

## Editorial

---

### Special edition: Education Law in a Democracy

The quality of education has been the focus of much that has been written and spoken about the South African public school system over the past number of years. Commentators regularly express their concerns about deficiencies in the system, ranging from poor teaching, high drop-out rates and ineffective management. Education law specialists should use every occasion to make constructive contributions. This issue provides such an opportunity.

The year 2013 marks some significant attempts by the National Department of Basic Education to curb the apparent lack of service provision by many educators. Though not implemented yet, the signal is clear when the Minister announces the possible classification of education as an essential service, and the intention to install electronic monitors in schools in an attempt to ensure that educators arrive and leave on time. Critics of these measures rightly point out that they will not necessarily ensure the much needed elevation of the quality of teaching.

Part of the public school scenario are those schools where high quality education is the order of the day. Comparing well with any creditable international standard, these schools stand out as pillars of hope, annually turning out thousands of excellently prepared learners from all ethnic groups, ready to enroll for tertiary education to eventually serve the country.

This special issue of *De Jure* under the theme of “Education Law in a Democracy” was initiated and steered by members of the South African Education Law Association. In the topics covered, attention was given to a wide variety of focal points related to the application of the law in the education sphere. Authors moved beyond mere criticism of a cripple system. After extensive elucidations of the education theory and the legal framework within which education functions, suggestions and practical recommendations follow that have the potential to rectify, or at least partially mend certain deficiencies, if effectively implemented by the relevant authorities.

Various articles in this volume focus on the implications of the South African Constitution, fundamental rights and democracy for education. Within this category of articles, specific attention has been given to the rights and duties of stakeholders such as school principals, school governing bodies, parents and learners. Equality rights are emphasised in those articles focusing on gender and inclusive education. Language and labour rights are also analysed to demonstrate how they impact on respectively learners and educators.

Matters pertaining to the common law, such as delictual liability, contractual agreements in employment and fair procedures related to learner discipline have been elucidated in some articles. Valuable contributions from international scholars have been included, some in collaboration with South African co-authors. This international perspective includes discussions of the latest education law developments in Germany, the United States and the United Kingdom.

I thank all the reviewers for their contributions to meticulously assess the thirty manuscripts that were submitted, thus enabling us to put together an excellent volume, consisting of nineteen articles. The editorial board deserves a special word of appreciation: Proff Johan Beckmann (UP), Elda de Waal (NWU, Vaal Campus), Rika Joubert (UP), Pierre du Plessis (UJ), Marius Smit (NWU Potchefstroom Campus) and Dr Erika Serfontein (NWU, Vaal Campus). The secretarial assistance of Ms Marilize Cohen was outstanding, while the task of final technical editing was skillfully and comprehensively completed by Mss Claire-Alice Smith and Willemien Aukema-Heymans, thus ensuring this high quality special issue of *De Jure*.

**Prof JP Rossouw**  
**Guest editor**