsellors/Psychologists

As advocates for the well-being and support of learners, families, and communities, social workers/counsellors/psychologists can make significant contributions to the successful implementation of RD practices. Some keyways social workers can contribute are:

- **Holistic Assessments:** Social workers/counsellors/psychologists can conduct comprehensive assessments and evaluations to identify the underlying social, emotional, and environmental factors that may be contributing to disciplinary issues or relationship breakdowns within the school community.
- **Connecting to Resources:** Social workers/counsellors/psychologists can connect learners and families to relevant community resources, such as mental health services, counselling, or family support programmes, to address the root causes of behavioural challenges and strengthen their capacity for positive change.
- **Facilitating Restorative Processes:** Social workers/counsellors/psychologists, with their expertise in conflict resolution and group facilitation, can take on the role of RD facilitators, guiding participants through restorative circles, victim-offender dialogues, and other RD interventions.
- **Advocating for Learners:** Social workers/counsellors/psychologists can advocate for learners, especially those from marginalised or disadvantaged backgrounds, to ensure their needs are met and their voices are heard within the RD process.
- **Collaborating with Teachers:** Social workers/counsellors/psychologists can work closely with teachers, administrators, and other school staff to share their expertise, provide training, and collaborate on the development and implementation of RD policies and practices.
- **Building School-Community Partnerships:** Social workers/counsellors/psychologists can leverage their connections and relationships within the broader community to foster partnerships that support the RD approach, such as with local mental health providers, youth organisations, or community leaders.

- **Providing Trauma-Informed Support:** Social workers/counsellors/psychologists can bring a trauma-informed lens to the RD process, ensuring that the unique needs and experiences of learners who have faced adversity or trauma are considered.
- **Monitoring and Evaluation:** Social workers/counsellors/psychologists can contribute to the ongoing monitoring and evaluation of RD interventions, gathering data, analysing outcomes, and providing recommendations for continuous improvement.

1.9.7 Administrative and Non-Administrative Staff

The role of administrative, such as secretaries, and financial clerks, and non-administrative staff, such as gardeners, security, tuckshop workers, sports coaches, and school resource officers make significant contributions to the successful implementation of RD practices by:

- **Relationship Building:** Administrative and non-administrative staff often have frequent, informal interactions with learners throughout the day. They can leverage these interactions to build positive, trusting relationships, which can help foster a sense of community and belonging (cf. 5.5.2.1).
- **Early Intervention:** Administrative and non-administrative staff may be among the first to witness or become aware of emerging disciplinary issues or interpersonal conflicts. They can play a role in early intervention, either by directly addressing the situation or referring it to RD facilitators or administrators.
- **Modelling Restorative Behaviours:** Administrative and non-administrative staff can model restorative behaviours, such as active listening, empathy, and conflict resolution, which can inspire and influence learners' own behaviours and attitudes.
- **Providing Supportive Presence:** During restorative circles, conferences, or other RD processes, the presence of administrative and non-administrative staff can provide a sense of safety, support, and community for the participants.
- **Sharing Insights:** Administrative and non-administrative staff often have unique perspectives and insights into the daily lives and experiences of learners. They

can share this valuable information with teachers, administrators, and RD facilitators to inform a more holistic understanding of the school community.

- **Participating in Training:** Administrative and non-administrative staff should be included in RD-related training and professional development opportunities, ensuring they have the knowledge and skills to contribute effectively to the RD approach.
- **Advocating for Systemic Change:** Administrative and non-administrative staff can be powerful advocates for the adoption and institutionalisation of RD practices within the school, leveraging their proximity to learners and their unique vantage.
- **Fostering a Sense of Belonging:** By actively engaging in RD processes and contributing to the rebuilding of relationships, administrative and non-administrative staff can help create a more inclusive, welcoming, and supportive school environment for all learners.

1.9.8 School Governing Bodies

School Governing Bodies (SGBs) play a pivotal role in establishing and sustaining Restorative Discipline as a transformative approach to behavioural management and conflict resolution within educational institutions. Their fundamental responsibility extends beyond traditional administrative oversight, requiring a comprehensive commitment to reimagining disciplinary processes through a lens of empathy, accountability, and communal healing.

Their mandate is the development of clear policies that articulate the principles, procedures, and ethical foundations of Restorative Discipline. These policies must provide a structured framework that guides implementation, ensures legal compliance, and creates a blueprint for meaningful intervention that prioritises understanding over punishment. Furthermore, strategic leadership becomes crucial as SGBs allocate resources and create infrastructure to support this paradigm shift. They must invest in professional development for teachers, facilitators, and support staff, ensuring that the entire school ecosystem understands and can effectively implement restorative practices.

Through these multifaceted responsibilities, SGBs become architects of schools that prioritise human dignity, collective well-being, and the development of emotionally intelligent, socially responsible individuals.

1.9.9 Department of Basic Education and District Offices

The Department of Basic Education (DBE) are responsible for developing overarching policies that provide strategic direction, ensuring consistency and quality in approach while allowing flexibility for local contexts, in establishing comprehensive frameworks that guide the implementation of Restorative Discipline across educational systems can be achieved by:

- **Legislative and Regulatory Frameworks:** The DBE and District offices must create clear legislative guidelines that legitimise Restorative Discipline as a viable and valuable approach to behavioural management. This involves drafting official documentation that outlines the legal standing, procedural requirements, and core principles of restorative practices within educational settings.
- **Capacity Building and Training:** A critical responsibility involves designing and implementing comprehensive training programmes for teachers, administrators, and support staff. This includes developing standardised training modules, creating certification processes, and establishing ongoing professional development opportunities that build deep understanding of restorative principles.
- **Resource Allocation and Support:** To establish a disciplined and purposed school environment (SASA, 1996: s 8(2)) it is important to strategically allocate financial and human resources to support the implementation of Restorative Discipline. This includes funding for training, developing support materials, providing ongoing consultancy, and creating infrastructure that enables effective implementation across different school environments.
- **Monitoring and Quality Assurance:** Developing evaluation mechanisms becomes essential. This involves creating standardised assessment tools, collecting comprehensive data, analysing intervention outcomes, and providing feedback mechanisms that support continuous improvement of restorative practices across educational institutions.

- **Research and Development:** The DBE should invest in ongoing research of best restorative practices to understand the long-term impacts of Restorative Discipline. This includes supporting academic studies, collecting longitudinal data, and developing evidence-based approaches that refine and improve restorative practices.
- **Equity and Inclusion:** Ensuring that Restorative Discipline is implemented with a strong focus on equity becomes a fundamental responsibility. This involves addressing systemic inequalities, providing additional support for marginalised communities, and ensuring that restorative approaches are culturally sensitive and inclusive.
- **Stakeholder Engagement:** To succeed in establishing nonviolent and safe schools it is crucial for the DBE and District Offices to build sound relationships with other stakeholders. Hence the importance of creating comprehensive communication strategies that involve parents, community members, teachers, and learners. By developing platforms for dialogue, feedback, and collaborative development of restorative practices, the department will foster sound stakeholder engagement.
- **Institutional Culture Transformation:** Beyond practical implementation, the DBE and District Offices must champion a philosophical shift that views discipline as an opportunity for learning, growth, and community building. This involves promoting a culture of empathy, accountability, and mutual understanding across the entire educational ecosystem.

By embracing these comprehensive responsibilities, the DBE and District Offices become critical change agents, transforming disciplinary approaches from punitive models to constructive, healing-centred practices that support holistic learner development.

1.10 ASSOCIATED DOCUMENTS

Constitution of South Africa ,1996

Universal Declaration of Human Rights (UDHR), 1948

United Nations Convention on the Rights of the Child (UNCRC) 1989

African Charter on the Rights and Welfare of the Child, 1999

South African Schools Act, 1996

Alternatives To Corporal Punishment: The Learning Experience, 2000

Protocol to Deal with Incidents of Corporal Punishment, 2017

1.11 PROTOCOL STEPS

Restorative discipline protocols are inherently flexible, adaptive frameworks designed to respond to the unique complexities of human interactions and conflicts. Unlike traditional linear disciplinary processes, these protocols operate as dynamic, interconnected systems that prioritise relationship repair and meaningful understanding over rigid, prescriptive procedures.

The protocol steps interact more like an ecological system than a mechanical process. Each step - such as preparation, understanding harm, exploring impacts, and developing repair strategies - can inform and influence others simultaneously. This means participants might be exploring harm while simultaneously developing potential repair strategies or reflecting on impacts while preparing for deeper dialogue.

The protocol's structure adapts to specific conflict characteristics, participant emotional states, complexity of relationships involved, school or community context, and individual developmental needs. Therefore, steps can be revisited, re-examined, reinterpreted, refined, and expanded as understanding deepens. The steps are flexible with no mandatory sequential progression, interconnected, not hierarchical, it is participant-driven, and context sensitive. Subsequent the gradual implementation of restorative discipline guided by transformative constitutionalism to promote nonviolent schools has an element approach:

Step 1: Introduce Restorative Language and Informal Practices

The implementation process begins with reconceptualising discipline through a constitutional lens. This means viewing behavioural issues not as violations of rules requiring punishment, but as breaches in community relationships and the violation of other's rights requiring restoration. Schools should establish structures that support this

approach by providing staff training in restorative practices, creating safe spaces for dialogue, and developing clear protocols that ensure fair and equal treatment of all learners. These foundational elements ensure that the implementation aligns with constitutional values of dignity, equality, and participatory democracy.

Common Language Development: Train all staff in using consistent restorative language that focuses on relationships and repair rather than punishment. Key phrases include "What happened?", "Who was affected?", "How can we make things right?" What can you learn from this and do differently in future?. This shared vocabulary helps create a unified approach to addressing behaviour and conflicts.

Informal Conversation Practices: Teach staff to use effective statements that express feelings and impacts in daily interactions. For example, "I feel frustrated when..." or "It helps me when..." These informal exchanges build emotional awareness and strengthen relationships throughout the school day.

- **Hallway Interventions:** Guide staff in using brief restorative conversations to address minor incidents in hallways and common areas. These quick interventions help learners reflect on their actions and consider their impact on others without escalating situations.
- **Classroom Management Shifts:** Support teachers in replacing traditional disciplinary language with restorative questions and statements. Instead of "Go to the office," use "Let's talk about what's happening and how we can fix it." This shift maintains learner dignity while addressing behavioural issues.
- **Staff Modelling:** Encourage administrators, non-administrative, and staff to model restorative language in their interactions with each other and learners. This includes using respectful tones, active listening, and collaborative problem-solving approaches in all school situations.
- **Professional Development Focus:** Provide ongoing training in restorative language through staff meetings, coaching sessions, and peer learning groups. Include practice scenarios and role-playing to build staff confidence in using restorative approaches.

- **Visual Reminders:** Post key restorative questions and phrases throughout the school as reminders for staff and learners. Create posters, bulletin boards, and classroom displays that reinforce restorative language and practices.
- **Communication Guidelines:** Develop written guidelines for using restorative language in school communications, including emails, newsletters, and announcements. Ensure consistency in messaging across all school platforms.
- **Learner Leadership Development:** Train learner leaders in restorative language and practices so they can model these approaches for peers. Include a learner voice in developing and promoting restorative language throughout the school.
- **Parent Education:** Share information with families about restorative language and practices through workshops, newsletters, and school events. Help parents understand and support this approach at home.
- **Progress Tracking:** Monitor the adoption of restorative language through classroom observations, staff feedback, and learner responses. Use this information to adjust training and support as needed.

Step 2: Implement Restorative Circles in Classrooms

At the preventive level, schools implement community-building circles and regular dialogues that strengthen relationships before conflicts arise. When incidents occur, structured restorative conferences bring together affected parties to understand harm, express needs, and collectively develop solutions. Throughout this process, constitutional principles guide implementation: ensuring equal voice for all participants, protecting dignity in dialogue, and maintaining inclusive practices that accommodate diverse needs and backgrounds.

Restorative practices encompass a diverse range of circle approaches, each designed with distinct purposes and methodological nuances that serve different interpersonal and community needs. These approaches, while sharing fundamental principles of dialogue and mutual understanding, vary significantly in their intent, structure, and implementation. Circles that can be used are:

- **Community Building Circles** represent a proactive, preventative approach fundamentally focused on establishing positive group dynamics and strengthening interpersonal relationships before conflicts emerge. These circles create safe spaces where participants can openly share experiences, develop shared values, and build trust through structured, supportive dialogue, typically occurring in stable environments like classrooms, workplace teams, or community groups.
- **Problem-Solving Circles**, in contrast, are reactive interventions specifically designed to address immediate behavioural challenges or interpersonal conflicts. These circles bring together direct stakeholders to collaboratively understand root causes, explore perspectives, and develop mutually agreeable solutions. Unlike community-building circles, they have clear objectives, targeted outcomes, and a more focused approach to resolving specific issues.
- **Healing Circles** offer a profound space for emotional recovery, particularly after traumatic experiences, providing participants an opportunity to express vulnerability, process difficult emotions, and support collective healing. These circles emphasise emotional safety, compassionate listening, and creating supportive environments that acknowledge individual and collective pain.
- **Reintegration Circles** serve a unique function in supporting individuals returning from suspension or exclusion, focusing on rebuilding trust, addressing potential barriers, and preparing for successful community reintegration. These circles involve carefully structured conversations that help restore relationships and create pathways for positive future interactions.
- **Conflict Resolution Conferences:** Conflict resolution conferences represent a more formal approach, involving a broader range of stakeholders and requiring more extensive preparation. These conferences follow structured dialogue processes designed to address complex conflicts, ensuring comprehensive understanding and collaborative problem-solving across multiple perspectives.
- **Peace-making Circles:** Peace-making circles are deeply rooted in indigenous practices, offer a holistic approach that transcends mere conflict resolution. These circles emphasise spiritual and emotional dimensions, viewing conflict as an

opportunity for comprehensive community healing and transformation, integrating cultural wisdom and collective responsibility.

- Each circle approach shares a fundamental commitment to restorative principles: creating spaces of mutual respect, encouraging authentic dialogue, prioritising understanding over punishment, and recognising the interconnected nature of human relationships.
- **Initial Selection Process:** The Initial Selection Process is not about limitation, but strategic implementation, allows for careful, controlled organisational learning, prevents systemic overwhelm, creates internal change champions, develops institutional capacity incrementally, and provides opportunity for evidence-based refinement. The initial selection process is handled by School Management Teams (SMT), with District Restorative Practice Coordinators in consultation with teachers, SGBs and Department of Education representatives.

While comprehensive school-wide adoption is possible, it requires a carefully orchestrated approach that balances ambition with practical, incremental development. A phased implementation strategy emerges as the most effective approach, allowing the school to develop capacity systematically and organically. The initial phase focuses on strategic classroom selection, deliberately choosing environments most conducive to initial implementation based on critical criteria such as teacher readiness, learner needs, and administrative support.

By selecting classrooms where teachers demonstrate volunteerism, openness to innovative approaches, and existing relational skills, the school creates initial implementation sites that can serve as internal change laboratories. These carefully chosen classrooms become proof points, developing internal expertise and creating narratives of success that can inspire and inform broader institutional adoption.

Typically, this approach involves selecting 20-30% of teaching staff, ensuring diverse representation across grade levels, subject areas, and classroom dynamics. This strategic selection allows for controlled organisational learning, minimises systemic resistance, and provides opportunities for evidence-based refinement of restorative practice implementation.

- **Teacher Preparation:** Provide comprehensive training for selected teachers in circle facilitation skills. This includes understanding circle protocols, developing question sequences, and managing group dynamics. Teachers need practice time and ongoing coaching to build confidence in leading circles effectively.
- **Circle Structure Development:** Establish consistent routines for circles including regular meeting times, physical arrangement, and basic guidelines. Begin with community-building circles to develop trust before addressing more challenging topics. Create clear opening and closing rituals that help learners transition into and out of circle time.
- **Learner Introduction:** Orient learners to circle practice through explicit teaching of circle values and procedures. Help learners understand the purpose of circles and their role in building classroom communities. Start with simple sharing topics and gradually progress to more complex discussions.
- **Physical Setup Requirements:** Arrange classroom furniture to accommodate circle formation, typically with chairs in a perfect circle without barriers. Include a designated centre space for meaningful objects or talking pieces. Ensure adequate space for all participants to see each other clearly.
- **Types of Circles to Implement:** Check-in circles to start with daily or weekly community-building circles to establish relationships. Gradually introduce academic circles for content discussion, problem-solving circles for addressing classroom issues, and celebration circles to acknowledge achievements.
- **Documentation Method:** Create simple systems for recording circle topics, participation patterns, and outcomes. Track both successes and challenges to inform future implementation. Document learner growth in circle participation and relationship skills.
- **Support Systems:** Establish mentoring relationships between experienced and new circle facilitators. Provide regular opportunities for teachers to share experiences and problem-solve challenges. Ensure administrative support for addressing issues that arise during circles.

- **Parent Communication:** Keep parents informed about circle implementation through clear communication about purposes and practices. Consider inviting parents to observe or participate in appropriate circles. Share stories of positive circle impacts with families.
- **Progress Monitoring:** Regularly assess the effectiveness of circles through learner feedback, teacher observations, and classroom climate indicators. Use this information to adjust implementation strategies and support teacher development.
- **Expansion Planning:** Based on initial successes, develop plans for expanding to additional classrooms. Create peer mentoring systems where successful implementers support new teachers in adopting circles. Share positive outcomes to build broader support.

Step 3: Restorative Conferences for Conflict

Restorative conferences serve as structured dialogues that bring together those involved in and affected by school conflicts. For interpersonal conflicts between learners, such as bullying incidents or physical altercations, conferences allow both parties to share their perspectives and work toward healing relationships. When conflicts arise between learners and teachers, conferences can address patterns of classroom disruption or communication breakdowns while preserving dignity and respect.

The conference process begins with careful preparation through individual meetings with all parties to assess their willingness to participate and identify appropriate support persons. During the actual conference, a trained neutral facilitator guides participants through sharing perspectives, acknowledging impacts, and collaboratively developing solutions. This process must remain voluntary, with all parties freely choosing to participate and having the right to withdraw.

Safety considerations are paramount, requiring protocols for both physical and emotional wellbeing. Facilitators must be skilled in managing power imbalances and using trauma-informed approaches. The process should include appropriate representation from affected community members, support persons, relevant school staff, and cultural mediators when needed.

Successful implementation requires clear referral criteria, adequate staff training, and proper resource allocation. Schools should document conference agreements, follow-up plans, and track outcomes to ensure quality and effectiveness. Regular evaluation through participant feedback and facilitator supervision helps maintain program integrity. The process must align with constitutional values of human dignity, equality, and democracy. This means ensuring respectful dialogue, fair access to the process, and participatory decision-making. Schools should integrate restorative conferences within their broader discipline policies while meeting district guidelines and legal requirements.

For sustainable implementation, schools need ongoing facilitator training, regular program evaluation, and consistent community engagement. When properly implemented, restorative conferences can lead to immediate conflict resolution and long-term improvements in school climate and relationships.

Step 4: Fully Integrate Restorative Practices into School Life

Integration is not an isolated phase but a continuous, dynamic process of organisational learning and cultural shift that begins with initial pilot implementation and evolves through sustained commitment and strategic adaptation. It is thus not a single post-pilot event, but should begin simultaneously with pilot implementation, it involves gradual, strategic embedding of practices, and ongoing organisational learning, and it develops alongside initial pilot experiences

Below is a structured explanation of how to fully integrate restorative practices into all aspects of school life after the pilot phase:

- **Classroom Integration:** Daily classroom practices should embody restorative principles through morning circles that build community, regular check-ins that monitor emotional wellbeing, and collaborative problem-solving sessions when issues arise. Teachers can integrate restorative language into their instruction, emphasising mutual respect, accountability, and relationship repair. Academic content can incorporate themes of justice, reconciliation, and community building.
- **School Leadership Approach:** School Management Teams must model restorative principles in their leadership style by maintaining open dialogue with staff, learners, and families. This includes using restorative approaches in staff

meetings, professional development sessions, and parent communications. Decision-making processes should be inclusive and consider the impact on all community members.

- **Learner Support Services:** Social workers/counsellors/psychologists, and other support staff should align their practices with restorative principles. This means focusing on relationship building, emotional literacy, and conflict resolution skills. Support services should emphasise prevention and early intervention rather than purely reactive approaches to behavioural issues.
- **Extracurricular Activities:** Sports teams, clubs, and other activities should incorporate restorative practices through team-building exercises, conflict resolution protocols, and leadership development. These settings provide natural opportunities for learners to practise relationship skills and community responsibility.
- **School Policy Framework:** Discipline policies need complete revision to prioritise restoration over punishment. This includes creating clear protocols for when and how to use restorative practices, establishing guidelines for documentation, and developing evaluation metrics that align with restorative values.
- **Professional Development:** Schools should actively involve families and community members in restorative practices through workshops, participation in circles, and shared decision-making. This creates a consistent approach between home and school while building broader community support. Furthermore, the school's physical space should support restorative practices with dedicated areas for circles, quiet spaces for reflection, and visible reminders of restorative principles. Classroom arrangements should facilitate dialogue and community building.
- **School Culture Development:** A restorative school culture emphasises relationships, responsibility, and repair. This culture is built through consistent messaging, celebrated success stories, and regular community-building activities that reinforce restorative values.

- **Assessment and Accountability:** Success requires dedicated resources including staff time, physical space, materials, and ongoing professional development. Schools must prioritise these resources in budgeting and planning processes. Clear communication channels help maintain consistency in restorative approaches. This includes protocols for sharing information, documenting interventions, and coordinating responses across different school settings.

Success in this approach requires sustained commitment to transformative goals. Schools must regularly assess whether their practices promote genuine healing and community building, rather than merely providing an alternative form of punishment. This involves monitoring both quantitative metrics (reduced violence incidents, decreased suspensions) and qualitative outcomes (improved school climate, stronger relationships). Through consistent application of these principles, schools can create environments where nonviolence becomes the norm, fulfilling the transformative vision of both restorative practice and constitutional values.

1.12 SUPPORT AND INTERVENTION

The implementation of restorative discipline requires comprehensive support systems and targeted interventions at multiple levels to ensure effective transformation of school disciplinary practices.

The Department of Education plays a pivotal role in transforming educational support through a nuanced approach to implementing Restorative Practices, with a particular focus on supporting Quintile 1-3 schools facing significant resource constraints. By developing targeted funding mechanisms, creating specific budget allocations, and designing comprehensive financial support packages, the Department can transform resource limitations into opportunities for innovative, context-responsive implementation.

Training and capacity building emerge as critical components of this support strategy. The Department of Education develops centralised, accessible training programmes that leverage online learning platforms, provide free or subsidised training modules, and implement sophisticated train-the-trainer models. Furthermore, when the Department partnering with NGOs, they leverage diverse funding sources and create multi-stakeholder support networks. Technological and human resources are strategically integrated, providing schools with both the tools and the capacity to implement Restorative Practices

effectively. This involves developing blended learning approaches, creating cost-effective implementation models, and building sustainable capacity-building ecosystems.

- **Individual Support Plans:** Individual support plans must be developed for learners exhibiting challenging behaviours, incorporating input from teachers, counsellors, parents, and the learners themselves. These plans should outline specific strategies, support services, and progress monitoring mechanisms to help learners develop positive behavioural skills and address any underlying social, emotional, or academic challenges.
- **School-Based Support Teams:** School-based support teams play a crucial role in coordinating interventions and ensuring a holistic approach to learner support. These teams should include teachers, school counsellors, social workers, and other relevant professionals who can provide specialised services and interventions based on individual learner needs. Regular team meetings enable monitoring of learner progress and adjustment of intervention strategies as needed.
- **Parent and Community Partnerships:** Schools should actively engage parents in the disciplinary process, providing them with resources and guidance to reinforce positive behaviours at home. Community organisations can offer additional support services, mentoring programmes, and intervention resources to complement school-based efforts. For example, schools can build networks with professionals in the community - especially schools that cannot afford in-house support.
- **Professional Development:** Teachers must focus on building capacity for implementing restorative practices and understanding diverse learners' needs. Training should cover topics such as trauma-informed practices, cultural competency, conflict resolution, and effective communication strategies to support positive learner behaviour.
- **Regular Monitoring and Evaluation:** Support interventions help ensure their effectiveness and allows for timely adjustments. Schools should maintain detailed records of interventions, track learner progress, and analyse data to identify

patterns and areas requiring additional support or modification of existing strategies.

1.13 CONCLUDING REMARKS

Restorative Discipline represents a profound paradigm shift in educational conflict management, moving beyond punitive approaches to embrace a holistic, relationship-centred model of behavioural intervention and community building.

This approach recognises that disciplinary challenges are not isolated incidents, but opportunities for learning, growth, and deeper understanding. By prioritising empathy, accountability, and collective healing, Restorative Discipline transforms traditional disciplinary processes into meaningful experiences of personal and communal development. The successful implementation requires a comprehensive, systemic approach involving multiple stakeholders. School Governing Bodies, the Department of Education, district offices, facilitators, and teachers must collaborate to create an ecosystem that supports this transformative approach. This involves developing comprehensive policy frameworks; providing comprehensive training; allocating strategic resources, creating flexible, adaptive implementation strategies, and maintaining a commitment to continuous learning and improvement.

APPENDIX B: FRAMEWORK FOR ANALYSIS

LEARNER DISCIPLINE		
DISCIPLINE		
1.SAFE SCHOOL ENVIRONMENT	REFERENCES	COMMENTS
Is there evidence in the text for a safe school?	cf. 1.1; cf. 2.3.1; cf. 2. 4.2; cf. 2.9; cf. 4.5.4; cf. 4.6.2	A structure and supportive environment. Positive interpersonal relationships. Shared beliefs, values, and traditions. Effective leadership practices. Free of crime and violence.
Is there evidence in the text of values and culture?	cf. 2.4; cf. 2.4.1; cf. 2.4; cf. 2.4.3; cf. 3.6.2; cf. 3.11; cf. 4.5.4; cf. 4.5.5: 4.7.2.	Disruptive behaviour Violent behaviour Effects on learners; teachers; and parents/guardians
What is the evidence of protection?	cf. 2.3.1.4; cf. 2.5.1; cf. 3.6.1; cf.3.7.3; cf. 4.6.2; cf. 5.2.2.1	Social factors: Protection from harmful social practices, such as violence, abuse, and neglect. Cultural factors: Protection from harmful cultural practices. Political factors: Freedom of thought, conscience, and religion, opinion and expression; right to peaceful assembly and association; and to participate in government.
2.RESTORATIVE APPROACH		
Is there evidence in the text of restorative approaches (in terms of the <i>Constitution</i> and international legal framework: <i>UDHR</i> and <i>UNCRC</i>)	cf. 3.6.4; cf. 4.5.3; cf. 4.6.1; cf. 4.7.5; cf. 5.2.2.1	Restorative justice should thus be a national priority and not only for a school. The South African education systems moved in the direction of restorative and rehabilitative approaches is informed by international human rights treaties and conventions, such as the <i>UDHR</i> , <i>UNCRC</i> , <i>African Charter</i> . This alignment with international norms and standards is a key aspect of the transformative constitutionalism guiding the education system.
Is dignity acknowledged in the text?	Throughout chapters 1- 6	The <i>South African Constitution</i> and its principles of human dignity, equality, and human rights form the foundational

		framework for the transformation of the education system. Subsequent education policies and laws, such as the <i>South African Schools Act</i> , have sought to align the education system with these constitutional values.
CONSTITUTIONALISM		
1. TRANSFORMATIVE CONSTITUTIONALISM		
Is transformative constitutionalism referred to in the text?	cf. chapter 3; cf. 4.5.4; cf. chapter 5	The development and implementation of education policies and codes of conduct involve the collaborative efforts of various stakeholders, including School Governing Bodies, teachers, learners, parents, and the wider community. This participatory approach reflects the principles of democratic governance central to transformative constitutionalism.
What is the meaning of transformative in the text?	cf. 3.5; cf. 3.6.1 cf. 3.6.2; cf. 3.6.3; cf. 3.6.4	Multifaceted concept: Transformative constitutionalism as a process. Transformative constitutionalism as a goal. Transformative constitutionalism as a tool. Transformative constitutionalism as an approach.
HUMAN RIGHTS		
Are human rights acknowledged in the text?	cf. 2.5.3; cf. 3.3.2.1; cf. 3.4.2; cf. 3.8	Promoting human rights via transformative constitutionalism. Human rights find expression in international and domestic legal instruments, such as the Universal Declaration of Human Rights (<i>UDHR</i> , 1948).
Does the text refer to specific human rights?	cf. 3.9; cf. 3.12; cf. 4.2	Human dignity, Substantive equality Social justice
NONVIOLENT PRACTICES		
Are there references to nonviolent practices?	cf. 3.12.2; cf. 5.4.3; cf. 5.5.2	Focus on respect for human dignity; dialogue, cultivating empathy and understanding. Requires active citizenship through global awareness and solidarity.
Do the texts acknowledge and/or refer to nonviolent practices	cf. 3.13; cf. 3.15; cf. chapter 4; cf. 5.2.2; cf. 5.2.1.1	Section 29 of the <i>Constitution</i> delineates crucial rights regarding education. This section guarantees the right to education, which includes the right to a safe, nonviolent learning environment. Moreover, section 9 guarantees the

		right to equality, prohibiting unfair discrimination and promoting transformative constitutionalism and nonviolent approaches in schools.
RESTORATIVE JUSTICE		
1.RESTORATIVE JUSTICE		
What does restorative justice entails?	cf. 4.3.1; cf. 5.5.2. 1. cf. 5.5.2.3	Restorative justice in education is an approach that prioritises repairing harm, fostering empathy, and promoting inclusive dialogue among all affected parties when addressing conflicts and disciplinary issues
Does the text encourage restorative justice?	cf. 4.5.5; cf. 5.4.1.3; cf. 5.4.2.3; cf. 5.4.3.3	Restorative justice shifts the focus from punitive measures to collaborative processes that involve all stakeholders—victims, offenders, and the community. By encouraging dialogue and understanding, restorative practices aim to address the root causes of misbehaviour and promote accountability
Are the principles of restorative justice evident?	cf. chapter 3; cf. 4. 3. 2; cf. 5.2.3	Repairing harm Restoring relationships Responsibility Respect Reintegration
2.RESTORATIVE PRACTICE		
Does the text refer to safe schools?	cf. 2. 6. 1; cf. 3. 6. 1; cf. 4. 5.5.2	Shared beliefs, values, and traditions unite the school community, promoting a collective commitment to safety and well-being for all. Freedom from crime and violence is achieved not just through security measures, but through a culture of mutual respect and conflict resolution, creating a truly safe space for learning and growth.
Is there evidence of values and culture in the text?	cf.	Values of human rights
What is the evidence of restorative practices in the text?	cf. chapter 3; cf. 4.5.5; cf. 5.2.2	Policies like the <i>ATCP</i> (DoE, 2000), have promoted the adoption of restorative justice principles in school discipline.

		<i>The SASA</i> (DoE, 1996) incorporates several principles of restorative justice, such as its commitment to equality community involvement in governance and fair disciplinary processes.
Is the potential of restorative justice evident	cf.4.5.4; cf. 5.4.2.3; cf. 5.4.3.1	Social justice, human dignity, accountability; the rule of law; respect and reconciliation
Does the text encourage a shift a punitive to restorative approaches	cf. 5. 1; cf. 5.5.2.2	A comprehensive framework for nonviolent, dignity-affirming discipline, a protocol will advance the transformative constitutional project while addressing practical challenges in South African schools. This approach not only responds to current problems but also builds foundations for more equitable, peaceful, and effective educational environments aligned with South Africa's democratic values and human rights commitments.
3.RESTORATIVE JUSTICE AND IMPLICATIONS		
Are the elements of restorative justice evident in the texts?	cf. chapter 4; cf. 5.5	Repairing harm, restoring relationships; responsibility, respect, and reintegration. For example, the 'Protocol', (DBE, 2017) only hints at elements of restorative justice by emphasising relationship-building, community involvement, and the development of social-emotional skills as alternatives to punitive measures.
Does the text refer to restorative discipline models?	cf. 4.6.2	Emphasises the potential of restorative justice to transform school cultures and nurture the social, emotional, and moral development of learners.

APPENDIX C. ETHICAL CLEARANCE

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GENERAL/HUMAN RESEARCH ETHICS COMMITTEE (GHREC)

02-May-2024

Dear Mrs. Gale E Davids

Amendment Approved

Research Project Title:

Building nonviolent schools: A protocol for the implementation of restorative discipline guided by transformative constitutionalism

Ethical Clearance number:

UFS-HSD2021/1854/22

We are pleased to inform you that your amendment application for ethical clearance has been approved. Your ethical clearance is valid for twelve (12) months from the date of issue. you are requested to submit the final report of your study/research project to the ethics office. Should you require more time to complete this research, please apply for an extension. Thank you for notifying the ethics committee of the changes/amendments that have been made to your study; we wish you the best of luck and success with your research.

Yours sincerely

Dr Adri Du Plessis

Chairperson: General/Human Research Ethics Committee

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APPENDIX D: LANGUAGE EDITING CONFIRMATION



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Title of Paper: **Building nonviolent schools: A protocol for the implementation of
restorative discipline guided by transformative constitutionalism**

Author: **Gale Esmé Davids**

Date: **30 November 2024**

To Whom It May Concern,

This letter confirms that the document corresponding to the information detailed above was proofread and edited for proper English language, grammar, punctuation, spelling and sentence structure by Lauren Florisha Phillips, a native English-speaking editor. Neither the research content nor the author's intentions were altered in any way during the editing process.

I guarantee the accuracy in the text, as edited and delivered to the author on the above date. The author may accept or reject any of my comments or suggestions upon receipt of the edited document.

Yours sincerely,

LF PHILLIPS

APPENDIX E: TURNITIN REPORT

Title: Building nonviolent schools: A protocol for the implementation of restorative discipline guided by transformative constitutionalism

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