

An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa

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ETHICS APPROVAL



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To Whom It May Concern

I hereby confirm that the ethics application, as stated below, was approved on the Edu-REC meeting of 26 July 2018.

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Yours sincerely

Prof J Olivier
Chair Edu-REC

DECLARATION/VERKLARING

I, the undersigned, hereby declare that the work contained in this dissertation is my own original work and that I have not previously in its entirety or in part submitted it at any university for a degree.

A handwritten signature in black ink, consisting of a stylized 'M' or similar character, written over a horizontal line.

Signature/Handtekening

19 November 2019

Date/Datum

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ABSTRACT

The aim of this qualitative study was to gain a deeper understanding of the legal implications and common law principles regulating teaching and coaching of junior gymnastics. The objectives of the study were to investigate: (1) which legal principles regulate educational gymnastics and junior gymnastics coaching and participation; (2) the nature of legal risks in coaching of educational and junior gymnastics in Namibia and South Africa; (3) the nature and level of legal knowledge of PE teachers of educational gymnastics, and educator-coaches and gymnastics coaches of junior gymnastics in Namibia and South Africa; and (4) how PE teachers and educator-coaches and gymnastics coaches of junior gymnastics in Namibia and South Africa apply legal principles in their coaching of educational and junior gymnastics. Permission to conduct the study was obtained from the Ethics Committee of the Faculty of Education of the North-West University. An interpretative phenomenological approach was used when research was conducted and evaluated in order to provide contextual depth with multiple views to better understand and interpret the said phenomenon. A purposeful sampling strategy were chosen from both Namibia and South Africa. All participants gave written consent and their anonymity in the study was ensured. Fourteen PE teachers, with one or two years' experience, nine gymnastics coaches with three or more years' experience, 10 parents and three government officials involved in sport development and gymnastics participated in the study. Data were collected by means of in-depth individual interviews and open-ended questionnaires as well as group interviews. Two main themes emerged from the data: theme 1 included physical aspects of liability and theme 2 included psychological aspects of liability. In chapter 5, the key findings that emerged from the study were discussed, and recommendations were made as to possible implementation in practice or improvement on existing systems and procedures. The study is marked by a combination of a legal, educational and sport perspective and the legal implications of legislation and common law were incorporated throughout. Recommendations for further research were made.

Key words: PE teachers, physical aspects, psychological aspects, gymnastics, educator, school sport, legal, delict

OPSOMMING

Hierdie kwalitatiewe studie het ten doel gehad om 'n dieper begrip te verkry van die regsimplikasies en gemeenregtelike beginsels wat onderrig en afrigting van junior gimnastiek reguleer. Die doelstellings van die studie was om ondersoek in te stel na (1) watter regsbeginsele opvoedkundige gimnastiek- en junior gimnastiekafrigting en -deelname reguleer; (2) die aard van regsrisiko's in afrigting van opvoedkundige- en juniorgimnastiek in Namibië en Suid-Afrika; (3) die aard en vlak van regs kennis van LO-onderwysers in opvoedkundige gimnastiek en onderwyser-afrigters en gimnastiekafrigters van junior gimnastiek in Namibië en Suid-Afrika; en (4) hoe LO-onderwysers en onderwyser-afrigters en gimnastiekafrigters van junior gimnastiek in Namibië en Suid-Afrika regsbeginsele toepas in hul afrigting van opvoedkundige- en junior gimnastiek. Toestemming om hierdie navorsing uit te voer is verkry vanaf die etiekkomitee van die Fakulteit Opvoedkunde van die Noordwes-Universiteit. 'n Interpretivisties-fenomenologiese benadering is in die uitvoering en evaluering van die navorsing toegepas ten einde kontekstuele diepte met veelvuldige sienings te voorsien om die nagevorste fenomeen beter te verstaan en te interpreteer. 'n Doelgerigte steekproefnemingstrategie is gevolg om 'n steekproef vanuit beide Namibië en Suid-Afrika te kies. Alle deelnemers het skriftelike toestemming gegee en hul anonimiteit in die studie is verseker. Veertien LO-onderwysers met een of twee jaar se ervaring, nege gimnastiekafrigters met drie of meer jaar se ervaring, tien ouers en drie staatsbeamptes betrokke by sportontwikkeling en gimnastiek het aan die studie deelgeneem. Data is deur middel van indiepte-onderhoude, groeponderhoude en oopeind-vraelyste ingesamel. Twee hooftemas het uit die data gespruit: tema 1 het fisieke aspekte van aanspreeklikheid behels en tema 2 sielkundige aspekte van aanspreeklikheid. In hoofstuk 5 is die sleutelbevindinge wat uit die studie gespruit het, bespreek en aanbevelings is gemaak oor moontlike implementering in die praktyk of verbetering van bestaande stelsels en prosedures. Die studie word gekenmerk deur 'n kombinasie van 'n regs-, opvoedkundige- en sportperspektief, en regsimplikasies van wetgewing en die gemenereg is deurgaans geïnkorporeer. Aanbevelings vir verdere navorsing is gemaak.

Sleutelwoorde: LO-onderwysers, fisieke aspekte, sielkundige aspekte, gimnastiek, opvoeder, skolesport, wettig, delik

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LIST OF ABBREVIATIONS

EU	European Union
PE	Physical Education
NF	National Federation.
SADBE	South African Department of Basic Education
UNICEF	The United Nations Children's Fund
HoD	Head of Department
UN	United Nations
NSC	The Namibia Sports Commission
SACE	South African Council for Educators (Act 31 of 2000)
SASCOC	South African Sports Confederation and Olympic committee
POPI Act	Protection of Personal Information (Act 4 of 2013)
FIG	Fédération Internationale de Gymnastique (FIG) (International Gymnastics Federation)

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CHAPTER 1: PROBLEM STATEMENT, RESEARCH QUESTION AND DESIGN

1.1 Problem statement

Injuries among players are sustained on a regular basis during contests, which may lead to accusations of wilfulness on the side of the opponent, as well as alleged negligence on the part of a coach (Rossouw, 2004b:28). A major challenge in the sport coaching context, as well as in the context of artistic, rhythmic and educational gymnastics taught in schools and private clubs, is the legal implications for Physical Education teachers (hereinafter called PE teachers) and/or educator-coaches as participation in most types of sport are much riskier than classroom activities (Rossouw, 2006:32; Van der Merwe, 2011:51).

In gymnastics, as in all sport, most stakeholders run potential legal risks regarding the roles they play and they may be found legally liable due to negligence. Possible examples of risks that can result in legal liability for a PE teacher, educator-coach, or a gymnastics coach might include sexual conduct, inappropriate punishment, degrading behaviour, unauthorised publication of information, unfair discrimination, and injury. This study focusses on specific types of damage or harm – for example, injury and negligence. The number of legal actions against teachers and coaches have increased over the past couple of years (Rossouw, 2004b:47). An example of the liability of PE teachers is evident from the English court case of *Gibbs v Barking Corporation* [1936] 1 All ER 115 where a PE teacher was held negligent for failure to assist a student vaulting over a horse. It was held that the teacher did not provide the necessary care that was expected in assisting the boy with the landing. The PE teacher stands *in loco parentis* to the learner and parents may therefore accept that schools and the people looking after, coaching or training their children will take diligent care of them whilst under their supervision and care (Prinsloo, 2005:8; Smit & Oosthuizen, 2011:59). We can therefore derive that a duty of care exists between all stakeholders who partake in a specific sport, whether it be in a school or private club situation. It is therefore important that PE teachers, educator-coaches and gymnastics coaches need to be made aware of this duty of care they owe to a participant to foresee and prevent an injury or other possible harm (FIG, 2019a:3).

Another example of where there was a breach of duty to prevent damage is evident in the United States court case of *Andrea Wilson v O’Gorman High School and Others* (2008) H&FLR 2014-50 where liability for damage or failure to fulfil other legal obligations arose. In *Wilson v O’Gorman High School* (2008), the plaintiff, Andrea Wilson, was injured at O’Gorman High School during a gymnastics accident. The plaintiff, Andrea Wilson brought a suit of negligence against the defendants, Shaun Bauer, Lana Bauer and O’Gorman High School, alleging that Andrea’s injury was a result of the defendant’s negligence. The defendants sought that the plaintiff’s claim should be dismissed. The Court denied the motion for summary judgement on the basis of contributory negligence to dismiss the negligence claim of the plaintiff against the school and coach. PE teachers and educator-coaches will always run a risk of liability for injuries suffered by children if they breach their legal duty to protect them in their care from unreasonable risks or harm (Rossouw, 2006:32).

General statements of principles in Namibian and South African legislation were found which describe when educator-coaches can be held liable for injuries sustained during participation in sport activities. In Namibia, the Child Care and Protection Act 3 of 2015 (NAM, 2015) focusses on the best interests of children and mentions that any suspicion or knowledge of wrongdoing to a child must be reported by a person who performs a professional or official duty with respect to the child. This should include, as per section 132(2) (NAM, 2015), teachers and principals and we can therefore take that this also includes PE teachers, educator-coaches and gymnastics coaches. Similarly, the Children’s Act 38 of 2005 (SA, 2005) protects children from any maltreatment as per section 2(b)(iii). One prominent form of maltreatment is the phenomenon of corporal punishment. The Education Act 16 of 2001 of Namibia (hereinafter referred to as the Education Act (NAM, 2001)) also stipulates that, when a teacher employed at a state school or hostel or private school commits misconduct, administers corporal punishment, or causes corporal punishment to be administered on the child, such action will lead to disciplinary action. Similarly, the South African Schools Act 84 of 1996 (hereinafter referred to as SASA (SA, 1996a)) prohibits corporal punishment. Corporal punishment is further discussed in the context of coaching and physical education, only to the extent that it relates to coaching and physical education, under the heading *human dignity* (§ 2.2.1).

It is also customary for gymnasts to sometimes be coached by PE teachers, educator-coaches and assistant coaches who are not necessarily trained or experienced (Rossouw & Keet, 2011:3). It raises the question of whether these PE teachers, educator-coaches and assistant coaches are adequately informed (in advance) about the possibility that they may be held liable in case of injury to learners during the practise of sport (Rossouw & Keet, 2011:2) or when coaches become too emotively involved and take their participation to obsessive levels (Le Roux & Cornelius, 2003:6). In South Africa, Physical Education was long omitted from the school environment and syllabus and, as a result, many teachers are now acting as educator-coaches without proper training and qualifications. In Namibia, Physical Education is part of the curriculum (Ministry of Education, Arts & Culture, 2010:14). From § 1.2.9, we can derive that gymnastics does not play a prominent role in Physical Education in Namibia, but there is emphasis on gymnastic-based activities. Similarly, in § 1.2.10, we can see that the gymnastics-based activities are taught throughout preschool to Grade 7 in South Africa. There are many PE teachers, educator-coaches and assistant coaches in both Namibia and South Africa coaching gymnastics. A question to ask here is whether PE teachers and educator-coaches are adequately trained in Namibia and South Africa as physical education was not part of the curriculum in both countries for many years. Dr Marius Kudumo stated the importance of Physical Education in the curriculum of Namibia (Kadumo, 2014:3), while Prof Cheryl de la Rey reportedly stated that students in South Africa at the University of Pretoria are encouraged to partake in activities like sport during their enrolment (Kadumo, 2014:3). Policy documents with regard to sport in Namibia were developed but have not yet been implemented. This could be due to the current constraints in Namibia, such as a lack of adequately qualified and trained PE teachers, as well as inadequate sport facilities (Kadumo, 2014:3).

Some scholarly work on the legal implications (amongst others delictual liability) of junior gymnastics coaching could not be found in any of the studies consulted to date, indicating that not much research has been done in this specific field. Research relevant to this focus has been done in other sport in this field – for example, rugby, football, netball – and was therefore explored. In the investigation of other studies, the phenomenon that stands central to this study was continuously considered (Sandlin, O'Malley & Burdick, 2011:339), namely legal implications and common law principles regulating teaching and

coaching of junior gymnastics. An example to demonstrate that legal disputes can involve different role players (such as match officials) who are often mistakably seen as responsible for participants' safety is the United Kingdom court case of *Vowles v Evans* [2003] EWCA CIV 318. Vowles is confined to a wheelchair because of an injury sustained when playing rugby. That the appellant, Evans, was found liable for Vowles' injury confirms that the English law has established that match officials do have a duty of care towards the safety of players. This principle will probably be applied similarly in South Africa and Namibia.

On the common law principle of assumption of risk, the Australian court case of *Pallante v Stadiums Pty Ltd* (1975) H&FLR 2014-12 was enquired to determine where assumption of risk is evident as the defendants were alleged to be liable of negligence for an eye injury sustained by the plaintiff during a boxing match. The plaintiff sued the institute that conducted the fight, as well as the referee (matchmaker), his trainer and the promoter (the opponent was not sued). The jury found for the defendants as the contest was an illegal prize-fighting and the plaintiff, by participating, was excluded from any remedy. Assumption of risk is discussed (§ 2.9.2.1) as an example of a defence that PE teachers, educator-coaches and gymnastics coaches could use to justify conduct that is seen as wrongful.

According to Oosthuizen, Rossouw and De Wet (2019:128), “[a] higher degree of care is to be exercised in dealing with children”. In addition, a higher degree of care is also required from coaches of sport such as gymnastics, where an elevated level of risk for injuries exist. In the classroom, a teacher always has a duty of care towards each learner and where young children are involved, a teacher would be held to a higher degree of care (Rossouw & Keet, 2011:10). As stated by Rossouw and Keet, since coaches are usually specialists in a certain field, they would possibly also be held to a higher standard of care as a gymnast is at a higher risk of being injured compared to a child in a safe classroom environment. One can therefore derive that the same standard of care will apply to PE teachers and educator-coaches – even if PE teachers and educator-coaches are not trained in teaching educational gymnastics and educator-coaches are not qualified to coach gymnastics as a sport – as it remains a sport where the risk of being injured is high.

In this study, the legal implications and principles regulating teaching and coaching of junior gymnastics in Namibia and South Africa were established as this was a relatively under-researched phenomenon. The exact nature and function of this phenomenon formed the focus of this inquiry. Although other literature on some of the themes addressed in sport and the law was published, I limited my research specifically to teaching educational gymnastics within PE in the primary to intermediate phase and junior sport, specifically junior gymnastics. This study aims to contribute to filling this *lacuna* in the body of scholarship related to the theme of this study.

1.2 Clarification of concepts

For the sake of clarity, the following concepts and terms, which are used extensively in this study, need to be explained and clarified.

1.2.1 Coach

The term “coach” refers to a person who coaches junior sport and, in this study, more specific to a coach of junior gymnastics. In the context of private clubs, head coaches take the responsibility to ensure that other coaches adhere to the rules of a club. They may be the owners of private clubs and could be the employer of other coaches.

1.2.2 Physical Education (PE) teacher and educator-coach

The term “PE teacher” or “educator-coach” refers to a person who is responsible for the education of junior learners in physical activity and/or psychomotor learning. For this study, they are typically teachers who teach gymnastics as part of PE within Life Orientation. Educator-coaches typically coach gymnastics in the club environment and sometimes in schools as well.

1.2.3 Spotting, assistance and supervision in gymnastics

According to the South African Gymnastics Federation (SAGF) (2018:24), “[s]upporting and shaping the gymnast is an essential part of coaching gymnastics”. Different forms of support towards safe participation can be distinguished. Spotting (or to spot someone) can be either close physical assistance, with or without any contact. Assistance is an alternative term used and mostly refers to direct physical support to enable a gymnast to

complete a movement. Preference is given to the term *spotting*.

Supervision is a term used in various sport codes and refers to the overseeing role of the coach, linked with disciplinary measures to ensure orderly conduct. Effective supervision forms an essential part of coaches' approach and is closely looked at in all cases of possible delictual liability.

1.2.4 Gymnastics

The International Federation of Gymnastics (FIG, 2019b:9) defines gymnastics as “[t]he sports and/or activities of Artistic Gymnastics, Rhythmic Gymnastics, Trampoline Gymnastics, Acrobatic Gymnastics Aerobic Gymnastics...”. The participants and clubs who participated in the empirical study were mostly involved in artistic gymnastics, and the examples offered are mostly from this component of gymnastics.

1.2.4.1 Artistic gymnastics

Artistic gymnastics is “[c]ompetitive Gymnastics performed on prescribed apparatus” (FIG, 2019b:9). There are two branches in artistic gymnastics, namely women's artistic gymnastics and men's artistic gymnastics. Apparatus used by both male and female gymnasts are the vault and floor exercise. Apparatus used only by female gymnasts are the uneven bars and the beam, while apparatus used only by men are the pommel horse, still rings, parallel bars and high bar (Clowes & Knowles, 2013:29; Kurnik *et al.*, 2013:48).

1.2.4.2 Rhythmic gymnastics

Competitive gymnastics is performed with hand apparatus (FIG, 2019b:9). “Rhythmic gymnastics” usually involves an individual or groups of five or more gymnasts who manipulate one, one or two pieces of apparatus. According to the Dunedin Gymnastics Academy (2016), apparatus are normally clubs, hoops, balls, ribbons or ropes, or no apparatus at all (freehand).

1.2.4.3 Trampoline gymnastics

Trampoline gymnastics is “[c]ompetitive exercises performed on the Trampoline, Double Mini-Trampoline and Tumbling” (FIG, 2019b:9).

1.2.4.4 Acrobatic gymnastics

Acrobatic gymnastics is “[c]ompetitive gymnastics (“dynamic”, “balance” and “combined” exercises) performed without apparatus by pairs and groups” (FIG, 2019b:9)

1.2.4.5 Educational gymnastics

In the context of Namibia, the term “educational gymnastics” involves sport and gymnastic activities within PE and the gymnastics club environment which require gymnasts or learners to perform a set of moves either in the air or on the floor, requiring an elevated level of flexibility, suppleness and strength. Trampolining is included, because it is a form of gymnastics performed in the air, and the same applies to acrobatics to some extent (Benn, Benn & Maude, 2007:50; Cox, 1999:164). The following are activities or movements typically covered from Grades 1 to 7: tumbling; jumping or vaulting; balancing activities on balance beam or benches; challenging activities; backward and forward rolls; hand- or head stands; and evaluation per learner.

In the context of South Africa (Department of Basic Education, 2011a:64), the following activities or movements are covered from Grades R to 3: headstand; handstand; forward roll; backward roll; handspring and cartwheel; lunges; crab stand, etc. In Grades 4 to 6, activities or movements such as marching, aerobics, stepping, rhythmic gymnastics, gymnastic sequences, which combine two or more movements (running, walking, jumping, hopping, skipping, rolling, etc.), are covered, inclusive of activities like confidence exercises, breathing, kicking, gliding, as well as evaluation per learner.

On 5 February 2016, the School Sports for Development programme was launched in Namibia (UNICEF, 2016), and the School Sports Programme was launched on 13 December 2011 in South Africa (Parliamentary Monitoring Group, 2012). The School Sports for Development programme in Namibia uses sports as a tool to impart life skills to children. The Ministry of Education, Arts and Culture in Namibia have a memorandum of understanding with the Ministry of Sport, Youth and National Service to support the implementation. The Schools Sports Programme of South Africa falls under the term “general gymnastics”. The South African School Sports Programme has established a good relationship between the Department of Sport and Recreation, the Department of

Basic Education, and the South African Gymnastics Federation (SAGF) (§§ 1.3.2.7 & 2.8). There is an annual national championship where gymnastics is one of the sport codes. All schools in South Africa can register to be part of this competition. Therefore, an educator-coach and gymnastics coach can represent their respective school or club at such a competition.

1.2.5 Juniors, students, children, athletes, and learners

For this study, references to “juniors”, “students”, “children”, “athletes”, and “learners” mean junior participants in gymnastics. Wherever applicable, the term “learner” is used. It should be noted that junior sport also includes learners aged between 14 and 18, but the focus in this study is on those aged between 7 and 13.

1.2.6 General sport terminology

When reference is made to “sport in general”, terms like referees, coaches, supervisors, linesmen and umpires, it is most of the time related to sport codes like tennis, netball, rugby, hockey, soccer, and swimming, to name but a few. This study specifically focusses on gymnastics.

1.2.7 The scope of sport law in the context of gymnastics and educational gymnastics

Although educational gymnastics is a compulsory part of the PE curriculum in South Africa and Namibia, gymnastics is often coached by non-educators in private clubs outside of the school environment. In the case of a school team being prepared for an annual national championship, educators often coach in private clubs after school hours and therefore such coaches were included in this study. Sport law reaches far beyond the borders of the school environment, although the focus in this study is on education law. Junior gymnastics in private clubs are also included in this study. Knowledge gained from research done in this environment is also directly linked to educational principles, although it is not directly linked to the school environment.

1.2.8 Physical Education and gymnastics coaching in Namibia

The Ministry of Education, Arts and Culture (NAM, 2010:14) in Namibia emphasises the

importance of PE. Across the curriculum these activities include, but are not limited to, the development of psychomotor skills and learning how to maintain fitness.

The pre-primary phase is important to lay a solid foundation for the coming school years. Activities related to PE entail that they learn through structured play about themselves and their environment and improve their creativity and motor skills.

In lower primary (Grades 1 to 4), all learners take all subjects, one of which is PE where the focus is on broader knowledge of the immediate environment and personal health. This serves to strengthen self-awareness, promote a positive attitude toward healthy competition, build on local culture, and to widen knowledge regarding games and sport. Continuous assessment through summative grades after each term as well as all informal continuous assessment is criterion-referenced (NAM, 2010:14).

The upper primary level (Grades 5 to 7) continues on a broad base and develops the foundations laid in previous grades further and similarly, as in previous grades, all learners take all subjects, of which one is PE. Continuous assessment as well as examinations are used at the end of each year. Learner achievement in selected subject areas are monitored nationally in Grades 5 to 7 by means of nationally-standardised assessments (NAM, 2010:15).

1.2.9 Physical Education and gymnastics coaching in South Africa

Typical activities or movements in primary school are tumbling, jumping or vaulting, balancing activities or balance beam or benches, challenging activities, and evaluation per learner. In Grades 1 to 3, there are various movements with elements of gymnastics. In the context of South Africa (Department of Basic Education, 2011a:64), the following is covered from Grades 1 to 3: headstand, handstand, forward roll, backward roll, handspring, and cartwheel, launches, crab stand, etc. In the foundation phase, the focus is on perceptual and locomotor development, rhythm, balance, and laterality.

In Grade 1 (Department of Basic Education, 2011a:31), routine activities and free-play activities, creative games and creative skills, locomotor, perceptual motor (tennis skills), rhythm, coordination, balance, spatial orientation, and laterality are covered. Grade 2 (Department of Basic Education, 2011a:50) covers the following: creative games and

skills, locomotor, perceptual motor, rhythm, coordination, balance, spatial orientation, laterality, sport, and games. In Grade 3 (Department of Basic Education, 2011a:62), creative games and skills, locomotor, perceptual motor, rhythm, coordination, balance, spatial orientation, laterality, sport, and games are covered. Grade 4 (Department of Basic Education, 2011b:12) focusses on movements, such as diverse ways of locomotion, rotation, elevation, and balance – a variety of invasion games and rhythmic movements focus on posture. In Grade 5 (Department of Basic Education, 2011b:12), the focus is on movement sequences that require consistency and control in continuous combinations – rhythmic movements and steps with attention to posture and style. Grade 6 (Department of Basic Education, 2011b:12) covers rhythmic patterns of movement with co-ordination and control – refined sequence emphasising changes of shape, speed and direction through gymnastic actions or swimming activities. In Grade 7 (Department of Basic Education, 2011c:13) learners participate in fitness programmes, community and indigenous games, perform a sequence of activities and participate in outdoor recreational programmes.

1.3 Conceptual framework

The conceptual framework gives an overview of the most salient concepts that form part of this study.

1.3.1 Junior gymnastics

The care of the child is of paramount importance: the Namibian as well as the South African Constitutions provide for the protection of human rights, which includes the rights of children. The Code of Professional Ethics in South Africa also states that all teachers registered with the South African Council for Educators Act 31 of 2000 – hereinafter referred to as SACE (SA, 2000) – need to acknowledge, uphold and promote the human rights embodied in the Constitution. It is generally accepted that PE teachers, educator-coaches and gymnastics coaches stand *in loco parentis* to the learner and therefore this provision counts amongst the fundamental rights enshrined in both Constitutions and forms an important basis for this study (Smit & Oosthuizen, 2011:58). Learners' fundamental rights have clear implications for PE teachers, educator-coaches and gymnastics coaches as they place certain obligations relating to the duty of care on PE teachers and coaches.

Consistent with the duty of care, it is important to create and maintain a safe and protected environment for learners, both in the classroom as well as outside during break or when involved in physical sport activities. Worldwide it is a major challenge for most PE teachers, educator-coaches and gymnastics coaches that physical activities involve several risks (Babie, Russo & Dickinson, 2004:47; Rossouw, 2004b:32). According to Sands, McNeal and Stone (2011:5), gymnasts face “a relatively high injury rate”. Gymnasts and their coaches, with having expectations of technically perfect routines, must be aware of these high inherent risks involved and must, as far as reasonably possible, adequately manage and mitigate these risks (Clowes & Knowles, 2013:28; Cossens, 2012:69). One reason could be the legal liability in that the coach could possibly be sued if found liable and another reason could be the risk of the gymnast being injured.

Attention needs to be drawn to dangerous situations, responsibilities, unwanted coaching practices, and other situations that could possibly lead to harm, injuries, disputes, and litigation. The focus of this study is therefore on potential risks involved in sport, whether as part of PE or in a competitive situation and the risks inherent to the specific sport, in this case, the sport of gymnastics (Kralik, 2015:3).

If we think logically about sport and the law, it is evident that the two cannot be separated as there is always a possibility that injuries are related to negligence or intent. Junior gymnastics coaching in Namibia and South Africa and the legal implications (liability) thereof were difficult to find as not much research has been done in this specific field. Research has been done on other sports in this field and was explored, keeping in mind the phenomenon of legal implications and principles regulating teaching and coaching of junior gymnastics. Oosthuizen *et al.* (2019:128) state that “[a] higher degree of care is (required from teachers or coaches of sports such as gymnastics) in dealing with children (characterised by a higher level of risk)”. Although other literature on some of the themes were addressed in sport and the law, the analysis specifically focussed on junior sport and even more so, junior gymnastics; however, the focus and research had to be broadened as there was not much on the topic of legal principles regarding junior gymnastics and the coaching thereof.

New knowledge on risks involved strengthened participant-centred duty of care in gymnastics. Though the legal principles involved and the duty of care of both the

participant and the teacher or coach represent a multidimensional phenomenon – which is closely related to the basic purpose of care – it has been pondered only in sport ethics.

1.3.2 Legal framework

According to Neethling and Potgieter (2017:3), “[t]he purpose of the law (is amongst others) to regulate relations between individuals in a community”. The law refers to a variety of legislation and served to gain a deeper understanding in this study into the phenomenon of legal implications and principles regulating teaching and coaching of junior gymnastics. In this study, primarily education law, labour law and general law related to this phenomenon formed part of this legal framework. In addition, case law and common law were used to establish legal principles involved in teaching educational gymnastics and coaching of junior sport, more specifically junior gymnastics. Examples of these legal principles are duty of care, the reasonable person test, *in loco parentis*, and the *boni mores* principle. It further had to be established whether there was a *lacuna* in knowledge of how to apply these legal principles (Rutherford, 2009:vi). In this study, during the exploration of the phenomenon, it became clear what PE teachers, educator-coaches, gymnastics coaches, and other relevant stakeholders knew regarding legislation and how they applied this knowledge in practice. As an introduction to the legal framework, a brief description of each source follows. It should be noted that a more extensive discussion of the legal principles that underpin this study is offered in chapter 2.

1.3.2.1 The Constitutions of Namibia and South Africa

The Constitution of the Republic of Namibia Act 1 of 1990 (NAM, 1990) and the Constitution of the Republic of South Africa 1996 (SA, 1996c) form the cornerstones of Namibia and South Africa respectively. From here on, the Constitution of the Republic of Namibia is abbreviated to as the Namibian Constitution (NAM, 1990). Similarly, the Constitution of the Republic of South Africa (SA,1996c) is abbreviated to the SA Constitution (SA, 1996c). The Namibian Constitution (NAM, 1990), in chapter 1, states that the Namibian Constitution (NAM, 1990) is the supreme law of Namibia; similarly, in the SA Constitution (SA, 1996c), section 2 states that the Constitution is the supreme law. Any conduct or law that is inconsistent with either constitutions is regarded as invalid.

The Namibian Constitution (NAM, 1990), in chapter 3, stipulates the “fundamental human rights and freedoms” of all persons in Namibia, and article 5 provides that such “fundamental human rights and freedoms enshrined” in chapter 3 must be “respected and upheld by all organs of Government and its agencies... and all natural and legal persons in Namibia”. This has clear implications for teachers and coaches, as the stipulated fundamental human rights form the base of responsibilities towards children, whether it be in a normal school environment or a situation where the teacher teaches sport within PE, or where the coach coaches sport, in this case, junior gymnastics.

Similar basic principles are expressly entrenched in the SA Constitution (SA, 1996c), particularly in section 1, which lists, amongst others, the founding values such as “human dignity, the achievement of equality and the advancement of human rights and freedoms”. Furthermore, section 28 of the SA Constitution (SA, 1996c) has clear implications for the responsibilities of teachers and coaches because of the emphasis on the rights of children. Smit and Oosthuizen (2013:58) refer to a certain set of fundamental rights in the SA Constitution (SA, 1996c) which applies to education, with specific reference to the protection of the learner’s fundamental rights – for example, human dignity, equality, children’s rights, and education. The existence of human rights implies that there are certain obligations on those involved with coaching of school sport. Two of these obligations are to prevent sport injuries and the duty of care of the teacher and coach towards the junior participant (De Wet, 2015:14). Both Constitutions of Namibia and South Africa refer to the best interests of the child. The Namibian Constitution (NAM,1990), in article 15(1), states “best interests of children” and, similarly, the SA Constitution (SA, 1996c) in section 28(2) provides that, “[a] child’s best interests are of paramount importance in every matter concerning the child”.

All these fundamental rights provisions should also be adhered to in the sport-coaching context (Marx 2013:3), which includes educational and junior gymnastics.

1.3.2.2 South African Schools Act 84 of 1996 and Education Act 16 of 2001

SASA (SA, 1996a) and the Education Act (NAM, 2001) include several similar provisions. The most salient of those provisions regulating the educational environment and therefore also gymnastic-like activities, which are applicable to the focus of this study, are briefly

discussed. These are more extensively discussed in chapter 2 under the legal framework.

Section 8(1) of SASA (SA, 1996a) as well as section 55 of the Education Act (NAM, 2001) highlight the importance of adopting a code of conduct for a public school. Learners, parents and educators should be involved in this process. The aim should be to establish a disciplined and purposeful school environment and improve the quality of the learning process. This also applies to discipline in the gymnastics hall or PE education environment, provided that the gymnastic hall is on school premises, or if public school activities are conducted in the gymnastics hall.

Furthermore, both section 10(1) of SASA (SA, 1996a) and section 56 of the Education Act (NAM, 2001) provide that no person may administer corporal punishment in the school environment. All coaches and PE teachers should adhere to this provision. The topic of corporal punishment is further explored (§ 2.2.1) in terms of human dignity and bodily integrity.

Sections 20(g) and 21(1) of SASA (SA, 1996a) and section 33 of the Education Act (NAM, 2001) provide for the administration and control over the school's property, buildings and school premises. In SASA (SA, 1996a), if requested, the head of department (HoD) of the Department of Basic Education may allocate the function to the school governing body (hereinafter the SGB) to improve and maintain the school's property, buildings, and school premises. In Namibia, section 64 of the Education Act (NAM, 2001) further makes provision for the Minister to authorise an inspection, investigation or monitoring of the said buildings and grounds.

Of very specific importance to this study, where delictual liability enjoys a prominent focus, section 60(1) of SASA (SA, 1996a) determines that the state can be held liable for any damage or loss as a result of any act of omission in connection with any school activity.

The Regulations for Safety Measures at Public Schools (SA, 1996b) is regarded as subordinate legislation (Oosthuizen *et al.*, 2017:46). All these provisions should be carefully considered, but because of their specific importance to this study, only a few are discussed. In Namibia, a practical guide for building safe schools was published by the Ministry of Education, Arts and Culture (NAM, 2018). An exposition of the most prominent

provisions of both safety measures are discussed in more detail in chapter 2 under the legal framework (§§ 2.3; 2.4; 2.5; 2.6; 2.7; 2.8).

It is important for the purpose of this study to differentiate between different types of injuries because of the legal implications involved for less serious or minor injuries and chronic or more serious injuries.

1.3.2.3 South African Council for Educators Act 31 of 2000

The SACE (2000) makes provision for the relationship between educators and various stakeholders in public schools. In this study, it is limited to the following relationships: educator-learner; educator-parent; educator-community; and educator-employer. This is further elaborated in chapter 2 (§ 2.4) as part of the legal framework.

1.3.2.4 Employment of Educators Act 76 of 1998, Labour Relations Act 66 of 1995, and the Labour Act 11 of 2007

In South Africa, the Employment of Educators Act 76 of 1998 (hereinafter referred to as Employment of Educators Act [SA, 1998a]) makes provision primarily for employment of educators by the State, “regulating the conditions of service, discipline, retirement and discharge of educators”. PE teachers are bound to the provisions in this act as employees of the State, and sections 17 and 18 specifically come into discussion because certain forms of misconduct may occur in the sport context. This is discussed in chapter 2 (§ 2.5). PE teachers are expected to perform their duties and not be found guilty of any form of misconduct as provided for in sections 17 and 18.

Labour Relations Act 66 of 1995 of South Africa (hereinafter referred to as LRA [SA, 1995]) and the Labour Act 11 of 2007 of Namibia (referred to as Labour Act [NAM, 2007]) were explored to some extent. A coach is not always an employee of the State as is the case of a PE teacher or educator-coach who is employed by a public school, for whom the Employment of Educators Act (SA, 1998a) and the Education Act (NAM, 2001) would be applicable.

1.3.2.5 Protection of Personal Information Act 4 of 2013

The Protection of Personal Information Act 4 of 2013 (hereinafter referred to as the POPI Act (SA, 2013)) provides that information is solely used for the purpose it was collected for and that it is destroyed or deleted once it has reached its retention period, which is clear in section 14(2) (SA, 2013). There is currently (2019) no similar act in Namibia. The implications of these provisions for gymnastics coaching are discussed in § 2.6.

1.3.2.6 The National Sport and Recreation Act 110 of 1998 and the Namibia Sports Act 12 of 2003

The South Africa National Sport and Recreation Act 110 of 1998 (hereinafter referred to as the National Sport and Recreation Act (SA, 1998c) and similarly the Namibia Sports Act 12 of 2003 (hereinafter called the Sports Act (NAM, 2003) regulate development of sport, and therefore also gymnastics.

1.3.2.7 Fédération Internationale de Gymnastique (FIG)

Apart from the constitutions (§ 1.3.2.1; 2.2) as well as the original legislation (§§ 1.3.2.2; 1.3.2.3; 1.3.2.4; 1.3.2.5, 1.3.2.6; 2.3; 2.4; 2.5; 2.6; 2.7) discussed, part of the legal framework is subordinate legislation (Oosthuizen *et al.*, 2017:46) such as the international code of the International Gymnastics Federation, officially called the *Fédération Internationale de Gymnastique* (hereinafter referred to as FIG). The FIG sets important standards and policies applicable specifically to gymnastics, which are of vital importance to this study. The code describes the status of the FIG as follows:

The International Gymnastics Federation is the governing body for Gymnastics worldwide. It is the oldest established international federation of an Olympic sport and has participated in the Olympic Games since their revival in 1896. The FIG governs eight sports: Gymnastics for All, Men's and Women's Artistic Gymnastics, Rhythmic Gymnastics, Trampoline - including Double Mini-trampoline and Tumbling -, Aerobics, Acrobatics, and Parkour (FIG, 2019a).

For this study, FIG was the standard and where applicable, the codes of the national member federations, namely Namibian Gymnastics Federation (hereinafter referred to as

NGF) and the South African Gymnastics Federation (hereinafter referred to as SAGF) were analysed.

Technical regulations 2019 (FIG, 2019b:11) are further used “to provide for, and encourage, progressive development in all aspects of gymnastics in association under the Statutes and the (National) federations” (FIG, 2017)

1.3.2.8 Common Law

The discussion of the common law will be limited to an exposition of the discussion of the law of the delict. To understand and get clarity on the five elements of delict, it was thought helpful to gain general knowledge of how they are applied elsewhere in the world and also to gain knowledge of other case law which would have not been familiar otherwise (George, 1995:525; Murphy, 2003:12). For background purposes, torts in Australia were also enquired into. The Australian Law Reform Commission (2015) defines a tort as “a legal wrong which one person or entity (the tortfeasor) commits against another person or entity and for which the usual remedy is an award of damages. In short, torts protect people from wrongful conduct by others and give claimants a right to sue for compensation or possibly an injunction to restrain the conduct”. In essence, and despite the fact that they are applied in different ways, there is no real difference between how torts and the delict protect people in cases of injury or damage. In Namibia and South Africa, the term *tort* is not used, and the law of delict, as it is known in South Africa and Namibia, is the central focus of this study.

A delict is defined as “the act of a person that in a wrongful and culpable way causes harm to another” (Neethling & Potgieter, 2017:4). In general terms, the law of delict thus determines the circumstances under which a person is obliged to bear the damage he/she has caused another (Neethling & Potgieter, 2017:3).

According to Neethling and Potgieter (2017:4), the five elements of delict are: conduct (an act or an omission); wrongfulness (based on the legal convictions [*boni mores*] of the community); fault (*intent [dolus]*) or negligence (*culpa*); causation (linking the act with the damage); and harm or loss (damage). In short, *conduct* means that it is a voluntary human act or an omission of such an act. *Wrongfulness* refers to violating someone's right by, in

the instance of sport coaching, not exercising proper care where such a duty exists. *Fault* means that a person can be blamed for his or her conduct: such a person is at fault by either intentionally or negligently causing harm or injury. Various forms of harm or injury are classified under the fundamental element of *damage*. *Causation* means that there is a connection or a causal link between the conduct and the damage: the conduct caused the damage. All five elements (i.e. conduct, wrongfulness, fault, causation, and damage) must be proven to be present before a defendant can be held liable (Neethling & Potgieter, 2017:4). As stated by Cronjé (2005, chapters 5–10), the law of delict is not exclusively concerned with sport as compared to other forms of human activity, but the application of the law of delict does have an impact on sport activity and therefore also on gymnastics. It is in this context that the law of delict is further discussed (§ 2.9.1).

As stipulated in the South African court case of *Mpumalanga v Skhosana* (2012), negligence is determined by using the common measure of the classic three-part test, also known as the “reasonable person” test. In other words, would a reasonable person have foreseen the possibility of harm; would a reasonable person have acted to prevent against such a possibility of harm; and did he or she fail to act to prevent such a possibility of harm. If all three parts are confirmed, then that person did not measure up to the standard of a reasonable person and is consequently found negligent. In the instance where an educator is involved, a higher standard should be applied because the educator is seen as a specialist in his or her field (Rossouw & Keet, 2011:14). We can conclude that the latter also applies to PE teachers, educator-coaches, and gymnastics coaches.

The implications of negligence are clearly indicated in a statement by Smit and Oosthuizen (2013:123) that more than 6 000 learners, worldwide on average, between the ages of one and 14 die because of unintentional school-related injuries every year. Some of these fatalities may be the result of educators’ negligence or lack of supervision, which serves as a serious warning for all educators.

To follow are a few cases where the physical security of learners or educators were negligently infringed upon. In the South African court case of *Peter Wynkward v Minister of Education, Highlands Primary School* 2002 (High Court of SA: Cape of Good Hope), the respondent fell from an unused, locked gate at his school and allegedly sustained very serious injuries. Here, Peter Wynkward (the father, on behalf of his son) claimed that

the school was negligent because of a teacher not carrying out efficient supervision. In the High Court case (*Minister of Education and another v Peter Wynkwart* NO. 2004 (3) SA 577 (C)), it was contended that the appellants are liable *ex delicto* (from a transgression) in damages to the respondent because his injuries were as a result of their negligence. The court held that the appellant (the Ministry of Education in the capacity of employer) was not liable because the educators had done everything a reasonable person would have done to prevent damage or injury (Smit & Oosthuizen, 2013:124). In the South African appeal court case of *LUR vir Onderwys en Kultuur, Vrystaat v Louw en 'n Ander* 2006 (1) SA 192 (SCA), the question was raised whether the State could be held liable for damage caused by the negligent conduct of an educator not employed by the State, but by the school. The respondents had sued the appellant – alternatively, the school which their son had attended – after their son sustained brain damage caused by near-drowning (Rossouw, 2012:216). It was held that the employee (i.e. the educator offering the swimming lesson) had negligently omitted to provide proper supervision, and the State was held liable in terms of section 60 of SASA (SA, 1996) despite the fact that the teacher was not employed by the State. The basis of the decision was the fact that the swimming lesson was a school activity, and the State is responsible for the provision of education in public schools.

The Department of Education can also be held liable for negligence leading to injury and damage to its own employees, implying the coach, such as in the South African case of *Strauss v MEC for Education Western Cape Province* (9684/03) [2006] ZAWCHC 41; 2007 (4) SA 127 (C). The coach was engaged in coaching high-school learners at the athletics field, when she was struck with a discus on the forehead, just above her left eye. She suffered serious injuries and was left permanently disabled. Compensation was claimed from the Department of Education because of an alleged negligent omission to have a proper protective ring fence for discus throwers. The result of this case was unsatisfactory for the educator as she failed in claiming damages, because the Compensation of Occupational Injuries and Diseases Act 130 of 1993 (SA, 1993a) precluded an action by an employee (Smit & Oosthuizen, 2013:124).

From the above court cases, one can clearly see the importance that anyone involved in sport – participants, PE teachers, educator-coaches or gymnastics coaches – must act in

such a way so as to avoid damage (Kralik, 2015:2) to health, property, body, nature and the environment. There are two types of damage, namely pecuniary loss, which is damage to property (for example, damage to a gymnast's tog bag), and non-pecuniary loss (for example, a coach infringes on the physical or mental integrity of a gymnast). Damage is later further explored (§ 2.9.1.3). The number of legal actions against coaches has increased over the past years (Rossouw, 2004(b):4), and even more so the risk of being sued by stakeholders. Discussions on the liability of PE teachers, educator-coaches and gymnastics coaches and participants or learners were integrated throughout this study. Due to a relative scarcity of court cases related to gymnastics coaching, cases from a general sport coaching perspective are included in this study.

In this study sport is regarded as any physical activity, whether competitive or recreational (Alricsson, 2013:1, WHO, 2017). In the literature, there are numerous definitions for sport, one being “a human activity capable of achieving a result requiring physical exertion and/or physical skill which by its very nature and organisation is competitive and is generally accepted as being sport” (Chalmers, 2002:iv). There are more definitions for both sport and gymnastics as there are a vast number of sport types and disciplines currently being practised, as well as various age groups who participate in these distinct types of sport. Although children can participate in specialised sport from a very early age, for purposes of this study, the age when referring to juniors or learners is between seven and 13 years, and *sport* mostly refers to gymnastics – defined by Sands (1999:1) as an activity of ancient origins and modern tensions – and more specifically, gymnastics coaching. One of the most serious problems faced by contemporary gymnasts is the occurrence of injury (Farana *et al.*, 2013:5), which is considered throughout the study.

1.4 Research questions

The focus of this research is on legal risks in junior gymnastics in Namibia and South Africa. Considering the above literature review and conceptual framework, the following overarching research question was formulated:

What are the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa in the school environment, as well as in the private club environment?

Subsequently, the following specific sub-questions were formulated:

- Which legal principles regulate educational gymnastics and junior gymnastics coaching and participation in respectively Namibia and South Africa?
- What is the nature of legal risks in the coaching of educational gymnastics and junior gymnastics in Namibia and South Africa?
- What is the nature and level of legal knowledge of PE teachers of educational gymnastics, educator-coaches and coaches of junior gymnastics in Namibia and South Africa?
- How do PE teachers, educator-coaches and coaches of junior gymnastics in Namibia and South Africa apply legal principles in their coaching of educational and junior gymnastics?

These research questions formed the basis for this research for both the literature analysis and the empirical research.

1.5 Research aims

Based on above research questions, the central aim of this study was to establish what the nature and implications of legal principles are regarding coaching of junior gymnastics in the context of Namibia and South Africa within the school environment and in the private club environment.

Subsequently, the following objectives were formulated based on the central aim. The aims were to establish:

- which legal principles regulate educational gymnastics and junior gymnastics coaching and participation in Namibia and South Africa;
- the nature of legal risks in coaching of educational and junior gymnastics in Namibia and South Africa;
- the nature and level of legal knowledge of PE teachers of educational gymnastics, and educator-coaches and coaches of junior gymnastics in Namibia and South Africa; and

- how PE teachers and educator-coaches and coaches of junior gymnastics in Namibia and South Africa apply legal principles in their coaching of educational and junior gymnastics.

1.6 Research paradigm, design and methodology

1.6.1 Research paradigm

A paradigm is a set of assumptions, concepts and values that help to form the way reality is viewed (McGregor & Murnane, 2010:491). For this study, an interpretative phenomenological approach was used when research was conducted and also added value by providing depth in understanding (Kelliher, 2005:123) and helped to construct my own reality as I included multiple views to better understand the phenomenon of the legal implications and principles regulating teaching and coaching of junior gymnastics in the school environment, as well as in the context of private clubs.

In this research, the methodology was based on an interpretative phenomenological approach (leading to a qualitative research design) through which new knowledge and information were generated. Before it was decided on which research design to follow, three approaches were considered and explored, namely quantitative, qualitative and mixed methods (Creswell, 2009:175; Maxwell, 2004:7). In the light of the specific research aims, their strengths and weaknesses were determined (Creswell, 2009:177; Johnson, Onwuegbuzie & Turner, 2004:20). Although empirical observations are used in both quantitative and qualitative approaches (Sechrest & Sidani, 1995:78), it was decided that the underlying research questions, as well as the phenomenon of the legal implications and principles regulating teaching and coaching of junior gymnastics, would be best answered and understood by using only the qualitative approach.

The methods, in other words, the technical procedures and techniques (McGregor & Murnane, 2010:420) which were applied to conduct the research, were determined by the methodology. An interpretative phenomenological deduction was made on grounds of interviews with various stakeholders, questionnaires, as well as personal experience and knowledge on the subject.

1.6.2 Literature analysis

To reach the first research objective, an integrated literature review was conducted where relevant literature was reviewed, questioned and synthesised to establish what legal principles regulate and influence junior gymnastics coaching.

In the literature study, primary sources were given preference to secondary sources. Sources that were used comprised books, scholarly articles, reports, case law, common law, and legislation. The data were evaluated and deconstructed to establish what legal implications and common law principles regulate teaching and coaching of junior gymnastics.

The following resources, *inter alia*, were used for the literature study:

- i. Legislation: SA Constitution (SA, 1996c), The Constitution of Namibia (NAM, 1990) – statutes specific to educator and employer-employee relations, as well as regulations concerning gymnastics;
- ii. Common law: the law of delict and other common law principles, such as the *in loco parentis* and some law of contract principles;
- iii. Case law: LexisNexis and JUTA search engines;
- iv. Articles: EBSCOhost, ScienceDirect, Education Resource Information Centre (ERIC), ISI Web of knowledge and Google Scholar;
- v. Books, e-books and other scholarly publications.

To scrutinise a variety of scholarly findings related to the topic, the researcher used the following keywords and phrases in the above-mentioned databases: “junior sport”, “coaching”, “legal principles”, “law of delict”, “gymnastics”, “responsibility of coaches”, “duty of care”, “employer-employee relations”, “induction and sport”, “coaching in junior gymnastics”, “laws + coaching”, “assumption of risk”, “liability”, “common law”, “bullying”, “pressures”, “abuse”, and “negligence”.

To reach the second research objective, an integrated literature review – where additional relevant literature was reviewed, questioned and analysed – as well as empirical research were conducted to establish what legal principles regulate junior gymnastics coaching.

1.6.3 Empirical research

In this study, the literature analysis was followed by an empirical study. Various data generation methods were employed in the qualitative approach (as motivated in § 3.2 in the discussion of the research paradigm) (Sofaer, S. 2002:331). The empirical component of this research established what the nature and implications of legal principles are regarding coaching of junior gymnastics in the context of Namibia and South Africa. It should, however, be noted that, as Streat (1998:342) points out, every research method has potential strengths and inherent weaknesses, and it is important to realise that no method can possibly accomplish everything a researcher wants to achieve.

1.6.3.1 Development of research instruments

As soon as the research design was established, the sample had to be identified (§ 1.6.3.2). It was also important to determine how the outcomes would be measured and what tools would be used to generate data.

First, a topic was identified, and research questions and research aims were developed to establish exactly what the focus of this study would be. The research questions were kept in mind when the draft questions for the interview schedule and questionnaires were developed. A literature analysis was conducted to see what similar research has been done on the phenomenon of legal implications and common law principles regulating teaching and coaching of junior gymnastics.

A number of draft questions were developed and offered to two experts in the field of gymnastics to see if they understood the questions, whether the questions were clear, unbiased and closed- or open-ended. Final questions were then drafted, and after consultation with other peers (three of the participants in the study), the final interview schedules and open-ended questionnaires were developed.

1.6.3.2 Research sites, participant selection and sampling

The research sites were easily accessible venues, which were, as far as possible, convenient to all participants. A calm, inviting and relaxing atmosphere was created. Seating arrangements were well-thought through, especially for the group interviews, and

it was decided that circular arrangements, rather than rectangular tables, should be applied during the group interviews.

The target population for this study was PE teachers, educator-coaches and gymnastics coaches in Namibia and South Africa. From this target population, the following sample was chosen:

- A total of 14 (eight females and six males) PE teachers teaching learners from Grades 1 to 7 (two females from Namibia, and six males and six females from South Africa).
- A total of nine (four females and five males) coaches coaching gymnastics or gymnastic type of activities for children between the ages of seven and 14 (four females and one male from Namibia, and four males from South Africa).
- A total of 10 parents (five females and five males) of gymnasts between the ages of seven and 14 years (five females and two males from Namibia, and three males from South Africa).
- A total of three (all females) government officials involved in the sport development programme from Namibia.

For this study, coaches were regarded as those with three or more years' experience, while PE teachers were teachers who had one or more years' experience. Coaches offered a wealth of data and were therefore involved in the in-depth individual interviews and open-ended questionnaires. It was considered that most PE teachers would participate with greater enthusiasm when they are involved in group interviews because they were not as experienced as official coaches and may have felt safer to communicate in a group environment. Some PE teachers were also given open-ended questionnaires due to their full schedules, and some were interviewed one by one.

The larger number of the participants were PE teachers and there was fewer participants from private clubs in Namibia and South Africa. Parents were included in this study as they are concerned about the safety of their children and therefore probably viewed safety and aspects of legal liability in another way than educator-coaches did. Data were interpreted and then an extension of data generated occurred by means of group interviews. These participants were selected as each one of them offered a unique

contribution to my understanding of the phenomenon. Table 3.3 offers an exposition of the types of participants that were selected.

During the stage of data analysis, the qualitative data generated offered deeper insight into the phenomenon (Creswell, 2012:87). Three sets of data were generated through in-depth interviews, open-ended questionnaires, and group interviews respectively.

Continuous analysis took place by making notes and writing commentary throughout the data generation process. This data were used to get a thorough understanding of the topic (Oosthuizen, 2017:17). A structured process was followed to transcribe raw data generated from the in-depth interviews and group interviews.

Some themes were derived from the literature review, while other themes emerged after the data were generated – an emerging process to which I (the researcher) was open. These themes formed the structure of the data analysis in chapter 4.

1.6.3.3 Methods of data generation

While the first two research objectives (§ 1.5) were reached through a literature review and analyses of legal documents, for research objectives three and four, empirical research was conducted by means of personal and group interviews, and open-ended questionnaires were sent to some participants (Creswell, 2014:60; Streaan, 1998:335) to establish the nature and level of the legal knowledge of coaches of junior gymnastics in Namibia and South Africa.

Group interviews were also conducted where I asked questions to acquire various answers so as to obtain rich data. Participants were encouraged to talk to me and not to one another. Group interviews were also conducted because it was easier to get coaches in South Africa together at the same time due to very tight schedules and long training sessions with their various gymnasts. This included two or more participants at a time per group interview (Krueger, 1988:299; Ritchie & Lewis, 2003:37). There was a total of three group interviews: one group of two participants (females); one group of three participants (two males and one female); and one group of six participants (three females and three males). Group interviews were used to encourage participants to comment, ask one another questions, hear each other's views, and were very useful to establish participants'

experience, knowledge, and what they thought and why they thought it. Participants became more comfortable and the interviews became less formal and therefore participants felt more at ease to share perspectives and ideas.

The second method used was in-depth individual semi-structured interviews (Ritchie & Lewis, 2003:36). This enabled me to focus on each participant individually and to get an in-depth personal perspective from the participant. These were extended interviews, one or two hours in duration (Leedy & Ormrod, 2015:147). All interviews were open-ended to encourage all participants to give elaborate and descriptive answers.

The third method used was open-ended questionnaires, which were handed out in hard copy or sent to the participants (Masadeh, 2013:64). These participants were willing to participate, but due to unavailability at a specific moment because of their schedules, they were given questionnaires. Generally, one participant at a time filled in the questionnaire, but, in some instances, more than one person filled in the questionnaires together (Ritchie & Lewis, 2003:37). Open-ended questionnaires were further chosen because information gathered tends to be more reliable as questions are answered more openly owing to the anonymity element. There were, however, some disadvantages as well (Cohen *et al.*, 2007:352) – to mention a few: not many questionnaires were returned; some of the participants did not understand the questions as was intended by me; and some participants completed their questionnaires in a hurry. Valuable data were nevertheless generated and analysed.

Using all of the above-mentioned methods resulted in a considerable volume of qualitative data that could be analysed and gave a perspective of the research problem which would not have been possible otherwise.

1.6.3.4 The position and role of the researcher

I am a qualified educator with a specific interest in gymnastics as previous participator and spectator. The context in which the study was conducted is familiar, which is an advantageous position to study the phenomenon with confidence. At the time of the study, I was not involved or had any interest in any specific club or school and was therefore able to analyse the data objectively.

In the qualitative approach used, I collected views, meanings, information and data from the participants (Creswell, 2009:19). I played a prominent role in determining the success of the interviews (Fontana & Frey, 1994:1; Masadeh, 2012:64). The analysed data were used to identify possible themes or categories as early as possible (Strean, 1998:335).

I was closely involved in every step taken and determined by means of a literature overview of relevant research done on the phenomenon. Ethical principles and rules as prescribed by the Ethics Committee of the Faculty of Education at the NWU were followed meticulously and adhered to. Through this research, possible themes or topics were identified to be investigated by other researchers afterwards. My role was to interpret the participants' explanations and perceptions of this phenomenon (McGregor & Murnane, 2010:33) – this is further elaborated in chapters 3 and 4.

1.6.3.5 Trustworthiness

Trustworthiness of information gathered was established by ensuring the credibility thereof (Shenton, 2003:64). I made use of four standards to ensure that the information is trustworthy by making use of a detailed plan on how to conduct the empirical research and ensured that the interview schedules and open-ended questionnaires had been well thought through so that the results obtained were consistent and accurate.

Furthermore, the following criteria were followed to ensure trustworthiness: credibility, transferability, dependability, and confirmability. These criteria are briefly discussed below.

Seale (1999:467) refers to credibility as the truth value. I ensured that I had the correct information and if such information was everything needed in order to gain a deeper understanding of the current situation around the phenomenon, namely legal implications and common law principles regulating teaching and coaching of junior gymnastics. Care was taken to ensure that the information gathered was accurate and that it gave a true reflection of all participants (Bashir, Afzal & Azeem, 2008:38). Credibility (also referred to as validity) was established by using techniques, methods and personal experience to ensure the integrity and validity of findings (Bashir *et al.*, 2008:39-; Shenton, 2003:69).

Transferability refers to the applicability of the findings to other people in the population

and time period. This implies that, what is true for one person, is not always true for another. Components of the design to ensure applicability of the data generation and analysis included the following: (1) I clearly outlined the focus of the study; (2) what my role as the researcher was; (3) what sample to use; as well as (4) what methods to use. Other components entailed how the data were generated to give a clear description of what methods were used to interpret the data.

Dependability ensures consistency of findings. I ensured that the instruments (interviews and questionnaires) were consistent by conducting peer-auditing procedures before the final interviews and questionnaires were presented to the participants (Seale,1999:468).

Confirmability was reached by acknowledging my reality versus that of the participants. All information and perspectives offered by participants and data generated were regarded as valid and applicable. In the interpretation and analysis, all information was considered, but only relevant data to the research question were included in the findings. Interview schedules and open-ended questionnaires were also given to experts in the field to evaluate and make corrections and improvements before being implemented in the empirical research.

1.6.3.6 Ethical aspects of the qualitative research

All ethical implications were considered prior to the commencement of the research. One primary consideration was how to protect participants from risk or harm, and another was to take necessary precautions to make sure information shared with me was kept confidential and stored in a safe place so as to protect private information of participants (see § 1.3.2.5 where privacy and retention of data are discussed under the POPI Act (SA, 2013).

1.6.3.7 Permission

Clearance was obtained from the Ethics Committee of the Faculty of Education of the NWU before any data generation commenced (ethics number: NWU-HS-2017-0065, Addendum B) was obtained at the Edu-REC meeting on 26 July 2018). After this approval was obtained, written permission was requested (Addendum C; Addendum E) and obtained from the Ministry of Education, Arts and Culture of Namibia (Addendum D), as

well as the District Director of the Dr Kenneth Kaunda District in South Africa (Addendum F).

Permission was then requested and obtained from the school governing bodies (SGBs) of the schools in both Namibia and South Africa (Addendum G; Addendum H), as well as from the principals of the respective schools (Addendum I; Addendum J).

Permission to conduct research in various gymnastics clubs were requested and obtained from head coaches of the various clubs in Namibia and South Africa (Addendum K; Addendum L).

1.6.3.8 Informed Consent and voluntary participation

No participants were forced to participate in this study and, as stated by Ritchie and Lewis (2003:66), it is essential that informed consent must be obtained from all participants. All participants were informed of the nature and the purpose of the study, as well as their roles, after which they gave their consent in writing (Oosthuizen, 2017:35) to confirm their voluntary participation. Participants and participant selection criteria are summarised in Table 3.2 and Table 3.3.

The participant information letter and consent forms were given to all participants so that they clearly understood what the research was about, what was expected of them and how they would benefit (Addendum M; Addendum N; Addendum O).

I proceeded with the in-depth individual interviews (Addendum P), group interviews (Addendum Q) and open-ended questionnaires (Addendum R) after receiving written consent from all the participants (Addendum M; Addendum N; Addendum O).

1.6.3.9 Protection of respondents and risks

Participants were informed that they could withdraw from the study at any time should they experience any discomfort or other emotional reactions (Oosthuizen, 2017:35), which was not the case in this study because questions or topics did not touch upon any sensitive matters. No participants were from any vulnerable groups. I was also aware of obligations and responsibilities towards the participants and provided an opportunity for

participants to review responses or information generation (Krishnan, 2006:17).

1.6.3.10 Confidentiality and anonymity

All information generated was handled in a strictly confidential way, and the identity of each participant or club was not disclosed to third parties during the data generation process nor during and after the reporting of the findings. Although the term “participant ID code” was used for all participants (Table 4.1), it is not possible to use these ID codes to identify participants. These codes were merely used during the data analysis process to distinguish between participants. The identity of the participants was only known to me (the researcher) from the consent and assent forms signed at the beginning of the study (McMillan & Schumacher, 2010:122).

1.7 Relevance and contribution of the study to Education Law

This study has contributed to the field of education law, and the application of sport law, specifically gymnastics, because not only has it broadened the existing body of knowledge on this subject but also created an awareness amongst participants on a subject not thought of on a regular basis. It also contributed to what can further be researched on the phenomenon; more lacunae were identified, which created new opportunities for further research. This research forms part of the established researched project of professional security, employment and human rights in schools and higher education. This project lies within the Legal Perspectives in Education subarea of the Edu-HRight Research Unit of the Faculty of Education (NWU).

Once published, this research will increase awareness and broaden the knowledge of researchers and academics in the field of sport law in education.

1.8 Relevance and contribution to the phenomenon in practice

With the focus on educational and junior gymnastics, legal principles and risks explored here and results obtained will be applicable to PE teachers teaching educational gymnastics, teachers or assistant coaches who act as coaches for school sport gymnastics teams, and coaches in junior gymnastics clubs. PE teachers teaching educational gymnastics and coaches of junior gymnastics will be made aware of risks associated with certain coaching techniques – in this case, specifically injuries common

to gymnastics. Besides safer participation, one important contribution envisaged is to create an awareness and thus minimise the legal risks of PE teachers, educator-coaches and gymnastics coaches. It will also increase the knowledge base to assist PE teachers and educator-coaches to protect themselves and ensure safety for learners in both the classroom and all outdoor and co-curricular activities.

1.9 Structure of study

Chapter 1

This chapter includes the problem statement, conceptual framework, research questions, and aims. The research paradigm and design also form part of this chapter.

Chapter 2

The legislative framework for gymnastics and educational gymnastics coaching in Namibia and South Africa is discussed.

Chapter 3

The research design for this study is explained, whereafter the empirical research is discussed.

Chapter 4

The interpretation and analysis of the data generated are presented.

Chapter 5

The findings are discussed and recommendations are made.

1.10 Concluding remarks

This chapter described the focus, essence and outline of what was researched. The background and problem statement were discussed, after which the conceptual and legal framework were established. After stating the research questions, research aims were formulated in order to gain a deeper understanding of the phenomenon, namely the legal implications and principles regulating teaching and coaching of junior gymnastics. The

research paradigm, design and methodology were briefly discussed, and the main concepts relevant to the study were stated. In the next chapter, the legislative framework for gymnastics and educational gymnastics coaching in Namibia and South Africa is discussed.

CHAPTER 2: LEGISLATIVE FRAMEWORK FOR GYMNASTICS AND EDUCATIONAL GYMNASTICS COACHING IN NAMIBIA AND SOUTH AFRICA

2.1 Introduction

In chapter 1, the problem statement, conceptual and legal framework, research questions and the aim of the study were presented. The research paradigm and design also formed part of chapter 1.

In this chapter, the legislative framework for educational gymnastics, and gymnastics in Namibia and South Africa in general, is discussed.

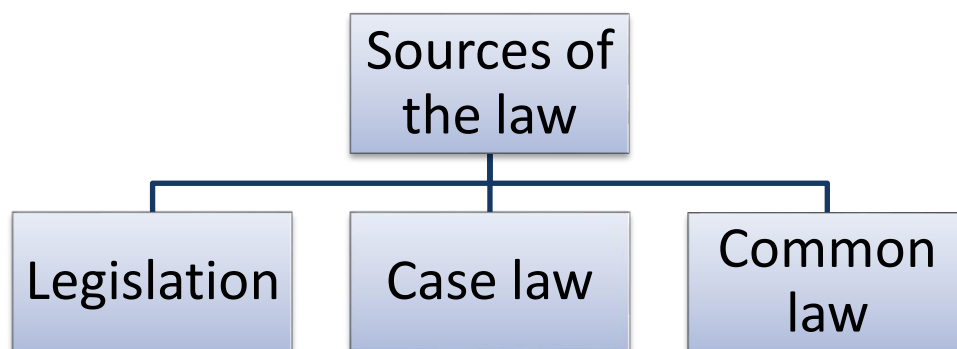


Figure 2.1: Sources of the law

Three main sources inform the law, namely legislation, case law and common law (Bray, 1998:8; Botha, *et al.*, 2017:214), which are presented in Figure 2.1. For the purpose of this study, I discuss these main sources with the focus on education law. This study concentrates on the position of children and the law, PE teachers and educator-coaches and gymnastics coaches, and consequently, only those provisions of the Acts relevant for this purpose are dealt with. They are hereinafter discussed.

As per article 1 and section 1 of the Namibian and South African Constitutions

respectively, the focus on the rule of law as opposed to arbitrary decisions by persons, groups or government, confirms the importance of legal principles across the board. The rule of law is an overarching legal principle in both countries. In addition, the human rights and freedoms enshrined in chapter 3 and chapter 2 of the Namibian and South African Constitutions respectively form the basis of law in both countries and must be respected and upheld by all citizens. Every citizen of each country is equal before the law and has the right to be equally protected by the law, based on fair and equal interpretation and application of such law.

The power of the Namibian and South African governments is divided into three organs/arms to ensure that one of the main objectives of making laws – namely to maintain law and order – is achieved. Here, the rule of law (Bringham, 2007:68) plays a vital role as it confirms that such law is supreme and above all individuals or entities in Namibia and South Africa. The Namibian and South African governments are governed “under principles of laws and not of men” (Spalding, 2016:3).

The Executive, the Legislature and the Judiciary make up the three main organs of the State for both Namibia and South Africa, as stipulated in the respective Constitutions in article 1(3) and sections 85(1) and 165 (6) based on the democratic principle of the “separation of powers”. The Executive is the branch of government that ensures that laws are promulgated by the relevant parties. The executive powers of government are vested in the President in terms of article 27(2) and section 75. The Legislature is the branch of government responsible for the making and repealing of laws. The Judiciary branch, in terms of article 78, provides the mechanism by which disputes are resolved and similarly, in terms of section 165(6), establishes and monitors norms and standards. Judicial powers are vested completely in the courts.

Eksteen (2012:21) defines the law as the rules of action. In other words, the law can be seen as an instrument used by the state to regulate the behaviour of all natural and legal persons. A law communicates a set of enforceable rules that requires people living in a specific country to do certain acts in a certain way, which confers rights and imposes duties to require people to act in a specific manner in a specific situation. Similarly, as stated by Rossouw (2006:ii), the main function of sport law is to ensure sound participation of both athletes and coaches. Legislation has become a government’s chief

instrument for changing and shaping society and for regulating virtually all spheres of life in detail. Laws come into being because of needs that develop in a society. An issue may emerge, or a problem may grow to such proportions that public pressure is brought to bear on government to adopt legislation on the matter. Laws influence how and when we do certain things and touch our lives in almost all aspects, sport being one of them. In order to ensure adherence by all persons, there needs to be certain remedial procedures available to Government in order for them to ensure compliance (Eksteen, 2012:21) and be able to give some form of punishment, whether it be imprisonment or some form of monetary compensation. Junior gymnasts or learners, PE teachers and educator-coaches have specific rights and obligations that are clearly stipulated in the legislation of Namibia and South Africa. These were briefly discussed in chapter 1 and are now further explored. The various provisions (discussed in this chapter) clearly prescribe the correct conduct and what society regards as right and wrong. These are discussed in the following order: Constitutions of both Namibia and South Africa; education-specific legislation; general legislation; the common law; and finally, defences.

2.2 Constitutions of Namibia and South Africa

The relevant legal frameworks for both Namibia and South Africa is set out in the sections to follow, as summarised in Table 2.1 below.

Table 2.1: Comparison between the Namibian Constitution and the South African Constitution

Constitution of Namibia	Constitution of South Africa
Differences in articles and sections	
Article 8 – Respect for Human Dignity	Section 10 – Human Dignity
Article 10 – Equality and Freedom from Discrimination	Section 9 – Equality
Article 15 – Children’s Rights	Section 28 – Children
Similarities in articles and sections	
Article 20 – Education	Section 29 – Education

After a long struggle for independence, in November 1989, Namibia elected a Constituent

Assembly with the support of the United Nations. On 21 November 1989, the 72 members gathered under chairmanship of Dr Hage Geingob. Eighty days later, in February 1990, the Constitution was adopted and came into force on Independence Day, 21 March 1990 (Von Wietersheim, 2015:12). The Namibian Constitution (NAM, 1990) is a product of a struggle for sovereignty and human rights. Namibia is a “sovereign, secular, democratic and unitary state founded upon the principles of democracy, the rule of law and justice for all”. In terms of articles 5 and 131 of the Namibian Constitution (NAM, 1990), these rights and freedoms are protected and entrenched under relevant general provisions. There are various rights and freedoms contained in chapter 3 of the Namibian Constitution (NAM, 1990), but for this study, the focus is on the main aspects of human dignity, equality and freedom from discrimination, the rights of children, education and the enforcement of rights and freedom.

Following shortly after the Namibian constitutional developments, South Africa developed the Interim Constitution of 1993 (SA, 1993b). The Interim Constitution (SA, 1993b) was the result of a “long and strenuous process of negotiation between the representatives of the apartheid regime and their opponents” (Currie & De Waal, 2013:4). The Interim Constitution (SA, 1993b) formed the basis of the final Constitution (SA, 1996). The SA Constitution (SA, 1996c) was eventually signed by President Nelson Mandela as law on 10 December 1996 (Currie & De Waal, 2013:7) and came into force on 04 February 1997.

The Namibian Constitution (NAM, 1990) and the SA Constitution (SA, 1996c) set out the fundamental and entrenched rules and political principles by which these two countries must be governed. Eksteen (2012:21) states that a Constitution is a crucial resource of the law and enjoys the highest priority to all citizens of that country. In the preamble of the Namibian Constitution (NAM, 1990) and the SA Constitution (SA, 1996c), all persons living in Namibia and South Africa are referred to as “we, the people of Namibia” and “we, the people of South Africa”. Therefore, both Constitutions provide security, legality and rights to every citizen in Namibia and South Africa and, by implication, also to all junior participants or learners, PE teachers, educator-coaches and gymnastics coaches. In terms of article 1(6) of the Namibian Constitution (NAM, 1990), the Constitution shall be the Supreme Law of Namibia. Similarly, in terms of section 2 of the SA Constitution (1996c), any law or conduct not consistent with the Constitution will have no legality

(Currie & De Waal, 2013:9). These provisions in both constitutions should be read together with article 32(1) (NAM, 1990), which further makes provision that "...as the Head of State, the President shall uphold, protect and defend the Constitution as the Supreme Law". Similarly, section 83(b) (SA, 1996c) goes on to say "...must uphold, defend and respect the Constitution as the supreme law of the Republic..." In this study, those provisions of the Namibian Constitution (NAM, 1990) and the SA Constitution (SA, 1996c) most relevant to the coaching of junior gymnasts or learners, PE teachers and educator-coaches are discussed below.

2.2.1 Human dignity

In the Namibian Constitution (NAM, 1990), human dignity is provided for in article 8 (Respect for Human Dignity). It reads as follows:

(1) The dignity of all persons shall be inviolable.

(2) (a) In any judicial proceedings or in other proceedings before any organ of the State, and during the enforcement of a penalty, respect for human dignity shall be guaranteed.

(b) No persons shall be subject to torture or to cruel, inhuman or degrading treatment or punishment.

Similarly, the SA Constitution (SA, 1996c) reads as follows:

Human dignity 10. Everyone has inherent dignity and the right to have their dignity respected and protected.

Article 8 (1990) and section 10 (1996) respectively imply that it is an inherent right for all persons that their dignity should be respected and protected. All persons are born with a degree of worth and should be respected. It is the obligation of PE teachers and educator-coaches to have pride to earn self-respect, to respect and be respected and, in turn, teach a child or a participant not to degrade others. In the context of sport participation, the PE teacher or coach should be a role model and teach the child how to lose and win with dignity. PE teachers and educator-coaches should never treat a junior participant or child

in an inhumane or degrading way, or in any way unfairly in comparison to peers in the same situation, nor injure a gymnast's or learner's dignity. One example of where a gymnast's dignity was not respected is the case of Christy Henrich, a USA gymnast who was 22 when she died of multiple organ failure as well as anorexia five years after a gymnastics judge allegedly told her that she was too fat (Witherspoon, 1994). Due to the high intensity of gymnastics training (Wright, 2009), it is important for the PE teacher and coach to also be aware of signs of participants or learners not following a healthy diet and exercise and to be careful when dealing with such physical matters to not humiliate a participant or learner.

Bullying by either peers or mentors should never be allowed inside or outside the classroom or club. Similarly, PE teachers and educator-coaches should not intentionally or unintentionally embarrass participants or learners by insisting that they perform tasks that are beyond their capabilities, nor should participants or learners be abused by forcing them to over-exert on tasks which may pose a risk of injury or danger to their health. This could also be viewed as corporal punishment. To further elaborate on what was said (§ 1.3.2.2), corporal punishment is another way in which a participant or learner can be subjected to inhumane or degrading punishment by either being hit with an object or by being subjected to any kind of extraordinary or excessive physical exercise. The abolishment of corporal punishment in schools and, in general, corporal punishment of juveniles, previously ordered by a court of law after criminal offences, was declared. This was a direct consequence of the provisions of article 8(2)(b) of the Namibian Constitution (NAM, 1990) as well as section 56 (1) in the Education Act (NAM, 2001). It states that a teacher can be found guilty if he or she imposes corporal punishment on or allows corporal punishment to be administered to a learner, and similarly, in South Africa, in terms of section 10 of the South African Schools Act (84 of 1996) (South Africa, 1996), corporal punishment is strictly prohibited. The ways and means or forms of punishment administered by PE teachers and/or educator-coaches should also not conflict with individuals' right to have their dignity respected.

As stated by Isidori and Benetton (2015:687), dignity is a quality that belongs to every human being. By living in a democratic society, all persons have dignity as a right and therefore PE teachers and educator-coaches should see gymnastics coaching as an

educational opportunity to instil the notion of respect for human dignity. Further, PE teachers, educator-coaches and gymnastics coaches have a unique opportunity in the educational context to enhance the inseparable link between sport and dignity (Isidori & Benetton, 2015:690). Sport can be a positive concept if portrayed in a positive manner by a PE teacher and coach. To demonstrate, it can do much to a learner's or participant's self-confidence if he or she is praised when doing something right, regardless of how big or small. The way PE teachers, educator-coaches and club coaches teach and respect learners' or participants' dignity, will, in turn, set the tone to make them acknowledge one another's dignity. In the American court case of *Hinson v Holt*, 776 So.2d 804 (Ala Civ. App. 1998) (2003), a PE teacher was found liable when applying corporal punishment to a learner. In this case, the teacher was removed from his position. In Namibia in a similar case, *Van Zyl v The State* (CA 25-2014) [2016] NAHCMD 246 (05 September 2016), teachers were found liable after administering corporal punishment, but were not dismissed from the school and were given a fine by the court. In both South Africa and Namibia, it is against the law to administer corporal punishment, and teachers and coaches should not, under any circumstances, use this form of discipline.

2.2.2 Equality

In the Namibian Constitution (NAM, 1990), the right to equality is stated as follows in article 10 under the title *Equality and Freedom from Discrimination*:

- (1) All persons shall be equal before the law.
- (2) No persons may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status.

The SA Constitution (SA, 1996c) provides for equality in section 9:

- (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.
- (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.

In the Namibian Constitution (NAM, 1990), equality means being free from discrimination; similarly, in the SA Constitution (SA, 1996c), equality means not being unfairly discriminated against. A PE teacher and coach should therefore ensure that there is always an element of fairness during a lesson or during a session in the club as both constitutions guarantee to protect and benefit all people equally and everyone has the right to not be unfairly discriminated against by others, as stipulated under article 10(2) of the Namibian Constitution (NAM, 1990) and section 9(3) of the SA Constitution (SA, 1996c).

Junior participants or learners, PE teachers and/or educator-coaches should enjoy equal rights and freedoms and can rely on the Constitution to enforce these rights. Furthermore, article 10 (NAM, 1990) and section 9 (SA, 1996) protect the right of all persons to be treated equally by clearly stating that everyone has the right to equal protection and benefit of the law. It is structured around economic, cultural and social rights (Isidori & Benetton, 2015:689).

In the South African court case of *President of the Republic of South Africa v Hugo*, 1997 (4) SA 1 (CC) 41, it, however, becomes clear that there are instances where the same matter can be classified as unfair and in another instance as fair (Currie & De Waal, 2013:214). Legislation such as the Affirmative Action Employment Act 29 of 1998 (NAM, 1998) and Employment Equity Act 55 of 1998 (SA, 1998b) allow for fair discrimination based on race to rectify wrongs of the past. Differentiation as opposed to discrimination is also allowed – for example, in a club only for females because of specific reasons. The circumstances of each case determine whether it is fair or unfair. Not all challenges are addressed in the Constitution and therefore legislation is put in place to address certain issues for which the Constitution does not provide, such as in the South African case of *MEC for Education: KwaZulu-Natal and Others v Pillay* 2008 (1) SA 474 (CC), where it becomes clear that some challenges should be addressed further in legislation and not rely solely on the Constitution.

In Namibia, the Ministry of Gender Equality and Child Welfare (MGE CW) was established in 2000 “with the objective of ensuring the empowerment of children, and their full participation in political, legal, social, cultural and economic development” (Ambunda & Mugadza, 2009:7). These qualities should filter through to the classroom and club environment. PE teachers and/or educator-coaches must strive to provide equal opportunities for all participants or learners and should always be aware of the prohibition of discrimination. Participants or learners should, for example, never receive special treatment because of parents’ social and economic status, or be given the chance to partake in a team or be excluded from a team due to them belonging to a certain ethnic group, religion, culture, social and economic status.

2.2.3 Children

A vital preservation of children’s rights is found in article 15(1) of the Namibian Constitution (NAM, 1990) under *Children's Rights*:

(1) Children shall have the right from birth to a name, the right to acquire a nationality and, subject to legislation enacted in the best interests of children, as far as possible the right to know and be cared for by their parents.

Similarly, the SA Constitution (SA, 1996c) provides for children’s rights under section 28. The following subsections are most relevant to this study:

Children 28(1) Every child has the right—(b) to family care or parental care, (d) to be protected from maltreatment, neglect, abuse or degradation, (ii) place at risk the child’s well-being, education, physical or mental health or spiritual, moral or social development; (2) A child’s best interests are of paramount importance in every matter concerning the child.

Although legal instruments were developed that were aimed at the protection of children, it must be emphasised that basic human rights instruments have already been in place since as early as 1976 (Ruppel, 2009:55). As stated by Coomer (2009:90), “[c]hildren cannot care (or make decisions) for themselves (or protect themselves from harm) in the same way that adults can”. An obligation therefore rests with the parents, as set out in the Constitution, to as far as possible provide children with the necessary care and

guidance. PE teachers, educator-coaches and gymnastics coaches do not only have a delegated duty of care based on the *in loco parentis* principle, but also an original duty of care (Rossouw, 2006:57). This means in practical terms that the PE teacher/coach fulfils the role as the parent whilst the learner is in his or her care and supervision. A higher degree of care is expected from PE teachers and coaches, based on qualifications and experience. The duty of care principle is further discussed in § 2.9.1.2.

The Namibian Constitution (NAM, 1990) also states that legislation must be enacted in the best interests of children. Section 28 of the SA Constitution (SA, 1996c) highlights the importance of the interest of the child. Legislation is not capable to control every situation in life, but in Namibia and South Africa, there are some statutes that provide the basis for the care and protection of children (§§ 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9).

2.2.4 Education

In this study, education does not merely focus on the classroom environment, but also on educational types of activities, such as sport activities and the educational aspects of gymnastics. The important aspect of education is found in article 20, titled *Education*, of the Namibian Constitution (NAM, 1990):

Article 20(1) All persons shall have the right to education. (2) Primary education shall be compulsory, and the State shall provide reasonable facilities to render effective this right for every resident within Namibia, by establishing and maintaining State schools at which primary education will be provided free of charge. (3) Children shall not be allowed to leave school until they have completed their primary education or have attained the age of sixteen (16) years.

(4)(c) no restrictions of whatever nature are imposed with respect to the admission of pupils based on race, colour or creed; (d) no restrictions of whatever nature are imposed with respect to the recruitment of staff based on race or colour.

Similarly, the SA Constitution (SA, 1996c), section 29(1), also titled *Education*, provides for the “right (a) to a basic education...”.

According to Morgan (2012:4), “[t]he right to Education is a fundamental right recognised in almost all the constitutions of the western countries as a human right.”. The United Nations claims that education is a right to which all human beings are entitled (Lee, 2013:1). If children receive basic primary education, they will likely be literate and numerate, will have the basic social and life skills necessary to secure employment, and will be active members of a peaceful community, enjoying a fulfilling life (Lee, 2013:1; Morgan, 2012:8).

In article 20 of the Constitution of Namibia (NAM, 1990), an example of discrimination of admissions is given:

- (4) All persons shall have the right, at their own expense, to establish and to maintain private schools, or colleges or other institutions of tertiary education:
 - (c) provided that: no restrictions of whatever nature are imposed with respect to the admission of pupils based on race, colour or creed;

This implies that no learner or participant may be prevented from entering a school, PE lesson or a gymnastics club based on the provisions listed above. The same applies to PE teachers, educator-coaches and gymnastics coaches. Learners should, as per the provisions stipulated above, not be restricted to attend or enter a public school. The provisions, however, do not only pertain to admissions but also refer to non-discrimination in the school curriculum and use of facilities, which includes participation in sport and having access to sport coaching the school offers.

2.3 South African Schools Act 84 of 1996, and Education Act 16 of 2001

As mentioned in chapter 1 (§ 1.3.2.2), SASA (SA, 1996a) and the Education Act (NAM, 2001) have similar provisions. Only the provisions that enabled me to gain a deeper understanding of the phenomenon of legal implications and principles regulating teaching and coaching of junior gymnastics are discussed.

2.3.1 Code of conduct for learners

Section 8(1) of SASA (SA, 1996a) as well as section 55 of the Education Act (NAM, 2001) provide for the importance of a code of conduct for learners which must be adopted in all schools after consultation with learners, parents and teachers. This is understandable

given that it is the body that deals with governance and financial accountability at schools and is intended to be a community-based body able to promote the interests of a school. Such policies must be developed and exercised in line with the Constitution and relevant legislation. Where they fall short, the Department may intervene in accordance with the law, or an aggrieved learner may approach the court, as in the South African Constitutional court case of *MEC for Education: KwaZulu-Natal and Others v Pillay* 2008 (1) SA 474 (CC).

Furthermore, in section 8 (2), a code of conduct must aim at establishing a disciplined and purposeful school environment, dedicated to the improvement and maintenance of the quality of the learning process. A code of conduct is an important tool in the context of the PE environment as well as in the gymnasium as it can be used to support daily decision-making processes. It can be used to clarify expectations of learners, and the same applies for a code of conduct for gymnasts. Finally, a well-written code of conduct can ensure safety and protection and clearly outlines the roles and responsibilities of the learners and gymnasts.

2.3.2 Corporal punishment

Corporal punishment was discussed under human dignity (§ 2.2.1) and is also strictly prohibited under Section 10(1) and (2) of SASA (SA, 1996a). In addition, section 56 of the Education Act (NAM, 2001) explicitly prohibits corporal punishment in state schools, private schools and hostels:

(1) A teacher or any other person employed at a state school or hostel or private school or hostel commits misconduct, if such teacher or person, in the performance of his or her official duties imposes or administers corporal punishment upon a learner or causes corporal punishment to be imposed or administered upon a learner. (2) For the purposes of the Labour Act, 1992 (Act No. 6 of 1992), misconduct contemplated in subsection (1) constitutes a valid and fair reason for any disciplinary action.

In 2016, a High Court ruling confirmed that the ban on corporal punishment in the Education Act (2001) applies in all Namibian schools, including private schools. In 2016,

in the Namibian court case, *Van Zyl v The State* (CA 25-2014) [2016] NAHCMD 246 (05 September 2016), “a High Court ruling confirmed that the ban on corporal punishment in the Education Act applies in all Namibian schools, including private schools” (UNICEF, 2015:4).

2.3.3 Maintenance and reparations

The maintenance and reparations of school property, buildings and school premises are discussed in sections 20(g) and 21(1) of SASA (SA,1996a) and section 33 of the Education Act (NAM, 2001) where it is stated that the SGB can be allocated the function by the HoD to be responsible for the maintenance and reparations. As stated in chapter 1, Section 64 of the Education Act (2001) allows the Minister to authorise an inspection or investigation of the said buildings and school premises.

Section 33 - Establishment and classification of state schools and hostels 33(b) establish and maintain hostels, teachers' resource centres, school clinics and other facilities which may be necessary for the benefit of learners and teachers in attendance at state schools and classes contemplated in paragraph (a).

In the case of a gymnastic club, the onus is on the club owner to ensure that the building and premises are well maintained and that reparations are done regularly. In some instances, though, the building might belong to someone, but the movable assets of the building, such as the apparatus and equipment used, belong to another person. Here, the maintenance is not the responsibility of the landlord or owner. It is, however, the duty of the gymnastics coach and the PE teacher to do regular inspections as it is their obligation to ensure safe participation because of the duty of care that exists towards the learner or gymnast (Rossouw & Keet, 2011:10).

2.3.4 Liability of the State

Section 60(1) of SASA (SA, 1996a) provides that:

the State is liable for any damage or loss caused as a result of any act or omission in connection with any school activity conducted by a public school and for which such public school would have been liable but for the provisions

of this section. (2) The provisions of the State Liability Act, 1957 (Act No. 20 of 1957), apply to any claim under subsection (1).

With the above in mind, it is important to understand that there might be instances where a teacher at a public school will be held liable, but the State, as provider of public education, will pay the damages. In terms of section 60 of SASA (SA, 1996a), the State will be held liable for any delictual harm caused because of an act or omission relating to a school activity conducted by a public school teacher. The State can therefore be held liable for an injury or other harm sustained during normal teaching activities.

2.3.5 Regulations for Safety Measures at Public Schools

The provisions in the Regulations for Safety Measures at Public Schools (SA, 1996b), as addendum to the SASA (SA, 1996a) are important and should all be considered in the coaching context. For the purpose of this study, however, only the most relevant and applicable regulations are discussed. The Namibian Practical Guide for Building Safe Schools (UNICEF, 2018) is also incorporated throughout to provide a more comprehensive discussion.

Section 8A 2(b) (SA, 1996b) provides that learners should be supervised, where “reasonably practicable, by an accompanying educator or parent at all times”. In addition, it is suggested to “[d]evelop supervision rotas for the school grounds” (UNICEF, 2018:65). A lack of supervision directly links to ill-discipline, and possibility of risks in the classroom and in the gymnastics club increases. It also provides the learners and gymnasts opportunities to misbehave, which increases the potential for them to get hurt. In a gymnastics hall with a variety of apparatus, the risk is even higher, which implies that closer supervision is expected (Rossouw, 2006:66). This is illustrated in chapter 4, based on findings of the empirical research conducted.

Section 8A 2(d) (SA, 1996b) emphasises the importance to ensure “that the adult-learner ratio regarding supervision is at least (i) one adult for every 20 learners in primary schools”. In cases where schools are forced to take up more children than they can actually accommodate, or where there are not enough qualified coaches in a club, the level of supervision is under pressure. In these cases, schools or clubs should consider

special measurements to ensure safe participation of learners. In the gymnastic environment, this ratio is even more important, and the risks involved in PE teachers and coaches taking on too large groups are discussed in chapter 4 (§ 4.3.4.2).

Section 8A 8(b) (SA, 1996b) makes provision for the measures to be taken if a learner is:

injured or falls ill during the course of a school activity and requires medical treatment. The supervising educator:

(a) takes reasonable measures to contact the parent of the learner concerned in order to obtain consent for such medical treatment; and (b) determines whether or not to consent to such medical treatment if he or she is unable to contact the parent of the learners.

In addition, UNICEF (2018:35) suggests the following:

Do not give medications without prior approval by the parent or guardian. Notify the parent or legal guardian of the emergency as soon as possible. If the parent or legal guardian cannot be reached, notify the next of kin. If necessary, contact the nearest hospital and alert them to the incident so they can prepare.

From the provisions above, SASA (SA, 1996b) as well as the Education Act (NAM, 2001), can be used to assist PE teachers and educator-coaches to understand the legal implications regulating teaching and coaching of gymnastics activities.

2.4 South African Council for Educators Act 31 of 2000

The Code of Professional Ethics, a schedule for SACE (SA, 2000), makes provision for specific relationships between, amongst others, the educator and the learner, the educator and the parent, and the educator and the community. These provisions also have implications for the liability of PE teachers and educator-coaches. Gymnastics coaches at clubs are not bound by this code, but by the code of conduct of their respective clubs derives from the FIG code of conduct (§ 2.8).

2.4.1 The educator and the learner

The PE teacher or educator-coach should, as per section 3(3.1) (SA, 2000), “respect the

dignity, beliefs and constitution right of learners” (§ 2.2.1) and 3(3.2) (SA, 2000) should “acknowledge the uniqueness, ... and specific needs of learner (they teach) ... and to realise his or her potentialities”. A PE teacher and educator coach should further, according to section 3(3.5) (SA, 2000), avoid any “form of physical or psychological abuse”. The Code specifies that, to ensure sound relationships, a teacher should “take reasonable steps to ensure the safety of the learners” (section 3 [3.11]) (SA, 2000). Lastly, the professional and ethical PE teacher or educator-coach will not be “negligent or indolent in (conducting their) professional duties” (section 3 [3.14]) (SA, 2000).

2.4.2 The educator and the parent

It is important that PE teachers or educator-coaches promote “harmonious relationships” (section 4 [4.1]) (SA, 2000) with parents and do what is “practically possible to keep parents ... informed about the well-being and progress of the learner” (section 4 [4.2]) (SA, 2000).

2.4.3 The educator and the community

PE teachers or educator-coaches should realise that they serve “the community and therefore acknowledge ... (and respect) differing customs, (cultures) and beliefs” (section 5 [5.1]) (SA, 2000). These aspects will also play a role when the *boni mores test* (§ 2.9.1.2) is applied to determine wrongfulness. This test can be used in cases of alleged negligence and relates to how the specific community will perceive what is wrongful and what is an indication of how the reasonable PE teacher or educator-coach should have acted in the situation where an injury occurred.

2.4.4 The educator and his or her employer

The educator “acknowledges that certain responsibilities and authorities are vested in the employer through legislation” (section 8 [8.2]) (SA, 2000). Educators should be aware of the imperatives contained in this Code of Professional Ethics and comply with the provisions, and coaches should adhere to their clubs’ codes of conduct (§ 2.8).

2.5 Employment of Educators Act 79 of 1998, Labour Relations Act 66 of 1995, and the Labour Act 11 of 2007

The Employment of Educators Act (SA, 1998a) is, as stated by Rossouw (2014:62), “the main statutory instrument regulating teaching profession in terms of labour law”. The relationships in education are normally those between the educators as employees and the Department of Education as employer (Rossouw, 2004a:1). Gymnastics coaches or assistant coaches, however, usually do not perform their duties as employees of the State and therefore the Labour Act (NAM, 2007) and the LRA (SA, 1995) respectively are cited in this study. These labour-related acts regulate (Rossouw, 2004a:2) the relationship between an educator-coach (employee) and a club owner (employer) wherever coaching of gymnastics takes place in a private club environment, except where such a club is managed as part of a specific school. To regulate these relationships, the Government implements labour laws.

Section 41(a)(ii) of the Labour Act (NAM, 2007) states that “[e]very employee has a duty to – (ii) the safety and health of any individual who may be affected by the employee’s activities at work”. Further, section 132 of the Labour Act (NAM, 2007) makes provision for the employer to be liable for acts of the employee, based on the common law principle of vicarious liability. In the LRA (SA, 1995), all labour issues in the workplace in the South African context are addressed. Every teacher, educator-coach and coach should know that he or she is responsible for the safety of children placed under his or her care, whether they are swimming, jumping on the trampoline (or climbing up a rope in the gymnastics club) (Rossouw, 2006:10). From this extract, and consistent with the vicarious liability principle, we can derive that teachers, PE teachers and educator-coaches will not always be held liable in cases where they perform their official duties as an employee. In an employer-employee relationship (also refer to section 8 [SA, 2000] and § 2.4.4), there is legislation that protects the employee from liability under specific circumstances. In this study, such protection or defences against liability finds application to PE teachers and educator-coaches employed by the Government or the SGB, or a coach employed by a club as the employer. If a teacher acts as an official coach of a public school sport team – in this case, the school gymnastics team – the State, as the employer, could be held liable should negligence be found during an injury which occurred in terms of section 60 (SA, 1996a) (§ 2.3.4).

In the case of *Lubbe NO v Jacobs NO* [2003] JOL 11496 (T), a 12-year-old girl, Nadia, was struck on the head by a hockey ball when she put away her teacher's jacket during a mini hockey game after she followed an instruction by an educator, but went into a dangerous zone close to the goal posts. This case brought forth the issue of where the coach stands with regard to liability and what responsibilities rest with PE teachers and educator-coaches because of their position of authority and responsibility towards learners. According to Feldman (2010:259), "[i]ndividuals are responsible for the consequences of their own risk-taking preferences". In this case, the children under the supervision of Mrs Van Biljon were 12 years of age and older. Therefore, it was not unreasonable for Mrs Van Biljon to accept that she would act responsibly. This included that Nadia should have been careful and should not have moved into the dangerous zone. The court ruled that the educator had not been negligent and could therefore not be held liable for the incident. The claim was dismissed with costs.

Negligent conduct by an educator does not only apply to being held delictually liable but can also lead to disciplinary action. This legislation affords PE teachers, educator-coaches and gymnastics coaches matters regarding labour in the school environment as well as the club environment. This legislation can be consulted to ensure rights of employees are protected and to ensure rights pertaining to both employer and employee are understood so that duties can be fulfilled from both sides.

To follow is a brief analysis of an important legal determinant that is not education-specific but relevant to the topic of this study.

2.6 Protection of Personal Information Act 4 of 2013

The POPI Act (SA, 2013) should be read with section 14 of the South African Constitution (SA, 1996c), which states that all persons have the right to privacy. This POPI Act (SA, 2013) ensures that all persons – including PE teachers, educator-coaches and gymnastics coaches – should conduct themselves in a responsible manner when generating, storing and sharing information. For example, if personal information was collected to enter a child into a competition, then the information may only be used for the intention which it was collected for. In other instances, there are situations where coaches record participants or learners on video to help improve their technique, because the video recording can help them to see from a different perspective how they executed a

movement or a routine.

In addition to this the SAGF (2018:43) adds that, if a club intends to live stream (gymnastics session), the club should make sure that (1) [all] coaches, parents and gymnasts are aware that (2) “images are not recorded, (3) footage is shown without sound... (4) ...cameras provide wide-angle, general views... (5) ...arrangements in place to respond to any concerns...”

The POPI Act (SA, 2013), section 14(2), refers to how long you are allowed to keep information. In the case of a video recording, it means that footage must be handled as sensitive information and may not be used for any other reason or in any other way as was intended (for example, sharing it on Facebook or any other social-media platform without the consent of the participants and/or their parents). This further implies that, once the footage is not needed anymore, it should be deleted.

2.7 The National Sport and Recreation Act 110 of 1998 and the Namibia Sports Act 12 of 2003

The National Sport and Recreation Act (SA, 1998c) makes provision, *inter alia*, for the promotion and development of sport and recreation as well as the coordination thereof (Mpati, 2005, chapters 2–7). Similarly, the Sports Act (NAM, 2003) makes provision for the development of sport in general. Acts like these assist the State to make the necessary regulations and to provide for matters that could arise in sport or that are connected to sport and therefore also to gymnastics.

2.8 International Gymnastics Federation

As explained in § 1.2.4, the International Gymnastics Federation functions under the official name of *Fédération Internationale de Gymnastique* (FIG). Of specific importance in the context of gymnastics coaching, is the subordinate legislation (Oosthuizen *et al.*, 2017:46) – the FIG International Code that regulates the gymnastics sports code, which is discussed below. Worldwide, the principles contained in the FIG International Code are taken up in national codes.

2.8.1 Policy and procedures for safeguarding and protecting participants in gymnastics

FIG assists the national federations (NF) for gymnastics (such as the NGF and SAGF) by

“developing supporting documents, policy and procedures which are intended to serve as the acceptable standards when adopting and implementing national safeguarding systems” (FIG, 2018:3). The SAGF formulates its own Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics, which is based on and consistent with the FIG Code. In Namibia, however, it was not possible to find the NGF’s version of this document. For the purpose of this study, the provisions stipulated in the documents of FIG (2018) and the SAGF (2018) are discussed to understand how they regulate gymnastics.

The SAGF (2018:23) sets out clear guidelines for gymnastics coaches to maintain high standards of good practice to guard from allegations, and a few of these good practice guidelines are further built upon in chapter 5 to make recommendations for educator-coaches and gymnastics coaches.

It is recommended that the “the rule of two” is applied to safeguard gymnasts and coaches to ensure “that at least two responsible adults are always present during gymnastics training avoiding situations where a responsible person is alone with a (gymnast)” (SAGF, 2018:25).

FIG (2019) further regularly issues documentation, technical regulations, statutes, and many more. For the purpose of this study, only two are discussed: (1) FIG: Technical Regulations 2019 (FIG, 2019b); and (2) FIG: Code of Conduct (FIG, 2019c).

FIG (2019b:11) regularly provides a technical-regulations document. The purpose of this document is to assist NF, such as NGF and SAGF, with an “authoritative medium” to use to progressively develop various aspects such as rules and codes.

Lastly, the FIG (2019c) issued a Code of Conduct for Athletes, Coaches, Judges and Officials. Two key principles, (1) respect and human dignity (§ 2.2.1) and (2) integrity, are highlighted under the ethics part of this document.

2.8.2 Code of conduct

To ensure safe participation can be seen as one of the coach’s primary duties. The FIG Code of Conduct (FIG, 2019c) offers a number of coach-specific principles that can be

applied by coaches to ensure they meet this statutory duty. The most salient of these principles in the context of the study are:

- To place the current and long-term health, safety and welfare of the participants above all else.
- To reduce risk of injury to participants and maximize their holistic development.
- To ensure each gymnast is following a well-planned program of training suitable to their age and ability level which has been communicated to parents and/or guardians.
- To strictly maintain appropriate, professional relationship boundaries with parents, athletes and/or officials.
- To demonstrate professionalism and duty of care by providing quality services and expertise, and not misrepresent qualifications and coaching experiences.
- To assess that the training environment is safe.
- To fulfil the duty of care with regards to athletes with injury management and the return to training.
- To ensure that any physical contact with another athlete is appropriate to the situation and necessary for the athletes' skill development and/or safety.
- To help each athlete to reach their potential by respect the talent, developmental stage and goals. –
- To treat each participant as an individual and prepare them for success.

This concludes the discussion of the one primary source of the law, namely legislation. As indicated in Figure 2.1, the legal framework also includes the common law, which is of specific importance in this study.

2.9 Common law

As explained in § 1.3.2.8, the common law stems from the Roman-Dutch and English law of the 17th century (Rossouw, 2017:35). The common law is largely uncoded, i.e. not written down as statutes (Bray, 1988:18; Rautenbach, 2008:2; Rossouw, 2006:22), and stems from traditions and legal principles developed and adapted to South Africa's unique legal background (Roos, Oosthuizen & Smith, 2017:128).

The Namibian common law connects to that of South Africa and functions similarly:

The Namibian court system retains Roman Dutch elements inherited from South Africa along with elements of the African traditional (community) court system. The Roman Dutch law developed by the South African courts had become the common law of the territory, and was binding on the Namibian courts until independence. (Ruppel & Ambunda, 2011: 3)

An example of the application of the common law is where a PE teacher, educator-coach or gymnastics coach acts *in loco parentis* in the classroom and club environment (Bray, 1988:18; Rossouw, 2017:35). Judgments on common law focus on facts and compare these, based on the precedent principle, on facts from previous court cases and decide on the ruling relevant to these facts (Tetley, 2000:614). Common law principles are important sources used in the law, more specifically in the fields of contract law, the law of delict, and property law (Roos *et al.*, 2017:128). In the sections to follow, several relevant common law principles that have been applied to solve disputes in education (Bray, 1988:8) and sport (specifically gymnastics) are incorporated with a specific focus on the law of delict.

2.9.1 Law of delict

Article 25 (Enforcement of rights and freedom) of the Namibian Constitution (NAM, 1990) gives individuals the right to approach a court for the protection of human rights and for the court to award monetary compensation in respect of damage suffered. The law of delict falls within private law (Rossouw, 2016:33) and is not particularly concerned with sport, but according to Cronjé (2005, chapter 5-10) the law of delict does have an impact on sport activity and therefore also on gymnastics. For example, if a learner sustains an injury due to the possible negligence of an educator, one aspect that a court will consider is if there was any statutory duty from the educator towards the learner, which is normally the case. Thus, “non-compliance with the statutory duty is an indication that the violation of the plaintiff’s interests took place” (Neethling & Potgieter, 2017:76).

In the context of sport and education, there is a relationship between a PE teacher or coach and, on the other side, a learner or participant, characterised by authority, educational purposes, and a duty of care. PE teachers and educator-coaches stand *in loco parentis* to a child or participant in their care, and it is important for PE teachers

and/or educator-coaches to be aware of the need of protection owed to the participant or learner while in their care. On the other hand, parents or guardians must remember that teachers should always have the best interests of their child at heart, but that teachers do not replace them as parents (Oosthuizen & Rossouw, 2008:107).

Another example of a common law principle would be the reasonableness of behaviour (Carpenter, 2008:20), where the law states how we must behave in certain situations and what is to be expected by a reasonable person in a specific situation. For instance, a PE teacher or gymnastic coach can be expected to behave differently in a certain situation than an unqualified person in the same instance. The law of delict was specifically included in this study as it relates strongly with the phenomenon investigated. The five fundamental elements of delict are, according to Neethling and Potgieter (2017:4), and Rossouw (2017:36): an act (conduct or omission); wrongfulness (or unlawfulness); damage (harm or loss); causation (or causality); and fault (intent or negligence). For conduct to be classified as a delict, all five of these elements should be present (Neethling & Potgieter, 2017:4; Rossouw, 2017:37). The reason to investigate the law of delict is to see when a PE teacher, educator-coach or gymnastic coach can be held liable to compensate for a learner who has suffered injury, loss, pain, or inconvenience (Rossouw, 2017:37) because of an action directly linked to the PE teacher, educator- or gymnastics coach. According to Roos *et al.* (2017:130), the legal duty that exists between a PE teacher, educator-coach or gymnastics coach and a child will be determined by using existing common law principles and relevant provisions in the Constitutions of both Namibia and South Africa.

2.9.1.1 Act (Conduct or omission)

This first element of delict is to establish whether there was a voluntary conduct or omission by a human being (Rossouw, 2009:38). In addition, Oosthuizen *et al.* (2019:122) refer to voluntary conduct as an “act (commission)” and elaborate that wilful means “conscious, the exercise of mental powers” and further add that omission “should not be confused with...negligence”. Oosthuizen *et al.* (2019:123) further state that, “in the law of delict the term for wilful, intentional conduct is, however intent”. Intent will be discussed under fault (§ 2.9.1.4). A juristic person – such as a university, company, statutory body, (a gymnastics club) or school – acts through humans as functionary and can also be held

delictually liable (Neethling & Potgieter, 2017:25).

As discussed in Chapter 1, one example of a case where there was an omission is the South African case of *Peter Wynkward v Minister of Education, Highlands Primary School* 2002 (High Court of SA: Cape of Good Hope, as discussed in § 1.3.2.8). In the High Court case, the judge held the school and Minister liable for the serious injuries to the child when he ruled in Wynkward's favour with costs. In the Appeal Court case (*Minister of Education and another v Peter Wynkward* NO. 2004 (3) SA 577 (C)), however, the original decision was overturned. Rossouw (2006:63) added that this appeal case demonstrated "a more reasonable approach of the court towards the extent of the educator's duty of care".

Automatism is a defence that could be used to see whether conduct was voluntary. In other words, the person argues that he or she acted mechanically (Neethling & Potgieter, 2017:26). Neethling and Potgieter (2017:27) mention a few conditions that might cause "a person to act involuntary..., unconsciousness, a fainting fit, an epileptic fit, serious intoxication, ... and reflex movements". In the context of the classroom or a club, we can derive, from the above examples, that the court has to establish whether there was adequate consciousness on the part of the wrongdoer.

It is necessary to make sure that gymnasts adhere to a certain standard for competitions. It might be that gymnasts on a specific day are, for example, not enthusiastic about the practice session. In such a situation, a gymnastics coach needs to approach the conditioning process with care. Conditioning should not be used to enforce discipline and the intention of the gymnastics coach should not be unscrupulous and to punish the gymnasts by using punishment techniques. In the next section (§ 2.9.1.2), it is discussed how one establishes whether the act (commission or omission) was wrongful.

2.9.1.2 Wrongfulness

It is important to note from § 2.9.1.1 that, although it was established that there was indeed voluntary conduct or omission, it is "in itself insufficient to give rise to delictual liability" (Neethling & Potgieter, 2017:33) and, as added by Rossouw (2017:38), "an act that causes damage is not necessarily wrongful (or unlawful)".

It is a well-established international principle of law that school authorities have a duty of care to learners while under their care and control. (Oosthuizen et al., 2019: 119). Figure 2.2 illustrates the most salient aspects of the duty of care of a gymnastics coach (SAGF, 2018:21).

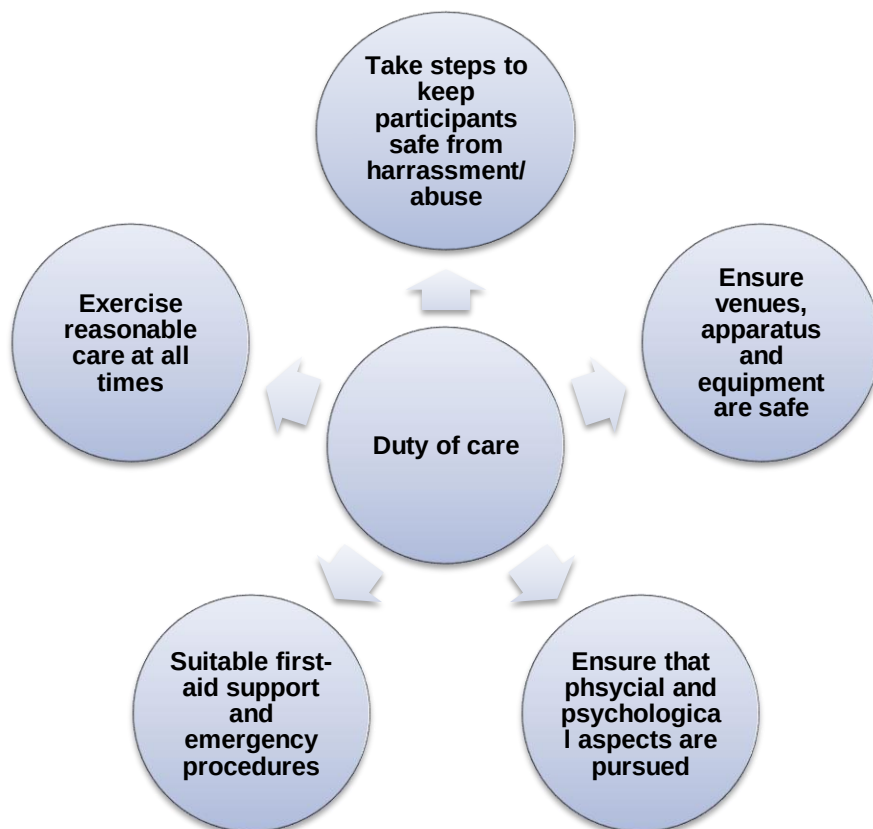


Figure 2.2: Duty of care

These aspects, while developed for gymnastics coaching, could also be applied for PE teachers and educator-coaches, and clearly demonstrate the high expectations PE teachers, educator-coaches and gymnastics coaches have to meet.

The High Court of Australia, in *Geyer v Downs and Another* 1977 HCA 64; 138 CLR 91, further describes the extent of teacher's duty of care to learners as follows:

Children stand in need of care and supervision and this their parents cannot effectively provide when children are attending school, those then in charge of

them, their teachers, must provide it.

The same principle could be applied in the scenario of a gymnastics coach and his or her junior gymnasts whom the parents leave or drop off for a gymnastics session and the coach oversees them. Parents leave their children in the safety of the gymnastics coach and therefore a duty of care exists between the coach and the gymnast. Although the exact extent and precise content of the duty is difficult to determine (Hamman, 2003:37), it is still clear that there is a certain obligation owed by one party (in this case, the gymnastics coach) to another (in this case, the junior gymnast) – a duty to take reasonable care to prevent reasonably foreseeable injury (Kendall & Sidebotham, 2004:79). From the statements above, we can derive that there is a close link between the liability of teachers, coaches and the duty of care owed to the participant (learner or gymnast) (Tebbutt, 2005, chapter 3–2).

In the context of the classroom or sport field, a teacher has a statutory duty towards a learner. The same applies in the case of a gymnastics coach and a gymnast. A qualified and experienced gymnastics coach who, within the execution of his or her statutory duty, may assist a gymnast who sprains his or her ankle by manipulating the ankle, but may, in the process, aggravate the injury. In this example, the act is not necessarily wrongful, but as a qualified gymnastics coach, a higher degree of care is expected. Another example would be a gymnastics coach not calling an ambulance when a gymnast falls off an apparatus and sustains a serious injury.

Where a PE teacher, educator-coach or gymnastics coach omits to do something to prevent harm to a learner or a participant, it does necessarily imply that the omission was wrongful. To see if a PE teacher, educator-coach or gymnastics coach acted wrongfully, and whether he or she could be held liable, one must first establish whether there is a statutory duty (Neethling & Potgieter, 2017:76) owed to the learner or participant. Other ways in which wrongfulness of an act can be determined are to first conduct the *boni mores* test to determine what is expected from the wrongdoer by the community (Rossouw, 2006:40) and, more specifically, the legal convictions of the community (Neethling & Potgieter, 2017:36). Secondly, it should be determined whether the rights of the person have been violated in one way or another (Rossouw, 2017:37).

In the context of sport, and specifically gymnastics and gymnastics-related activities, a statutory duty of care between the participant and the PE teacher, educator-coach or gymnastics coach must first be established to see whether the act of the PE teacher, educator-coach or gymnastics coach will be seen as wrongful. One test to establish whether a duty of care exists, is to determine whether a special relationship exists between the parties (Rossouw, 2017:37).

In the Australian case of *Rootes v Shelton* [1967] HCA 39; 116 CLR 383; (1968) ALR 33, a water-skier sued a skipper for not warning him that there was a stationary boat in front of him and, because of this omission, the water-skier got hurt. The court, however, ruled in favour of the skipper and stated that the duty of care also depends on circumstances and that, in this case, there was duty of care towards the water-skier.

The question in sport is what society expects of a qualified PE teacher, educator-coach or gymnastics coach and how the person should have acted in the specific circumstances.

According to Rossouw (2017:38), apart from the *boni mores* test, there are a few elements to consider in sport to see whether an act was wrongfully conducted. Rossouw (2006:41) mentions a few circumstances and factors: “nature of the sport,... the extent of the risk..., (establishing how serious the injury is, when the injury happened, if there was any form of recklessness),...deliberate or reckless disregard of the possibility of injury...”. It should be determined whether any precautions could have been taken, whether the act was wrongful because it was done on purpose, or due to neglect, and whether previous warnings were given to the participant or to the PE teacher, educator-coach or gymnastics coach.

Some acts in sport that are essentially wrongful in other contexts might be seen by the community and participants as acceptable to specific sport types (Rossouw, 2017:39). Contact sport, like rugby, boxing and kickboxing, have some inherent dangers, but participants accept these risks as part of the nature of the specific sport. To rule out the possibility of the act as being wrongful, the important prerequisite is that the act that causes the injury or damage must be performed within the rules of the sport code. Other aspects of assumption of risk are further discussed in § 2.9.2.1. Acts of aggression become wrongful if there is a spirit of hostility or the intention to inflict serious bodily harm

(Bösl & Horn, 2008:142). From this, we can derive that a participant will not likely be found delictually liable if he or she stayed within the rules of the specific sport code (Rossouw, 2006:42).

A way to manage and take preventative measures is for the PE teacher, educator-coach or gymnastics coach to be aware of the inherent risks of the sport code in which he or she is involved and, in the case of gymnastics, understand and be able to interpret the rules of gymnastics and use this as one tool to protect participants from risks not inherent to gymnastics and to be aware of acts that are seen as wrongful.

2.9.1.3 Damage

The third element of the delict is damage, which is “fundamental to a delictual action for damages” (Neethling & Potgieter, 2017:211). The objective in any delict is not to punish, but to compensate the party for damage suffered (Basson & Loubser, 2001, chapter 5-11; Rossouw, 2017:39). As stipulated by Neethling and Potgieter (2017:5), there are three pillars of the law of delict (Figure 2.3) which distinguish between different forms of damage and the actions taken in each case.

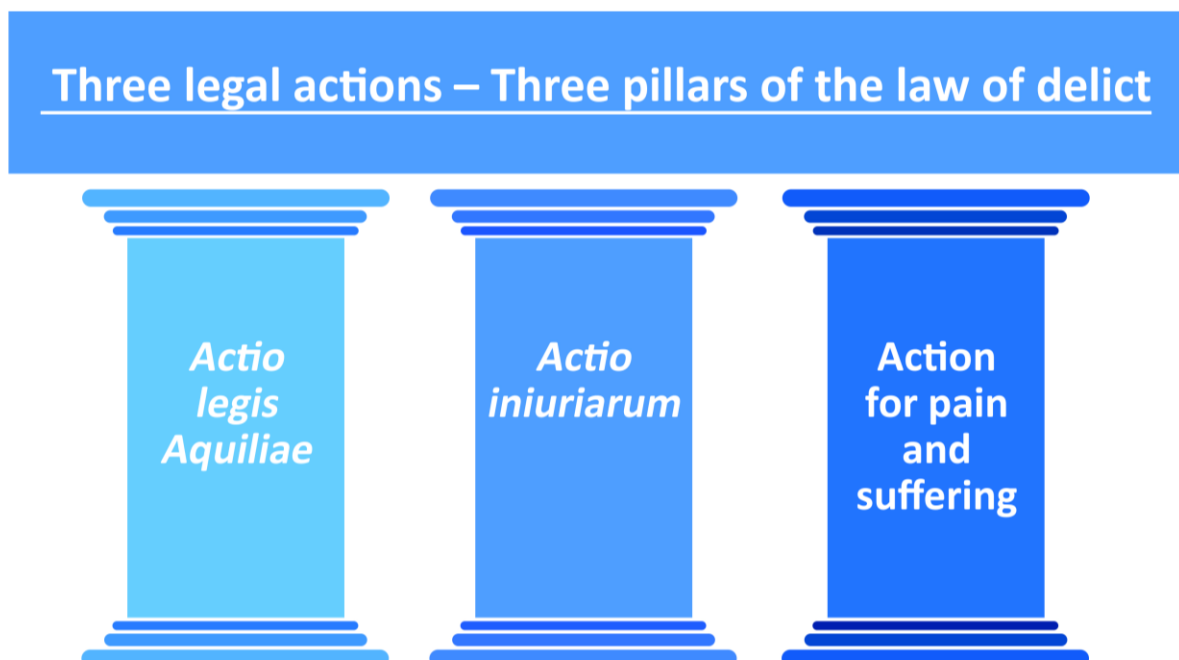


Figure 2.3: Three legal actions – Three pillars of the law of delict

Neethling and Potgieter (2017:5) explain the three terms in Figure 2.3 as follows:

the *actio legis Aquiliae* ...damages for the wrongful and culpable (intentional or negligent) causing of patrimonial damage are claimed and *actio iniuriarum*, which is directed at *satisfaction* (...*sentimental damages*) for the wrongful and *intentional* injury to personality...the action for pain and suffering, by which compensation for injury to personality as a result of the wrongful and *negligent* (or intentional) impairment of bodily or physical-mental integrity is claimed.

A distinction is further made (Botha, Smit & Oosthuizen, 2017:214; Rossouw, 2006:46) between patrimonial loss (pecuniary loss) and non-patrimonial loss. Patrimonial loss can be damage to property which belongs to the other party, or any medical expense that is incurred for either emotional or physical damage (Botha *et al.*, 2017: 214). Neethling and Potgieter (2017:5) further elaborate by saying that a delictual action will be taken by applying the *actio legis Aquiliae* principle to claim such damages.

Rossouw (2006:47) mentions a few examples of non-patrimonial (non-pecuniary loss), such as “infringement of physical or mental bodily integrity: Pain and suffering, disfigurement, loss of general health...”, and the infringement of the other party’s human rights, or infringement of personality or good name. The *Actio iniuriarum* principle is applied to claim damages based on “injury to personality” (Neethling & Potgieter, 2017:5). The third principle is the action to “claim for pain and suffering” is (Neethling & Potgieter, 2017:5; Rossouw, 2006:47).

The action for pain and suffering...is a unique action that cannot be classified with the *actio legis Aquiliae* or with the *actio iniuriarum*... and is in particular (concerned) with psychological or mental injury... equated with physical (bodily) injury in the area of emotional shock, and loss of (or shortened) life expectancy (Neethling & Potgieter 2017:16).

PE teachers, educator-coaches and gymnastics coaches should be aware of this element as the law of delict is applied to decide who needs to carry the costs, who needs to get paid, and how much should be paid for damages.

The fundamental element of causation is discussed next.

2.9.1.4 Causation

The next element which must be present in the law of delict is that of causation. This principle implies “that there is a causal link between the wrongful act and the ensuing damage or loss he or she has sustained” (Oosthuizen *et al.*, 2019:125). There are two types of causation, namely factual causation and legal causation (Neethling & Potgieter, 2017:176).

Courts in Namibia and South Africa have accepted the *conditio sine qua non* theory to determine or describe factual causation (Neethling & Potgieter, 2017:177). The court should enquire into the conduct or omission and the circumstances (either lawfully to prevent harm, or wrongfully to intentionally hurt someone). In addition, the court should enquire into the consequences of such conduct or omission to see whether a factual causation is present. In the context of sport, and specifically gymnastics, a practical example of this could be that a gymnast (A) is busy with a routine on the beam and another gymnast (B) is about to run across the mat where A would land during her dismount. The coach (C, the defendant) foresees this possible collision and plucks B with force on the arm. In this event, B’s arm is broken. In this scenario, it is clear that C is directly responsible for the injury to B. The facts of the case would be analysed by a court of law, and the conclusion would probably be that, although an injury was caused by the act of the coach, it would not be deemed wrongful.

The theory used to establish causation is called the *conditio sine qua non* theory, also referred to as the “but for” test (Rossouw, 2006:47). This is a two-staged test to establish causation to see whether a defendant in fact did cause the injury or harm. To do this, one can ask: would the injury still have occurred if the defendant did not do what he or she did? This test is used to link the act of the defendant to the consequence to determine if there is a causal link.

Fault is the last fundamental element that must be considered.

2.9.1.5 Fault

Fault is also “accepted to be a general requirement for delictual liability” (Neethling & Potgieter, 2017:123). To understand fault to the full extent, the two forms of fault, namely

intent and negligence (Neethling & Potgieter 2017:123), must first be considered. Before it is established whether someone acted negligently or with intent which can lead to proof of fault, it should first be established whether the person who is accused of acting negligently can be held accountable. According to Neethling and Potgieter (2017:133), a person can be at fault when he or she has the mental capacity to distinguish between right and wrong.

The court needs to decide whether the person acted intentionally; in other words, was the person aware that his or her conduct would cause damage to the other party? Neethling and Potgieter (2017:127) refer to three forms of intent, namely “direct intent, indirect intent and *dolus eventualis*”. Direct intent is proven when a person “desires a particular consequence” (Neethling & Potgieter, 2017:127). An example is when a person harms another person to take his or her possessions. Neethling and Potgieter (2017:127) describe indirect intent as “where a wrongdoer directly intends one consequence of his conduct but at the same time has knowledge that another consequence will unavoidably or inevitably also occur”. *Dolus eventualis* applies when the “wrongdoer foresees the consequence but recklessly carries on with his conduct” (Neethling & Potgieter, 2017:127).

As stated by Rossouw (2017:42), the conduct associated with intent is “to cause damage is deliberate and purposeful and does not often prevail in the sport coaching context”. One example of intent can be corporal punishment, as discussed under Human Dignity (§ 2.2.1) (Rossouw, 2017:41). It can be the sole intent of an unscrupulous gymnastics coach to physically or psychologically harm children by letting them overexert themselves. Usually, this type of intent is not part of the relationship between the participants and the educator-coach or gymnastics coach.

Fault is also revealed through negligence. In the instance of negligence, the wrongdoer’s conduct is “careless, thoughtless and imprudent” (Neethling & Potgieter, 2017:131) and “failed to adhere to the standard of care legally required” by the wrongdoer (Neethling & Potgieter, 2017:131). Another criterion to measure whether the wrongdoer has acted negligently, is to determine how the reasonable person would have acted in a similar situation (Neethling & Potgieter, 2017:131; Rossouw, 2017:41). The “reasonable person test” is done to determine what a reasonable person would have done in the same

situation. It is also important to note that a reasonable person would be a fictitious person with similar attributes (Masel & Costaras, 2015:10) such as the same level of skills, of the same age, and with the same experience in the sport.

The importance of the principles of foreseeability and preventability is clear. In the sport-coaching context, to determine negligence, the question will firstly be asked as to whether the reasonable educator-coach would have foreseen the damage or injury. Secondly, the question will be: Would the reasonable educator-coach be able to prevent the damage or injury? (Rossouw, 2017:43). The defendant in sport-related delictual cases would be compared to the fictitious reasonable educator-coach. Such a fictitious person shall set a standard (Neethling & Potgieter, 2017:152) against which the defendant would be compared. Should the defendant fall short of this standard of care, he or she would be found negligent.

There are various court cases where this notion of the reasonable person was used. One example, as discussed by Okpaluba (2014:603), is the South African case of *Kruger v Coetzee* 1966 (2) SA 428 (A) where the judge stipulated that negligence would be established if:

- a person in the position of the defendant (a) would have foreseen the reasonable possibility of his or her conduct causing injury to the plaintiff; and
- (b) should have taken reasonable steps to guard against such an occurrence.

Another example of the foreseeability principle is the American court case of *Halper v. Vayo*, 210 Ill. App. 3d 81 (Ill. App. Ct. 1991) where the plaintiff, during a wrestling match, injured his knee and a coach administered first aid and by so doing, possibly aggravated the injury. The coach was found liable because he acted beyond his experience and, as a result, did not meet the requirements of the reasonable coach.

The principle to foresee harm is also evident in the South African appeal case of *MEC for Education: Mpumalanga v Skhosana* (523/11) [2012] ZASCA 63 (17 May 2012) where a learner was injured after a device with protruding copper wires exploded in his hands, and as stated in the case, the teacher had to foresee the possibility of harm. The teacher and MEC unsuccessfully used voluntary assumption of risk (§ 2.9.2.1) as a defence to

this negligent act.

Two other principles to consider under the element of fault are contributory fault and vicarious liability. Rossouw (2008:51) describes contributory fault as the instance where a defendant might prove that the plaintiff contributed to the injury and should share the responsibility.

The term *contributory negligence* suggests a delictual concept based on fault and can thus be used as a defence by the defendant. Consideration should thus be given as to whether the plaintiff should have reasonably foreseen his or her own injury or damage and taken reasonable steps to prevent/avoid it (Babie *et al.*, 2004:59). In the Canadian case of *MacCabe v. Board of Education of Westlock (Roman Catholic Separate) School District No. 110 et al.*, (1999) 243 A.R. 280 (QB), the plaintiff was found 25% responsible. According to the Alberta Court of Appeal, the plaintiff was a reasonable, intelligent and fit 16-year-old who considered herself to be an athlete with some gymnastic experience and thus aware of her own limits in relation to the difficulty of some gymnastic moves.

The matter of vicarious liability was discussed in the Australian case *Duncan v Trustees of the Roman Catholic Church for the Archdiocese of Canberra and Goulburn* (1998) ACTSC (unreported, 14 October). The plaintiff injured her back after a failed attempt at a handstand in the gymnastics class. The teacher showed the learners how to do a handstand and then gave instruction to the learners to assist each other to do the handstand. One of the learners fell on her back after her peer let go while holding her ankles. In this case, it was stated by the court that the teacher could not have foreseen that there would be deliberate disobedience of her instruction. The court did, however, rule that the teacher (and therefore the school vicariously because of the employer-employee relationship between the teacher and the school) was liable for the negligence of the learners acting as “spotters” (§ 1.2.3).

Gymnasts, learners, teachers and gymnastics coaches share a joint duty to prevent harm, with the effect that liability can be apportioned between them to the degree that they are found to be negligent. From this, it is safe to derive that all learners, gymnasts and even more so, coaches, must comply with certain rules of the specific sport so as to avoid any degree of liability. For example, in gymnastics, the FIG rules (FIG, 2018) regulate all

competitions, and coaches and gymnastics should be aware of the existence of such rules and regulations.

Vicarious liability refers to a situation where a person or body is held liable because of a specific relationship – normally that of employer and employee – even though he or she did not act with intent or negligence. Murray (2012:1) states that an employer can be held indirectly or vicariously liable for the delict of their employees. This principle of vicarious liability is also applicable to a coach or a teacher in their employment context. An important question to be asked to determine vicarious liability is (Rossouw, 2006:54) whether the PE teacher, educator-coach or gymnastics coach acted within his or her scope of work. An example could be the teacher as an employee and the state as employer, as illustrated in the case of *LUR vir Onderwys en Kultuur, Vrystaat v Louw en 'n Ander* 2006 (1) SA 192 (SCA). The principle of vicarious liability was considered, but the teacher was not employed by the State. Despite the fact that she was employed by the school via the SGB, the State (and not the SGB) was held liable based on the fact that it was a school activity during which the learner sustained brain damage.

2.9.2 Defences

Discussion on defences are restricted to assumption of risk (*volenti non fit iniuria*). A brief discussion on indemnity is also provided.

2.9.2.1 Assumption of risk

Assumption of risk is a “complete defence to an action in negligence” (Babie *et al.*, 2004:47) and “the principle that a defendant is not liable where the injured person has consented to injury or the risk thereof, is embodied in the maxim *volenti non fit iniuria*” (Neethling & Potgieter, 2017:103).

In addition, Neethling and Potgieter (2017:103) refer to the two types of consent, namely the “[c]onsent to injury and consent to (or acceptance of) the risk of injury”. In this study, the expression “voluntary assumption of risk” is used. Voluntary assumption of risk applies if the plaintiff was well-informed of the risk (Babie *et al.*, 2004:47). Confirming this, Fried (2002:13) said:

For the defence to use assumption of risk, it is required to show that the plaintiff knew of the danger caused by the defendant's negligence and that the plaintiff accepted the risks caused by the danger.

This prerequisite emphasises the importance for gymnastics coaches to make sure that gymnasts are aware of the risks associated with their gymnastics participation. We can conclude that a person who partakes in an activity, in this case anyone who takes part in sport, must be aware of the dangers and should accept the dangers or risks that are inherent to the activity or sport to such an extent where it is obvious and necessary.

In the example of a learner in PE and a junior gymnast, it is imperative for the coach to consistently point out the inherent risks associated with gymnastics. Gymnasts should be made aware of potentially dangerous areas and apparatus. The importance of a coach warning participants is valid for all sport codes. In the 1966 Australian case of *Rootes v Shelton* 86 WN (Pt.1) NSW 94 a water-skier was seriously injured when he collided with a stationary boat. The driver of his boat neglected his duty to warn the skiers of the obstacle in the natural course of the three skiers he was towing. The court ruled in favour of the injured skier. The important aspect here for all coaches is that they owe a duty of care to the participants, which includes giving a warning in case of a risk. In gymnastics coaching, inherent risks should also be communicated to parents, because they act on behalf of their child and they must declare free acceptance of the risks in advance for this defence to protect the teacher, coach (employee) or club (employer) as the authority. Risks can, for example, include dangerous routines, falls from apparatus, and potentially dangerous movements.

From the case of *Murphy v. Steeplechase Amusement Co.*, 250 N.Y. 479, 166 N.E. 173, 1929 N.Y. LEXIS 904 (N.Y. 1929), it is evident that "[o]ne who takes part in a sport accepts the dangers that inhere in it so far as they are obvious and necessary". On the other hand, in the case of *McNamara v Duncan* (1979) 45 FLR 152, it was stated that, although there are certain risks involved in certain sport, a defendant can be held liable if the action against the plaintiff was intentional and if this could be proven in a court of law. "The plaintiff while participating in Australian Rules football was struck on the head by the defendant. He consequently suffered a fracture to his skull just behind his right ear" [...] "the court rejected the first defence and found that the blow was intentional". The strike

to the head was not according to the rules of the sport and therefore not acceptable.

In the case of *Hattingh v Roux NO and Others* (2011 (5) SA 135 (WCC)) [2011] ZAWCHC 100; 18650/07 (4 May 2011) (2010), where Hattingh seriously injured his neck during a scrum in a rugby match, it was alleged that Roux executed a dangerous manoeuvre in a scrum. Roux was found liable as Hattingh “did not participate in this game with full knowledge of the nature and extent of the risk of being injured” by Roux's execution of the “jack-knife” manoeuvre, “falling outside normal risk inherent in participation in rugby game” or within the rules of the sport. In this example, the defence of assumption of risk did not succeed.

An example where it was necessary to determine whether players participated voluntarily, was the Australian case of *Agar v Hyde* 201 CLR 552; 74 ALJR 1219; ALR 665 (2000), where two male rugby players, aged 18 and 19, suffered quadriplegia and where the question arose as to whether the international rule-making body can be held liable for an injured player. The plaintiff (Mr Hyde) suffered severe spinal injuries during a scrum because of the angle at which his neck was positioned and the force exerted by the opposing team. It was decided that the Board of Control did not owe a duty of care towards the players and that the players accepted that, by participating in a dangerous sport, they accepted the risks that are associated with rugby by voluntary participation.

2.9.2.2 Indemnification

The defence of indemnification is another defence that can be used by PE Teachers, educator-coaches and gymnastics coaches to justify harmful and wrongful conduct. Indemnification by means of waivers is defined by Rossouw (2017:52) as follows: “Where one party assures another that he or she will not sue him or her in case of the latter’s negligence.” As per SASA (SA, 1996b) Regulations for Safety Measures at Public Schools 8c (2): “A public school may not request a parent to sign an indemnity form that indemnifies the school against any legal action that may arise as a result of the school activity.”

Indemnity or waiver forms can be contested and will be declared illegal if they are (Botha, *et al.*, 2017:231):

- against public interest;
- against legislation or a legal rule (i.e. common law or case law rule);
- against good morals (*contra bonos mores*);
- contrary to the values espoused in the Constitution.

The wording on these indemnity forms must be correct, and coaches and teachers should not assume that no claim can be instituted just because the parents signed an indemnity form. They will still be held liable if found negligent under the law of delict, rendering indemnity documents not a strong defence and they do not have much value in terms of the law (Roos, *et al.*, 2017:134). It can be added that, in case of a parent undertaking not to sue for damages in case of negligence, they cannot waive the right of their child to sue. When such a child, who suffered a serious injury or another form of damage, reaches adulthood, he or she can still sue the person or institution who was originally accused of being liable for the injury or damage.

2.10 Concluding remarks

In this chapter, the legislative framework for gymnastics and educational gymnastics coaching in Namibia and South Africa was discussed. Certain articles and sections in the Constitutions of Namibia and South Africa respectively, were discussed, namely human dignity, equality, children's rights, and education. Education-specific legislation as well as general acts were analysed in order to gain a deeper understanding of the legal framework. This was followed by a discussion of the most applicable common law principles with an extensive focus on the law of delict, including some defences commonly used in cases where delictual liability needs to be established.

CHAPTER 3: RESEARCH DESIGN

3.1 Introduction

After a literature analysis and the creation of a legal framework in chapter 2, I embarked on the empirical study. The design for this empirical phase and the associated research paradigm and research methodology are discussed in this chapter. The aim of research designs is to guide the researcher as to what procedures to follow (Creswell, 2014:12). Similarly, Nieuwenhuis (2016:72) describes a research design as the tool that helps one to move away from existing philosophical assumptions and set out a practical plan to carry out the research. This is illustrated below, where the philosophy on which this research was based is first discussed, followed by the practicality of the research conducted. As stated by Jansen (2016:3), the research question provided a clear focus on how to generate data and formulate the objectives (§ 1.5) to establish what the nature and implications of legal principles are regarding coaching of junior gymnastics in the contexts of Namibia and South Africa in both the school environment and the private club environment. In addition, it had to be established what legal principles regulate educational gymnastics, what the nature of the legal risks and level of legal knowledge of PE teachers, educator-coaches and gymnastics coaches were, and how these legal principles were applied.

I identified a phenomenon of serious interest to me (Maree, 2016:78) and reflected on essential themes that may constitute the nature of the lived experiences of the participants and decided upon a description of the phenomenon, namely legal implications and principles regulating teaching and coaching of junior gymnastics. People in a social environment portrayed their understandings, environments and circumstances as meanings and I embedded it into text.

I had to decide on a suitable research design; both qualitative and quantitative research were considered and after an in-depth comparison, an informed decision was to follow a qualitative research approach. Table 3.1 serves as a summary of the key comparisons between qualitative and quantitative research (Maree, 2016:53).

Table 3.1: Comparing qualitative and quantitative research

Qualitative	Quantitative
Quality or meaning of experience	Statistical, quantity and frequency
Interpretivism Naturalistic (natural setting where interaction occur)	Positivism
Understand, describe and discover (relies on linguistics [words])	Predict, control, confirm and test (relies on numerical data [numbers])
Researcher as the main instrument	External instruments such as tests and surveys
Open-ended, exploratory research questions	Closed-ended research questions

From Table 3.1, it can be derived that qualitative research is used for exploring and to gain understanding about a problem, and quantitative research is used to quantify a problem by making use of numerical data.

I wanted to gain a greater understanding of the phenomenon, namely legal implications and common law principles regulating teaching and coaching of junior gymnastics and wanted to explore reasons, motivations and opinions of participants. Another consideration was to construct meaning and to interpret what the participants had said (Maree, 2016:60) in order to better understand the phenomenon. I then selected the methods that would be best to collect the data in this study, namely group interviews, individual interviews, and open-ended questionnaires. The best sample size for this research was decided on (§ 3.3.1).

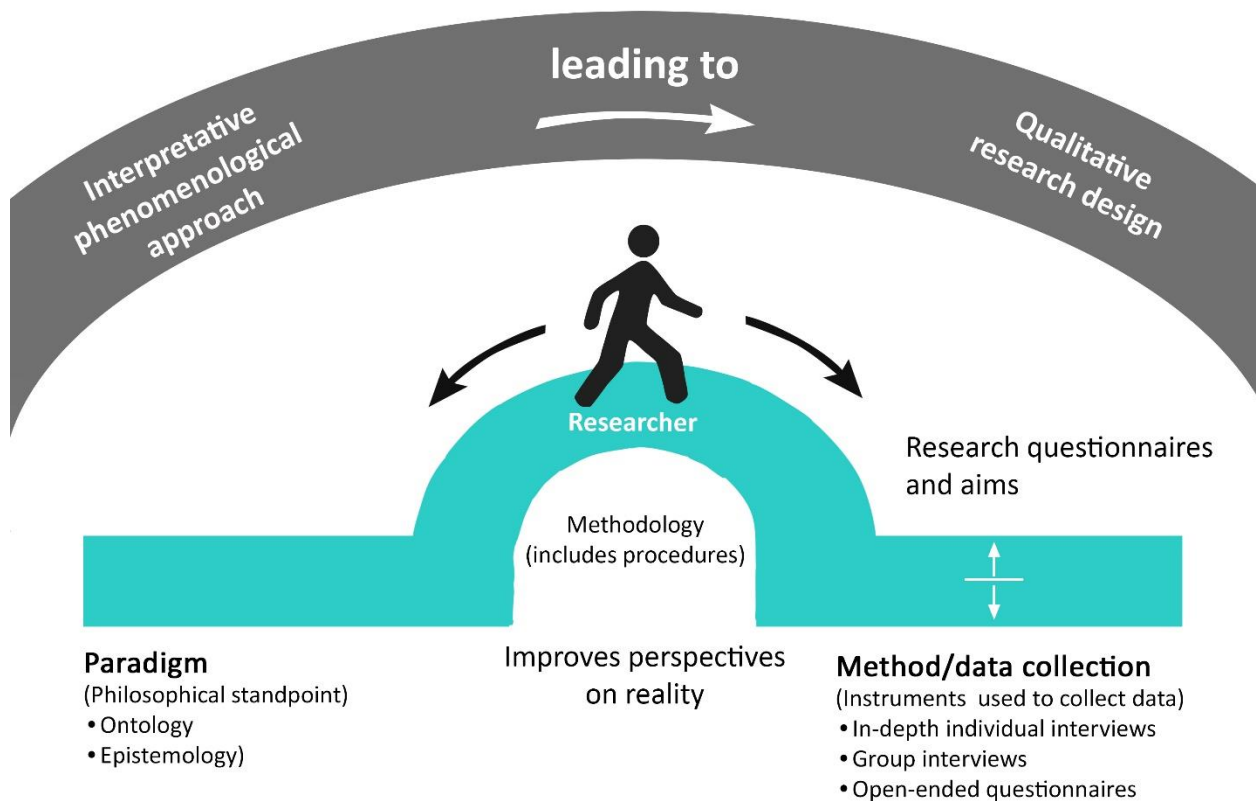
Three things were considered: first, the relationship between the researcher and the people being researched; second, the objectivity of knowledge – in other words, how the participants derive meaning; and third, whether the findings were generalisable or not and what patterns, categories and themes emerged from the research process. Therefore, when deciding upon a qualitative research approach, I realised the importance of the data to be credible, dependable and trustworthy, as discussed in more detail in § 3.4.

3.2 Research paradigm

Ontology is the basic ideas and concepts that form the basis of any system and the relationships between the concepts (Karampelas, 2018:103). Maree (2017:51) defines ontology as “the researcher’s beliefs...and what can be known about it”. In other words, the truth about these beliefs and concepts. Maree (2017:51) further described epistemology as “the nature of knowledge and how it can be acquired”. For this study, it was important to gain understanding of how the participants and I (the researcher) gained knowledge on the subject matter. What do I know and what do I see as the truth? What is this knowledge based on? What do I need a deeper understanding on? How will I find out what the participants know? How will it be possible to establish that what they know is true? Furthermore, I needed to understand what “meaning...certain lived experiences hold” (Maree, 2017:75) for the participants. The in-depth literature analysis and the empirical study were conducted by following an interpretative phenomenological approach in order to achieve deeper understanding and enabled me to interpret and report on findings in an informed, correct and trustworthy (§ 3.4) manner.

The research questions (§ 1.4) and objectives (§ 1.5) together with the methods (§ 1.6.3.3) imposed a perspective on my reality (ontology and epistemology) and assisted me to gain a deeper and vast understanding to confirm what I now know to be true.

I tried to portray the link between the paradigm, methodology and methods in Figure 3.1 (adapted from Hesse-Biber & Leavy as cited in Maree, 2017:51). The methodology was based on an interpretative phenomenological approach. Methodology is described as a bridge that is constantly crossed by the researcher during the research process (as illustrated in Figure 3.1). The methodology assisted in bringing together my philosophical standpoint (ontology and epistemology) as well as methods, instruments and procedures used to generate data (Maree, 2017:51). In this study, these instruments included: group interviews, in-depth individual interviews and open-ended questionnaires in (§ 3.3.5; Figure 3.3). The research questions and aims were considered throughout the development of these instruments.



(Adapted from Maree, 2017:52)

Figure 3.1: Research paradigm, methodology and methods

3.3 Methodology

Figure 3.1 (adapted from Maree, 2016:52) illustrates the relationship between all factors that contributed to this study and is further broken down here. The focus (Maree, 2016:75) of this study was to determine the legal principles as well as the nature of the legal risks in educational gymnastics pertaining to coaching as well as participation and the nature and level of legal knowledge of participants as well as how they applied it in their coaching and teaching methods. In § 1.4, the research questions were formulated to guide and direct the study with this focus in mind. Every component of the research design assisted in answering a question as well as what the researcher wanted to learn and understand from the study. To achieve the first two objectives, an integrated literature review was conducted (as offered in chapter 2) to establish what legal principles regulate junior gymnastics in Namibia and South Africa. To achieve the third and fourth objective, empirical research was done by means of interviews and open-questionnaires to

establish the nature and level of the legal knowledge of PE teachers, educator-coaches and gymnastics coaches.

3.3.1 Sampling

Before the sampling process began, a target population was decided upon by answering questions such as: What type of participants will be involved? Will children participate in the study? What knowledge should the participants have? Should the participants belong to a certain school? The sample was purposefully selected by choosing participants with previous direct experiences with regard to the phenomenon (Leedy & Ormrod, 2015:147) – in other words, individuals who had similar characteristics, in this case, PE teachers, educator-coaches and gymnastics coaches (Maree, 2016:86).

Table 3.2 summarises the inclusion and exclusion criteria used during the screening process. I tried to establish a balance between participants from both Namibia and South Africa.

Table 3.2: Inclusion and exclusion criteria

Inclusion	Exclusion
Participants	
Adults (>18 years)	Children (<18 years)
Understand and read English	Educators not directly involved in PE
Male and Female	Educator-coaches <3 years' experience
PE Teachers with (> 3 years' experience)	
Coaches of gymnastics (> 3 years' experience)	
Educator-coaches (>3 years' experience)	
Geographical location	
Erongo, Otjizondjupa and Khomas Regions in Namibia	Hardap, Karas, Kavango East, Kavango West, Kunene, Ohangwena, Omaheke, Omusati, Oshana, Oshikoto, Zambezi regions in Namibia
North West province in South Africa	Western Cape, Eastern Cape, Northern Cape, Free State, KwaZulu-Natal, Gauteng, Limpopo, and Mpumalanga

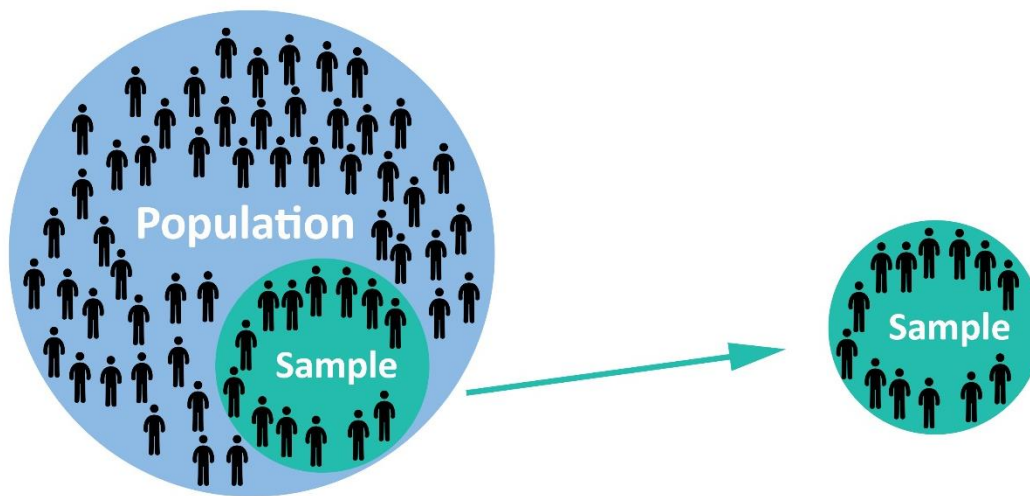


Figure 3.2: Purposeful sample selection

The sample (Figure 3.2) was thoughtfully and specifically chosen in order to best answer the research questions and to gain a deeper understanding with regard to the phenomenon. The first step in selecting the sample for this study entailed deciding that individuals from Namibia and South Africa were going to be participants in this study. The specific role players that would give the best perspective to understand the phenomenon and also the number of participants were then selected. Thereafter, specific regions were identified, namely the Otjozondjupa, Erongo and Khomas regions in Namibia, and the North West province in South Africa. This implied a large number of potential participants. I decided to involve a selection of teachers, coaches and parents of children from above-mentioned regions.

Some participants were selected by asking gatekeepers (e.g. a head coaches of the various clubs, or the principals of various schools) to identify possible participants who may have knowledge regarding the phenomenon and who they thought might be interested to participate in this study. Other participants were chosen during the data collection process. For example, people involved in the Sports Development Programme in Namibia were included in the sample, because I established that these participants would add to the quality of data generated and ensure a deeper level of understanding.

3.3.2 Research setting

For this type of data generation, the research sites were located at the schools because this was most convenient for the PE teachers who were involved in the group interview discussions. A calm, inviting and relaxing atmosphere was created. I introduced myself, stating where I came from, talked about Namibia, and then asked the participants questions about themselves to make them feel at ease. I talked about the study and the phenomenon on which I was doing research. The seating arrangement entailed a half circle in front of me. I also collected data by means of in-depth individual interviews. For the individual interviews, I also started the interview by means of a general question to make the participants feel at ease. Quiet areas were chosen for the interviews and the seating was across from each other. The third way I generated data was by means of handing out open-ended questionnaires as in some instances it was not possible for the participants to meet with me in person due to time constraints and other responsibilities.

3.3.3 Research sites and participant selection

Participants were selected based on a variety of characteristics – for example, PE teachers, coaches and parents all had different roles to play, all of them were involved in gymnastics from a different perspective, and their experiences, whether direct or indirect, varied. Characteristics could also entail where they lived, the age of their child competing in gymnastics, what subjects the teachers were involved in, how many gymnasts a coach had, the level of coaching and the experience in years of a PE teacher. This variety of characteristics was important to ensure that the data generated were diverse in information but still relevant to the research questions.

Table 3.3: Participant selection

Type of participant	Method	Number of participants	Country	Code	Gender
Physical Education (PE) teachers	In-depth individual interviews	1	NAM	NT6	Female
	Open-ended questionnaire	1	NAM	NT5	Female
	Open-ended questionnaire	1	SA	ST4	Male

	Group Interview (1 group of 3)	3	SA	ST3	Male x 2 Female x 1
	Group Interview (1 group of 2)	2	SA	ST1	Female x 2
	Group Interview (1 group of 6)	6	SA	ST2	Female x 3 Male x 3
					14
Coaches	In-depth individual interview	1	NAM	NC6	Female
	In-depth individual interview	1	NAM	NC1	Female
	In-depth individual interview	1	SA	SC4	Male
	In-depth individual interview	1	SA	NC9	Female
	Open-ended questionnaire	1	NAM	NC5	Female
	Open-ended questionnaire	1	SA	SC2	Male
	Open-ended questionnaire	1	SA	SC3	Male
	Open-ended questionnaire	1	NAM	NC7	Male
	Open-ended questionnaire	1	SA	SC8	Male
					9
Parents of learners	In-depth individual interview	1	NAM	NP5	Female
	In-depth individual interview	1	NAM	NP6	Female
	In-depth individual interview	1	NAM	NP8	Male
	In-depth individual interview	1	NAM	NP9	Male
	Open-ended questionnaire	1	NAM	NP3	Female
	Open-ended questionnaire	1	NAM	NP4	Female
	Open-ended questionnaire	1	NAM	NP10	Female

	Open-ended questionnaire	1	SA	SP1	Male
	Open-ended questionnaire	1	SA	SP2	Male
	Open-ended questionnaire	1	SA	SP7	Male
					10
Government officials	Open-ended questionnaire	3	NAM	NMoE1	Female x3
					3
Total					36

3.3.4 Development of research instruments

I managed, through a thorough literature analysis as well as knowledge of gymnastics, to draft potential interview schedules, which were sent to experts in the field for evaluation and recommendations. The interview schedules and the questionnaires were also given to colleagues of mine to see whether they understood what was asked. One of the issues that arose was that there were a few instances where I asked multiple questions, other questions were identified as irrelevant and would not contribute to the research done, and other questions were leading by nature. In order to respond to the formulated research and sub-questions, the questions were drafted as a baseline to identify the content which should generate the relevant information pertaining to coaching and legal aspects (Leedy & Ormrod, 2015:3; McMillan & Schumacher, 2010:8).

The questions were open-ended, allowing participants to express themselves freely, and this aided me to understand experiences and determine the thoughts and feelings in regard to some topics. I always ensured that I fully understood the meanings of the participants' views, instead of relying on my own assumptions (McMillan & Schumacher, 2010:16).

3.3.5 Methods of data generation

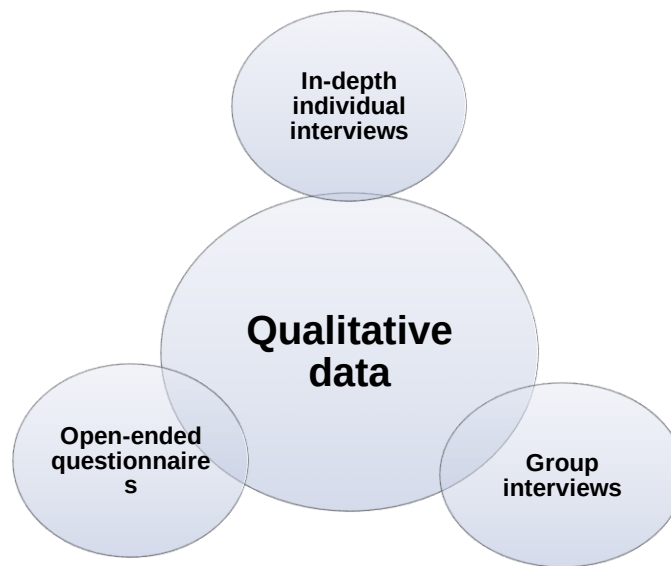


Figure 3.3: Methods of data generation

As indicated in Figure 3.3: Methods of data generation above, I generated data through group interviews, individual in-depth interviews, and open-ended questionnaires. The methods chosen were indicative of my ontological and epistemological position; in other words, what do I regard as the truth and what is the foundation that my truth was. Figure 3.1: Research paradigm, methodology and methods

illustrates the procedure to link the philosophical standpoint and methods (Maree, 2016:52).

3.4 Quality of the research: Trustworthiness

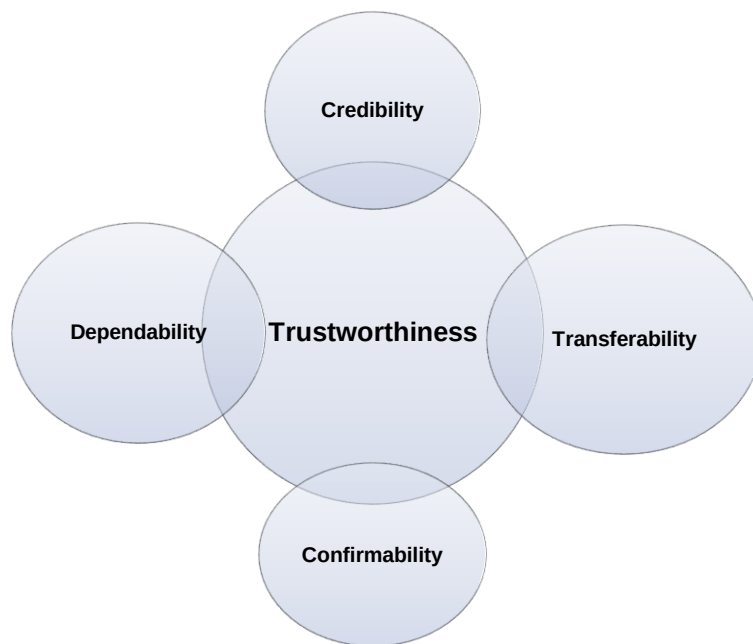


Figure 3.4: Trustworthiness

There are four standards (Figure 3.4), also called quality criteria, to ensure that (or measure whether) the information generated is trustworthy (§ 1.6.3.5), namely credibility, transferability, confirmability, and dependability (Creswell, 2009). These standards and how they were met in this study are subsequently discussed.

3.4.1 Credibility

I ensured that enough time was spent on the empirical fieldwork. Before empirical research commenced, time was spent by casually paging through template documents from clubs and schools to better understand the environment with regard to policies, code of conducts and rules. Planning was done before interviews to ensure that there was enough time to spend with the participants and not be interrupted. Care was also taken to be aware of when data saturation had been reached so that a complete picture of the phenomenon could be provided.

I chose the time allocated to do the data collection judiciously when setting up appointments to conduct interviews. For example, I bore in mind that certain times of the day would be more suitable for interviewing than others.

I made copious notes throughout the empirical study on everything done and answered by the participants so as to capture what they had said and what they understood from the various questions asked. Notes were also made after each encounter with the participants as to not forget important pieces of information. I made as detailed descriptions as possible to determine where patterns and similar topics started to emerge, to put them in context to the study, and to make sense of interpretations (Anney, 2014:278).

The structural coherence of my analysis included argument flow, appropriate themes, categories, sub-categories, etc. Thereafter, the data were presented in a clear, structured and consistent manner. A summary of my key findings was cross-checked by certain participants and confirmed as correct.

I used my knowledge of the field of gymnastics as well as research skills and experience in the empirical study – thus, I was suitably skilled to conduct this research.

3.4.2 Transferability

Korstjens and Moser (2017) define transferability as

... the degree to which the results of qualitative research can be transferred to other contexts or settings with other respondents... The researcher facilitates the transferability judgment by a potential user through thick description.

During the course of the study I gave information of not only the perceptions, uncertainties and opinions of the coaches, PE teachers and parents of gymnasts, but also the nature of their contexts, consistent with the principle of thick description. This will enable another researcher who follows the same approach and method to reach similar findings from data generated in similar but other contexts.

3.4.3 Dependability and consistency

Bias in research is inevitable, but I took note of it and tried to, where possible, recognise and eliminate it (Anney, 2014:279). I tried to design the interview questions for the individual and group interviews and the questionnaires in such a way that they did not

promote bias. For example, “[s]ome people believe that teachers do not know when they can be held liable when children get hurt”; instead, the question was rephrased as “[i]f a child should get injured during the time in your care, to what measure do you think you could be held liable?” Bias was also reduced by keeping dominant participants, who could influence other participants, in check and to make sure all participants had equal talk time.

Methods of analysing and re-checking data was undertaken in a consistent manner.

I gained a better understanding of the participants’ views and values, which ensured that the data were understood and interpreted as the participants intended. I also made certain that enough time overall was spent during the interviews with the participants to ensure that enough data were generated (Leedy & Ormrod, 2015:147).

3.4.4 Confirmability

I was objective to the participants’ realities and truths and how I understood and interpreted their narratives and views. Confirmation was continuously obtained from the participants (Shawa, 2016:437). During individual and group interviews, I always made sure what the participant(s) had said by repeating what I understood about the response(s) and I made sure that my interpretation of the answer(s) was correct.

Consistent with the principles of member checking, a summary of findings (further discussed in chapter 5), which comprised of a list of main interpretations, was sent to selected participants to glance through and to provide feedback on whether they agreed or wanted to add something.

3.5 Ethical aspects of the qualitative research

According to Shawa (2016:432), ethics in educational research has become a central issue, and no research should be conducted without ethical clearance. Wherever human participants are involved, there will be numerous risks, and I always respected all participants during the data generation process (Shawa, 2016:433).

The ethical principles and rules prescribed by the Faculty of Education at the North-West University were always meticulously followed and adhered to. Furthermore, I signed and adhered to ethical responsibilities as set out by the Code of Conduct for Researchers,

also prescribed by the North-West University (Addendum S). Ethical considerations in this study were: (1) permission; (2) informed consent and voluntary participation; (3) protection of respondents and risks; and (4) confidentiality and anonymity. These ethical considerations are briefly discussed.

3.5.1 Permission

Before the commencement of data generation, ethical clearance was obtained from the Research Ethics Committee of the Faculty of Education of the North-West University (Ethics number: NWU-HS-2017-0065) (Addendum B).

After obtaining ethical clearance, I obtained consent of the Ministry of Education, Arts and Culture in Namibia (Addendum D) as well as the District Director of the Dr. Kenneth Kaunda District (Addendum F) in South Africa (to conduct research in various schools in Namibia and South Africa).

Permission was then further requested and obtained from SGBs of the selected schools in both Namibia and South Africa (Addenda G & H) as well as from principals of the respective schools (Addenda I & J).

Gymnastic Clubs in Namibia and South Africa were also approached to obtain permission from head coaches and/or owners to approach the relevant coaches and parents of the gymnasts of the various clubs (Creswell, 2012:147) (Addenda K, L, M, N & O).

These principles and head coaches acted as the gatekeepers (Creswell, 2012:211) and assisted me by compiling lists of potential participants (coaches, teachers, and parents) based on the inclusion and exclusion criteria (§ 3.2) and securing time slots and availability of participants so that I could conduct the interviews and hand out the open-ended questionnaires.

3.5.2 Informed consent and voluntary participation

After obtaining permission to conduct research, the participants were approached with the assistance of various gatekeepers to obtain voluntary consent (Shawa, 2016:435).

In the participant information letter and consent and assent form, participants were clearly informed about what the study entailed and why it would be crucial and beneficial for them to participate. Participants were also well-informed about who to contact should they required additional information. I ensured that everyone gave written consent to participate in the research and no participant were forced to participate (Oosthuizen, 2017:35; McMillan & Schumacher, 2010:15) (Addenda O, P & Q).

The participant selection is clearly summarised in Table 3.2, and a summary of all participants is also given in § 1.6.3.2.

3.5.3 Protection of respondents and risks

McMillan and Schumacher (2010:15) state that “[t]he researcher is ethically responsible for protecting the rights and welfare of the subjects who participate in a study”. According to the guidelines prescribed by the North-West University, this study fell under the low-risk category as the only foreseeable risks were the time that participants spent to fill out the questionnaires or answer the questions during the interviews. “Simplified language was used” (Rossouw, 2014:157) and the questions were formulated in such a way that there would be no misunderstanding as to when the participants had to give feedback and answers to me. Furthermore, all participants were competent to answer questions in order to provide valuable and reliable information (McMillan & Schumacher, 2010:196).

The enquiry was of such a nature that participants did not experience any discomfort (Oosthuizen, 2017:35) or threats, seeing that the questions or topics did not touch upon any sensitive matters. No children were involved as participants, and the invited participants did not come from any vulnerable group. Emotions of participants were taken into account and a professional relationship was maintained between the participants and me.

The participants were also clearly briefed that they could withdraw from the study at any given time should they feel too uncomfortable or for whatever reason they could not be involved anymore. It was not necessary for them to provide reasons should they have wished to withdraw. I made it very clear what the participants’ role would be, what the research aim was, and how the findings would be presented. Participants were allowed

to review their responses (Krishnan, 2006:17) to add on the way their views would be expressed (Rossouw, 2014:157). I further informed them that I would send my study to them should they be interested to see the final research product.

3.5.4 Confidentiality and anonymity

All information gathered and generated were handled on a strictly confidential basis and the anonymity of each participant was guaranteed. No participant's identity or the club or school with whom he or she was affiliated will in any way be revealed in the study.

The "Participant ID code" (Table 4.1) were used for all participants as a tool for me to distinguish between replies and feedback from coaches, teachers and parents. It is not possible to identify any of the participants from these codes. As discussed in § 1.6.4.4, the identity of all participants is only known to me (as the researcher) and no one else (McMillan & Schumacher, 2010:122). Information was further only available to my two supervisors and me for the sole purpose for which it was collected – as provided for in the POPI Act (SA, 2013) – namely, to gather information to gain a deeper and vast understanding of the phenomenon.

I was continuously aware of ethical issues and anticipated issues that might arise in this study and applied "a sense of caring and fairness" as part of, as McMillan and Schumacher (2010:339) put it, my "thinking, actions, and personal morality". The integrity of data generation and the entire research process were kept in mind throughout the empirical research (Howe & Moses, 1999:29). After interviews were conducted and filled out open-ended questionnaires were received back from the participants, I again assured them that their identity as well as information given to me would be handled as strictly confidential.

3.6 Data analysis

I embarked on a preliminary data analysis after the data have been generated before I proceeded with further data generation. This process followed is clearly outlined in the sections to follow.

3.6.1 Preparing data for analysis

Data were generated by using by means of individual interviews, group interviews and open-ended questionnaires. In-depth individual interviews were conducted and audio-recorded, whereafter they were transcribed. During every interview, notes were made to remind me of additional aspects to look for at the next interview.

Saldana (2009:17) referred to the preliminary research as coding and stated that coding already starts during the fieldwork. After the in-depth individual and group interviews and transcription, key words and phrases were identified (Leedy & Ormrod, 2015:148). The sets of data and the portions, words and short phrases formulated during the preliminary data analysis were then further explored and reconfigured. The preliminary data analysis enabled me to identify and summarise primary topics. The data generated were a result of how I interpreted and understood what was said. This was based on my ontological and epistemological orientation (§ 3.3.5). Thereafter, each unit of data was first assigned a code to see what patterns would emerge. Several codes were used repeatedly as complete data sets were studied. I also established how different codes were interlinked with the other codes.

Figure 3.5 (adapted from Saldana, 2009:17) illustrates the analysis process followed. According to Saldana (2009:6) patterns can be the same, predictably different, happen seldom or often in a certain order, happen in relation to events or activities, or appear to cause another event. I filtered and highlighted patterns from the data. These patterns enabled me to group and organise similarly-coded qualitative data into categories (Leedy & Ormrod, 2015:148). I coded and recoded as it was continuously needed to rearrange and reclassify the coded data into different or new categories. Some categories contained coded data that needed further modification and sub-categories were formed. Categories were compared and consolidated, which eventually led to themes. These themes systematically interconnected and developed the overarching theme as seen through the

eyes of the participants (Leedy & Ormrod, 2015:148; Saldana, 2009:8).

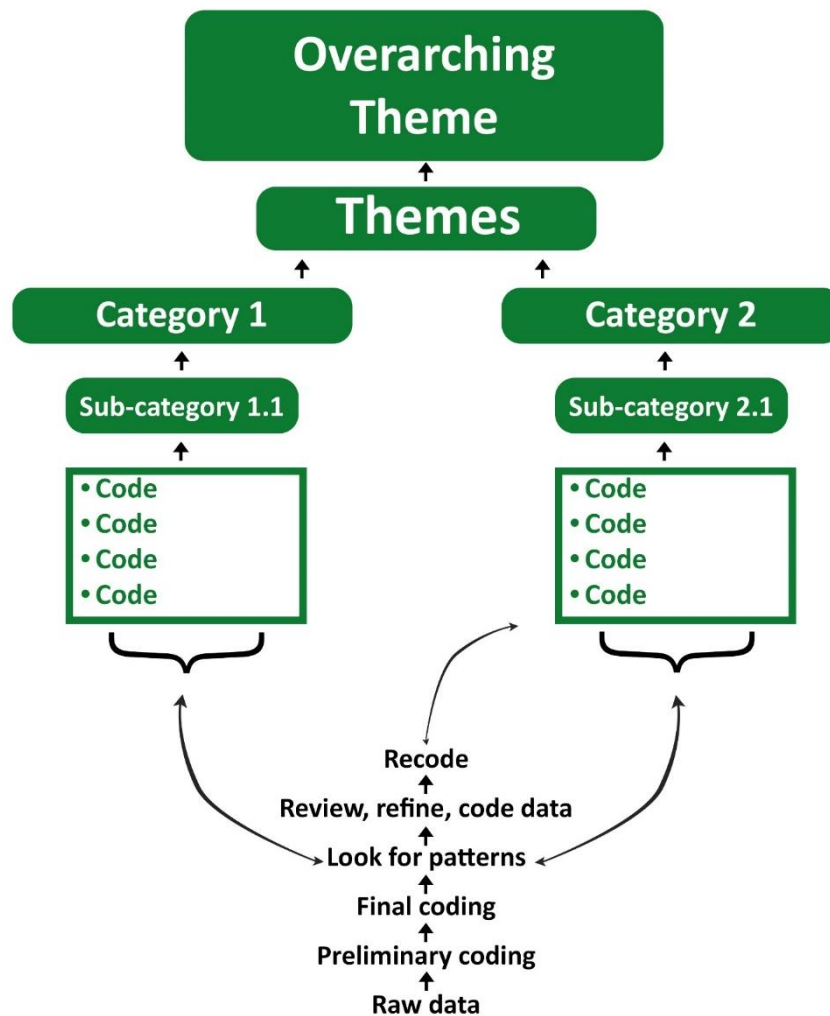


Figure 3.5: Data analysis process

3.6.2 Data saturation

It is imperative to consider data saturation as an important aspect in the design stage of a research project (Maree, 2016:83). Saturation refers to how many participants need to be interviewed before no new information is collected. Saturation is reached when no new themes or categories are forthcoming, and no new data can be generated. I ensured that enough participants were part of the sample to guarantee that saturation was reached (Sandelowski as cited in Maree, 2016:84). The data generation was done thoroughly, and the process was not completed before data saturation had been reached. In order to ensure data saturation, I generated rich data to enable broad and clear descriptions and

ensured that the sampling strategy fit the research design and questions.

3.7 My role as researcher

In this study, I used an interpretative phenomenological approach to understand, explain and explore the social reality of the participants and how they viewed the topic under investigation. By viewing the study through an interpretative phenomenological lens, I could offer perspective, analyse the situation and provide the insight into how the participants made sense of the topic (Maree, 2016:61). I was unknown to all participants, thus an “outsider” (McMillan & Schumacher, 2010:335).

Although a lot of forethought has gone into the design of the study, I had to make some changes during the process (Maree, 2016:74). Some potential participants eventually did not complete the questionnaires and I had to find other participants to ensure that data saturation was reached. I agree with Maree (2016:74) and approached this qualitative study as a process and not a final, once-off event. Thus, the research process was ongoing until the point of saturation was reached.

3.8 Concluding remarks

The rationales for the research approach, research design and methodology were discussed extensively. The inclusion and exclusion criteria were clearly indicated. The data were generated using individual and group interviews and open-ended questionnaires and the process of the development of these instruments were discussed. Steps to ensure trustworthiness were discussed. Ethical considerations applicable to this study and steps implemented to adhere to these were also discussed.

In the next chapter, the themes that emerged from data are presented.

CHAPTER 4: DATA ANALYSIS

4.1 Introduction

This chapter describes each of the two themes that emerged, namely physical aspects and psychological aspects. The following categories emerged and are discussed: (1) Facilities and equipment; (2) Authority; (3) Coaching methods and approach; (4) Risks (physical); (5) Pressures; (6) Authority; (7) Holistic development; and (8) Risks (psychological). Various sub-categories were identified (Figure 4.1).

Figure 4.1 (adapted from Saldana, 2009:17) provides a synoptic overview of the categories and sub-categories that emerged during the data analysis, as well as the process followed during data analysis process.

4.2 Participants and data generation

The process of how participants were selected were discussed in chapter 3 (§ 3.3.3). Data saturation was reached after the 36th participant's data were generated.

The participant ID codes used during the data generation process are tabulated below (Table 4.1) and are also used throughout this chapter. (In Table 3.3, the total size of the sample is provided.)

Table 4.1: Participant ID codes used during data analysis

Country	Type of participant	Method	Participant ID Code
Namibia	Physical Education (PE) teacher	In-depth individual interviews	NT6
Namibia	Physical Education (PE) teacher	Open-ended questionnaire	NT5
South Africa	Physical Education (PE) teacher	Open-ended questionnaire	ST4
South Africa	Physical Education (PE) teachers	Group interview (1 group of 3)	ST3
South Africa	Physical Education (PE) teachers	Group interview (1 group of 2)	ST1
South Africa	Physical Education (PE) teachers	Group interview (1 group of 6)	ST2
Namibia	Coach	In-depth individual interviews	NC6
Namibia	Coach	In-depth individual interviews	NC1

South Africa	Coach	In-depth individual interviews	SC4
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Namibia	Coach	Open-ended questionnaire	NC5
South Africa	Coach	Open-ended questionnaire	SC2
South Africa	Coach	Open-ended questionnaire	SC3
Namibia	Parent of learners	In-depth individual interviews	NP5
Namibia	Parent of learners	In-depth individual interviews	NP6
Namibia	Parent of learners	In-depth individual interviews	NP8
Namibia	Parent of learners	Open-ended questionnaire	NP3
Namibia	Parent of learners	Open-ended questionnaire	NP4
Namibia	Parent of learners	Open-ended questionnaire	NP9
South Africa	Parent of learners	Open-ended questionnaire	SP1
South Africa	Parent of learners	Open-ended questionnaire	SP2
South Africa	Parent of learners	Open-ended questionnaire	SP7
Namibia	Government officials	Open-ended	NMoE1

		questionnaire (filled out together by three officials)	
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In chapter 3 (Figure 3.1), the methods used to generate data were described, namely group interviews, individual interviews and open-ended questionnaires. The empirical data were analysed, and two major themes emerged: the first theme relates to a variety of physical aspects encountered during coaching and participation leading to liability issues pertaining to the position of the coach; the second theme relates to another major component of the interaction between coaches, learners and gymnasts, namely the psychological effects that could lead to harm.

4.3 Theme 1: Physical aspects

Theme 1 focusses on the instance where a PE teacher, educator-coach or gymnastics coach can be held liable in and outside the classroom environment as well as in a club environment with regard to physical aspects. Five categories emerged during the data analysis process, namely: (1) facilities and equipment; (2) authority; (3) coaching methods and approach; (4) risks; and (5) duty of care.

In § 2.9.1.2, it was mentioned that PE teachers and educator-coaches owe a duty of care to learners and gymnasts placed in their care and could possibly be found liable if they wrongfully and negligently breach this duty of care. Creating and maintaining a safe and protected environment for learners should be an important goal of every club (Rossouw, 2006:32). The very nature of gymnastics, especially artistic gymnastics, is such that it contains movements and skills inherently loaded with risks of injury and harm.

4.3.1 Category 1: Facilities and equipment

PE teachers, educator-coaches and gymnastics coaches minimise the risks of injuries when they ensure that facilities are kept to a certain standard and keep apparatus in a good working condition. FIG published an Apparatus Norms (2018) document for coaches to familiarise themselves with the functions of all apparatus and how to use these safely. From these guidelines, coaches should be able to use these internationally drafted standards and apply them locally in the coaching environment and ensure that safety

precautions are always followed. The importance of good apparatus management is an important way of minimising risks pertaining to possibly injury and the data concurred with Rossouw (2006:69), who stated that the correct use of equipment should be of the highest importance to every coach. Two coaches [NC1; SC3] agreed with this view of Rossouw.

These two coaches [NC1; SC3] further added that it is important for coaches to ensure that the correct amount and type of mats are under each apparatus to avoid injuries, agreeing with Rossouw (2006:108), who states that a gymnast should never be allowed on apparatus without adequate mats and a coach should always ensure that apparatus is maintained and properly set up. The Namibian coach [NC1] later added that there should be “no hard objects lying around and no cables to get caught in”.

A South African teacher [ST4] referred to the necessity that areas and apparatus are inspected: “All coaches and teachers know that they must inspect areas and apparatus before a gymnastics session starts.” Also, as stated by a South African teacher [ST2], it should be ensured that apparatus is properly anchored before a child starts using it or that unnecessary apparatus, such as the springboard, is removed after being used for a mount to the uneven bars or beam so as to prevent a foreseeable injury in case of a fall.

One Namibian parent [NP3] mentioned the importance of ensuring that the building is well-kept and that a coach can be held liable if a child sustains an injury because the coaches “...neglected the conditions of the building...”. A South African teacher [ST1] agreed and said: “*Dit is slegs die onderwyser of afrigter se skuld as die fasiliteit onveilig was*” (It is only the teacher or coach’s fault if the facility was unsafe). From these statements, it is clear that the parent and teacher agreed on how they perceived responsibility of a teacher and coach and when they could be held liable. The South African teacher [ST1] was further aware that, because of her actions, or possible omissions, the school could also be held liable for an action she did or omitted to do (§ 2.8.1.1). It seems as if this South African teacher [ST1] was unaware of other instances where a teacher could be held liable as she repeated this example twice during the interview when asked under which conditions, she thought she might be held liable. Contrary to the above, one parent [NP10] felt that it would be unfair to blame a teacher or coach for the condition of the infrastructure and equipment “as coaches are there to

teach gymnastics, and not do maintenance checks and repairs (which is not what they are skilled to do)".

According to SASA (1996a) – sections 20(g) and 21(1) (discussed in § 2.3) – the governing body is responsible for the maintenance and reparations of school property, buildings and school premises. Similarly, section 64 of the Education Act (NAM, 2001) determines that the Namibian Minister can authorise an inspection of said facilities. This implies that it is not the responsibility of the PE teachers themselves to maintain and repair buildings. In the case of a club, the movable assets such as apparatus do not always belong to the school and are most often privately owned, in which case the onus of maintenance and reparations is on the owner of the club. The repair of dilapidated buildings should not be their responsibility but that of the owner of the building or the gymnasium. On the other hand, regular inspection that apparatus is in good working condition is the responsibility of the PE teacher and coach. The educator-coach or PE teacher has two duties: (1) ensuring safe participation; and (2) reporting the defects/damage. If nothing is done by the owner of the premises or the owner of the apparatus, no further practising on such apparatus should be done until repairs or replacements are made. This is consistent with the legal principle of foreseeability and preventability (§ 2.9.1.5). The PE teacher and coach must cease further practising to prevent the foreseeable harm that could result from such broken apparatus or the foreseeable injury that could occur in the instance where an anchor gets loose.

4.3.2 Category 2: Authority

PE teachers, educator-coaches and gymnastics coaches are qualified, authoritative figures who can provide a challenging and safe environment for children to learn with a combination of positive encouragement to enhance self-discipline, personal character development, self-confidence as well as the necessary skills. While all PE teachers, educator-coaches and gymnastics coaches have qualifications, not all of them have the same level of experience – for example, a junior coach can have a qualification to coach Level 1 gymnastics but have only done so for a year in comparison with a coach who has gained experience through years of coaching gymnastics on various levels.

4.3.2.1 Sub-category 2.1: Complying with the Sport Code rules

Apart from subordinate regulations (Oosthuizen,2017:46) that regulate sport in Namibia and South Africa, every sport federation practised in the respective countries has its own set of rules (Rossouw, 2006:28). This include all NFs affiliated with FIG, in this instance these member federations refer to the SAGF and the NGF. FIG has several regulations and policies that are reviewed on a regular basis to set the standard of what needs to be complied with. One of the duties of the FIG is to take leadership for the development of resources to support prevention, awareness and education (FIG, 2018:5).

FIG standards and regulations are taken up in the NFs gymnastics codes and then devolved down to the various clubs of both countries respectively. These rules and regulations that govern gymnastics will assist PE teachers, educator-coaches and gymnastics coaches to enforce rules and explain to learners and gymnasts why certain rules pertaining to gymnastics are in place and why they need to adhere to them.

4.3.2.2 Sub-category 2.2: Complying with the club rules

The most pertinent reason for the existence of rules in schools, gymnasiums and clubs are to avoid learners from getting injured, but also to protect them from risks not directly related to practising gymnastics. Examples of these risks are bullying by peers, sexual or racial discrimination, psychological sport burnout, horseplay, shoving and tripping. Typical rules of a gymnastic club are orderly walking from apparatus to apparatus during practice, not running ahead or mounting an apparatus before receiving an instruction from the coach, to respect your coach and fellow gymnasts, punctuality and other rules that prohibit unwanted or violent behaviour. Another example pointed out by a Namibian coach (NC9) is to wear the correct clothing during practice to avoid injury.

Gymnasts, especially younger gymnasts, do not always abide by rules and therefore controlling discipline is not always easy. A South African teacher [ST2] made the following comment: *“Soms hardloop die leerders vooruit en begin op die apparaat oefen voordat ons kan sorg dat die matte reg is.”* (Sometimes the learners run ahead and start using the apparatus before we have time to ensure the mats are in place). Another South African teacher [ST3] made a similar comment that children do not wait for instruction

before they start with a routine or warm-up. From these statements, it can be said that these teachers [ST2; ST3] lack control over discipline and as a result of such unruliness, there is a possibility that they might get injured. In addition, a Namibian coach [NC9] said that “it is important to remind them of the rules to sit and watch other gymnasts and respect them while they are practising for three reasons: (1) they can get hurt because they can fall, (2) they can run in front of another gymnast and (3) they draw the attention of the other gymnasts”. This coach [NC9] concurs with coach [NC1] (§ 4.3.3.1) that discipline is important and that undesirable conduct must be stopped immediately to prevent the gymnasts to get hurt. A South African coach [SC3] added that “...violence needs to be stopped immediately, especially if it poses a threat to the gymnast or to fellow gymnasts or if it can lead to possible injuries”. Such violence can include scratching, kicking, hitting, tripping or punching and is usually prohibited in the club rules and should be highlighted by PE teachers and coaches. This is confirmed by a South African coach [SC3] as well. This is clear from a South African coach’s opinion [SC2]: “The gymnasts need to do what we say, otherwise they will get hurt.” This was also confirmed by a Namibian parent [NP9], who added that she always told her children to listen and she used the example: “If you do not listen to me when I tell you not to cross the road, and you do, then you might get hit by a car.” A teacher [ST2] also further elaborated on this point, and she added “[e]k sal hulle aanspreek en verduidelik waarom daar reëls is” (I will address them and explain why rules are in place). Children not obeying rules can indirectly be the cause of an injury to take place. By explaining the rules to the learners and explaining to them why the rules are important, it can be gathered that participants can foresee an incident to occur if the learners do not comply with the rules and therefore the possibility of getting injured escalates.

Some parents were of the opinion that the duty to teach their children to obey instructions did not only fall completely on the shoulders of the PE teacher and coach, but that it was also their duty as parents to teach their children why certain rules are in place and why there is a need to obey them. One parent [NP9] mentioned that it is important for “parents to teach their children to listen to people who are in a position of authority”. This parent [NP9] linked obedience with complying to rules. It can be assumed that if children do what parents, teachers and coaches say, then they are most likely to obey other adults when

instructed to do or not to do something. When asked about challenges coaches have, two coaches [SC4; SC2] agreed that the most difficult challenges for them were that children do not always listen, and such disobedience and unruliness do create certain risks and can result in someone getting hurt.

A South African parent [SP2] indicated “[m]y kinders luister nie altyd na wat ek sê nie. Vir hulle straf vat ek hulle selfone, speletjies en voordele, soos sakgeld weg” (My children do not always listen to what I say. As punishment, I take away their cellphones, games and privileges like pocket money). Another Namibian parent [NP3] took the same approach: “My children do not always listen. It depends on how serious or important the instruction is. If it is very important to their health and safety, then I will tell them that there are consequences if they do not cooperate and I will take them to their room or take away their privileges.”

From these statements, it is clear that unruliness is not only a problem in the gymnastics club or at school, but also starts at home. Most parents start to discipline their children at home and therefore ideally there should not be a problem with these same children at the gymnastics club or school. In principle, these parents can expect the same type of discipline from the coaches because coaches act in the place of the parent (the *in loco parentis* principle, § 2.2.3) when gymnasts are at a gymnastic session.

Another approach that emerged from the data, which could have a positive effect, is to let children be part of the decision-making process when certain rules are established. These are rules related to obedience and reaction to authority and peer gymnasts and do not refer to FIG prescriptions of gymnastic routines. Involving gymnasts might encourage them to be keener to follow these rules as they understand what is expected of them and it also provides much-needed boundaries. Parents agree with this point and also involve their children during discussions as to why certain things are allowed and others not. The parents [SP1; SP2; NP4; NP6; NP3; NP5] furthermore confirmed that, although they involved and valued the input of children in determining the rules and boundaries, the final decision remained with the parent or the coach and they had the authority to overrule anything the learners or gymnasts said.

In the club environment, coaches [SC8; SC4] answered that gymnasts are sometimes involved in the organisational matters during a practice session and they can sometimes decide the order of the participation on the different apparatus, for example, if they want to do the floor first, the vault last, etcetera. Two Namibian coaches [NC1; NC5] agreed with these coaches. Another teacher [ST2] further mentioned that she involved the children with the setting up of the rules to be followed in and outside the classroom. *“Almal is deel van die samestellings van reëls; hulle stem saam wat gedoen mag word en wat nie en so is hulle meer geneig om die reëls te gehoorsaam.”* (Everyone is part of compiling the rules; they agree on what is allowed and what not, and this results in them being more likely to follow the rules). This can be seen as a good way to empower children to take responsibility for their actions, to be in charge and teach them leadership skills from a young age. This principle is specifically of value in a coaching context where a good balance between strict authority and self-discipline can contribute to safer participation. Also, if children participate in making the rules, they would be less likely to break them, so prevent them from getting hurt or injured. Studies on autonomy involving the self-determination theory (Deci & Ryan, 2012:85) have shown that, if children from part of the decision-making process, they would be motivated to comply with the rules and to participate fully in activities. Another participant [ST3] followed a similar approach, but made it very clear that: *“We, the teachers stay in charge”*. In gymnastics it is important that gymnasts understand and know what they may or may not do, as when rules are not adhered to, the possibility of injuries may increase. Young children tend to push the boundaries and therefore it is important for them to know exactly where the boundaries are and what the standards of the movements are to improve the basic standards optimally (SAGF, 2018:31).

4.3.3 Category 3: Coaching methods and approach

A coach in any sport code has a duty of care towards a gymnast and therefore needs to ensure that the foundation is laid for more technical elements, specifically in gymnastics. Basic movements, such as a handstand or cartwheel, should be executed correctly. As stated by a Namibian coach (NP9), *“you need to lay a strong foundation, in order to build a strong house on top which will not collapse”*. If one does not lay down a proper movement foundation, then the risk of getting injured performing advanced movements

increases. This could lead to the coach being found negligent as it is expected of the coach to know the importance of ensuring that it is safe for the gymnast to execute and perfect basic elements (refer to § 2.3.3 where safe participation and duty of care were discussed).

The importance of skill progression was further highlighted by some participants. A gymnast should start with basic movements and then move on to more complex movements (Rossouw, 2006:iii). Four coaches [SC4; SC3; SC8; NC9] stated that it is always important for a coach to focus on the basic elements of a skill and to be aware of how to build onto that skill, depending on the skills level displayed by the gymnast.

Two sub-categories that relate to coaching methods and approaches emerged. The first sub-category is that of skills training, and the second sub-category is preventability and foreseeability.

4.3.3.1 Sub-category 3.1: Skills training

A PE teacher and a coach are qualified professionals who are held to a higher degree of care and therefore it is expected that they would be able to transfer skills in a better way than would be expected from an unqualified person (§ 2.9.1.1). This expectation emerged during the data generation process.

A Namibian parent [NP3] said that “[a] coach is responsible for teaching my child the correct way of practising a skill and developing that skill to its full potential”, and another parent [NP6] stated that she expected from a coach to “ensure that my child perform well in competitions”. There are limited programmes in place to teach volunteers (parents) to be coaches, but at the same time, such a coach (if in this case it is a volunteer) is expected to teach the correct way of practising a skill. All coaches are supposed to be registered with the national gymnastics bodies every year and this is recorded on a database. Coaching courses are conducted, but usually not more than twice per year, and this leads to unqualified (often parents) coaches sometimes coaching gymnasts and acting as assistants to coaches in some clubs. Another parent [NP4] indicated that it is especially important for a coach during the teaching of new skills to be strict, fair and trustworthy as it is imperative for gymnasts and learners to obey instructions during a session to prevent

possible injuries.

Spotting (close physical assistance with or without contact) gymnasts are important to help a gymnast to safely execute a new or complicated skill and it is an important element of skills training. Coaches who are reliable gain a gymnast's trust because he or she knows that the coach will be there to assist, spot or prevent him or her from falling. A coach [SC4] mentioned that sometimes he made use of the older, more experienced children to assist with spotting of the younger gymnasts with basic movements. This does not mean these experienced gymnasts take over the liability should one of the younger gymnasts get hurt. A few factors will be taken in consideration: Is it reasonable from the coach to expect a child (not qualified to coach) to assist another gymnast? What is the foreseeability factor that the gymnast could get hurt? Another teacher [ST1] stated that sometimes “[m]aats gee bystand om die afrigter te help, maar hulle mag dit verkeerd doen of wegkyk en die ander kind kan seerkry”. (Friends assist others to help the coach, but they may do it incorrectly or they may look away, which can result in the other child getting injured). It is very common in the gymnastics environment for coaches to let gymnasts assist each other – for example, holding legs during a handstand. In this case, it clear that this teacher [ST1] could foresee the possibility of an injury to occur. In the instance where a coach did not properly supervise, it is possible for the coach to be held liable as it can possibly be seen as being negligent. This teacher was aware that she or a coach could be held liable if she acted negligently during and after an incident. Negligence is discussed under the law of delict under the fundamental element of fault (§ 2.9.1.5).

A coach [NC1] further stated that coaches could be held liable for an injury if they did not assist with a difficult element or “...allowing (gymnasts) to try a new skill without spotting or assistance”. In § 1.1, the case of *Gibbs v Barking Corporation* (1936) was discussed where a PE teacher was found to have been negligent for failing to assist a learner vaulting over the horse. A gymnast would have more self-confidence to practise and master new skills if proper spotting is offered: spotting provides self-confidence and lower levels of fear which is important to master some new, and especially challenging, skills.

Basic steps lay the foundation on which more difficult movements or routines will be based, but this requires specific concentration on the part of the gymnast to fully master

the basic movement. However, as pointed out by a Namibian coach [NC1], “...children do not always listen to how they should execute certain basic movements”. This lack of concentration, attention to detail and diligence would hamper the gymnast’s ability to master more complex movements and would increase the possibility of injury. This, too, similar to what was said in § 4.3.3, could lead to a coach being found negligent because it is assumed that a coach should know the importance of skills training and ensure safe participation (§ 2.3.3) by confirming that skills are performed in a technically correct way. At the same time, it is important for coaches to keep in mind that not all gymnasts have the same development level and physical ability (2017:47). One risk prevention strategy is that a coach should, as far as reasonably possible, group the gymnasts with the same abilities and skills in one group to practise together and also where possible, not include different levels in the same session. It is important to not confuse these groupings with unfair discrimination (§ 2.2.2) as it is sometimes important to differentiate between gymnasts for the sake of better supervision and more direct attention.

4.3.3.2 Sub-category 3.2: Preventability and foreseeability

In § 2.9.1, where the law of delict was discussed, it was stated that negligence as one of the five fundamental elements of delict is determined by using the reasonable person test. The first element of this test to determine whether a specific PE teacher, educator-coach or coach was negligent in case of an injury to a child, is to answer the question whether he or she should have foreseen the harm. The second is whether he or she could have prevented an injury from occurring. In § 2.9.1.2, guidelines are given to PE teachers, educator-coaches and gymnastics coaches to be aware of certain inherent risks of a sport such as gymnastics to enable them to take measures to foresee and prevent such inherent risks.

One Namibian parent [NP5] said that, should her child get injured during the care of a coach, the first question she would ask is whether there were measures in place to prevent the injury from happening. A South African parent [SP1] stated that “[e]k sal eers hoor wat die oorsaak was en of dit voorsien en verhoed kon word” (I would first find out what the cause was and whether it could have been foreseen and prevented). A Namibian parent [NP5] similarly said that she would find out what the cause of the injury was to

determine who was liable. These parents, without necessarily formally knowing the legal principles underpinning the law of delict, expressed the requirement that related to foreseeability and preventability. It can be a difficult process, seeing that the coach and the child would most likely have different versions. It is for this reason that an increasing number of schools and clubs install CCTV cameras in order to have proof of what happened during an incident or accident.

Regarding foreseeability and preventability, all coaches interviewed mentioned the importance of safety regarding equipment and apparatus. One coach [NC1] stated “[w]e always take away the springboard after girls mounted the uneven bars or beam”. Another coach [SC2] said “[w]e always make sure that there are adequate mats at the boys’ vault or high bar”. It is clear that they can foresee the possibility of a gymnast to sustain an injury and therefore wanted to prevent it by taking these actions, correctly applying these legal principles. A teacher [ST1] highlighted the importance of good classroom management to decrease the possibility of risks: *“Daar is daaglikse risiko’s van beserings, maar met goeie klaskamer bestuur en dissipline behoort hierdie risiko’s voorsien en voorkom te word”* (There are risks of injuries on a daily basis, but with good classroom management, the coach should be able to limit injuries from movements and events that can be foreseen and prevented). Another South African teacher [ST2] stressed that they strictly followed the Regulations for Safety Measures at Public Schools (SA, 1996b) as stipulated by the Department of Basic Education of South Africa. Again, these actions by the teachers towards decreasing or preventing risks is a form of foreseeability and preventability of injuries.

As pointed out by Rossouw (2006:141), liability will always depend on the standard of care that was demanded by a specific circumstance. Further as per discussion in § 2.9.1.1, under the law of delict, it would be asked if a reasonable person would have taken precautions against the risk. Therefore, it will be asked whether a PE teacher or coach can reasonably be expected to have taken precautions. Further, if it is established that the PE teacher, educator-coach or gymnastics coach should have foreseen the risk, it does not automatically mean that they would be held liable because they failed to take precautionary measures.

4.3.4 Category 4: Risks

The way a coach approaches teaching a gymnast a new skill could contribute to the risk of a child or gymnast sustaining an injury. Three important elements of risks emerged, namely injury, lack of supervision, and poor technique. They are discussed below.

4.3.4.1 Sub-category 4.1: Injury

PE teachers, educator-coaches and gymnastics coaches can be held liable if a child or gymnast hurts himself or herself whilst in their care. Various types of injuries were discussed by the participants. Less serious injuries, like sprains and strains, were mentioned, and three coaches [SC2; SC3; NC9] stated that these types of injuries are not surprising if one considers the repetitive nature of impacts from floor routines as well as dismounts. More serious injuries – in some cases injuries leading to chronic, career-ending conditions – such as injuries to the knees, lower back, wrist fractures and spinal fractures, were also mentioned by a few participants [SP1; NP9; SP1; NC6; SC2; SC3]. It was interesting that coaches mentioned both minor and serious injuries, while parents only mentioned serious injuries, and only one coach [NP9] referred to injury as a result of overuse. The legal implications for different types of injuries differ: they may be monetary, or might lead to a coach not being allowed to continue coaching gymnastics.

One Namibian parent [NP5] highlighted that it is possible for a child to run, fall and hit his or her head while under supervision of a teacher or a coach. What was important to this parent, was “[i]f my child should get injured, whether serious or minor, contact me immediately and if seriously injured I expect the teacher to take my child to the clinic. If a minor injury, I do not want to hear it from my child at home for the first time”. To inform parents when a child gets injured during a lesson or gymnastic session is not expecting too much, but to expect a teacher to take a child to the clinic is not always possible, especially in large classrooms where there are 32 other children who cannot be left unsupervised. The expectations from parents towards teachers in this regard is unrealistic and not always practical. What is important in a case should a child get hurt is that the teacher acts according to what is expected of a reasonable teacher with the same qualifications in the same instance, referring to the duty of care (§§ 1.1 & 2.9.1.2).

A South African teacher [ST2] agreed that parents should be informed: “*Die ouers moet onmiddellik weet sodra iets gebeur het*” (The parents should be informed immediately if something happened). This teacher emphasised the importance of good communication between a teacher and a parent. It is, however, not always necessary to inform the parent immediately, especially if it is a small injury. The parent can be informed once the child is picked up. However, if it is a serious injury, then the parents should be informed immediately and if critical, then an ambulance must be called. Regulations for Safety Measures at Public Schools (§ 2.3.5), section 8A 8(a), makes provision for what a teacher must do in case of an accident. Section 8B 2 (a–c) also provides for the reporting process expected of a teacher or coach if the accident or incident is linked to a school activity. These provisions could also possibly be substantiated in club rules and policies.

When asked what she would do should a child get hurt, the teacher [ST2] further responded, “*[e]k sal eerstehulp toepas*” (I would administer first aid). Depending on the situation, by acting immediately, the teacher could save a child’s life, but as in the case discussed in § 2.9.1.5 of *Halper v Vayo*, 210 Ill. App. 3d 81 (Ill. App. Ct. 1991) 1991, a teacher was found liable where she manipulated a student’s knee. This teacher [ST2] further stated that she is more “*cautious nowadays as you may not even a touch a child...I will write an accident report*”. Similar statements were made by two South African coaches [SC2; SC3] and one Namibian coach [NC5]. From these statements, one can derive that the teacher and coaches were aware of possible implications should they have done something in the instance where a child got hurt. At this particular school, as well as the respective clubs, it is policy that any accident or incident must be reported and that the relevant parties are informed.

In some places, especially in Namibia, parents may act as volunteers and do not have formal qualifications to coach gymnastics. In a study in Namibia (Ministry of Education, Arts and Culture, 2017:17), one of the findings was that there are not sufficient teachers and that teachers are not always deployed according to their specialisation and expertise. One Namibian parent [NP4] pointed out that there were also not enough coaches due to geographical challenges in Namibia. Large distances must often be travelled to reach these larger clubs. Two coaches [NC5; NC9] confirmed this stating that, in their club, only parents coach gymnastics and that there were no other qualified coaches at their

respective clubs. It naturally also poses a risk of injury if unqualified coaches attempt to coach movements beyond their knowledge and expertise (Rossouw, 2006:69).

Measures were also discussed as to when a teacher or coach could be held liable in extreme cases such as the death of a child or in the instance where a child cannot continue with his or her life as normal. From the data, it was clear that the participants – parents, teachers and coaches alike – did keep these risks in mind. A Namibian parent [NP4] admitted that she was not sure when a school or club could be held liable with regard to more serious injuries, but she stated that she felt that, with less serious injuries, a club or school could not be held liable: “For a small injury I do not think that the club can be held liable, but I have to admit that for more serious injuries... I am not sure. Accidents happen, and I am sure it will depend on the situation.” One South African parent [SP1] further stated “[e]k is seker ’n afrigter kan nie verantwoordelik gehou word vir ’n besering van ’n kind indien hy wel alles in sy vermoë gedoen het om dit te probeer voorkom nie” (I am sure that a coach cannot be held responsible for an injury to a child if he did everything in his power to prevent it). Another South African parent [SP2] agreed and further added that “[e]k dink ’n afrigter kan aanspreeklik gehou word indien hy nalatig was” (I think a coach can be held liable if he was negligent). A teacher [ST3] went so far as to say that, should a child get seriously injured, a teacher could lose his or her job or be sued for damages as the teacher is completely responsible for the child whilst in his or her care. As discussed in § 2.1, it is not always expected from the teacher to replace parents completely (Oosthuizen & Rossouw, 2008:107). Furthermore, it is not as simple as saying the teacher is liable for the injury of a child, and in order to establish whether a teacher is liable, all five elements of delict should be present. It is clear that some participants understood that a coach cannot always be held liable should an incident or accident occur, while, on the other hand, most participants were not sure how the law functions regarding delictual liability. Section 60 of SASA (1996a) (§ 2.4) makes provision for State liability when an incident where an educator is held liable can be linked to a school activity. In these cases, the PE teacher or the educator-coach do not have to pay the damages in their personal capacity.

Two other coaches [SC2; SC3], however, felt that they would not be liable because parents of gymnasts in their club signed indemnity forms. These coaches did not interpret

legal principles correctly by assuming that an indemnity form was a valid defence and they were not well-informed and knowledgeable about the legal protection applicable to liability. If parents sign indemnity forms, they do not agree to their child not being cared for or agree to not sue the PE teacher or coach. A PE teacher or coach could still be found liable for negligence regardless of indemnity forms.

The common law principle of voluntary assumption of risk is applicable here (§ 2.9.2.1). A gymnast, by taking part in gymnastics, and the parents enrolling the child, should be made aware of dangers and risks that are inherent to gymnastics. If they were made aware of the risks, the coach could use *volenti non fit iniuria* as defence in case of injuries for which the coach is held liable.

4.3.4.2 Sub-category 4.2: Lack of supervision

Throughout the data generated, the lack of supervision was one of the leading causes mentioned for which PE teachers and coaches could be held liable, and supervision was an important element of safe participation. The higher the risk level of the activity, the closer the supervision should be (Rossouw, 2006:66). Supervision and spotting can be attempts to ensure that gymnasts do not sustain injuries (§ 1.2.3).

A Namibian parent [NP6] noted that teachers and coaches are quick to let parents sign forms which, in principle, indemnifies the teachers and coaches from any legal action in cases of harm to children. The form usually states that the PE teacher or coach will not be held liable should a child get injured. According to the participant, “[i]t upsets me as I do not want to sign such a form. If the teacher does not watch my kid where supervision is needed, I cannot do anything. Who says teachers or coaches will admit that it was indeed their fault? For instance, if they did not provide supervision where supervision was needed, how will I prove it was the teacher’s fault?” From this elaborate explanation, it is clear that this parent got highly upset as she, just as the coaches referred to in § 4.3.4.1, did not interpret the legal principles correctly.

A South African parent [SP2] indicated that, if something happened to her child while the teacher did not supervise properly, she would hold the teacher liable: “*Ek sal die afrigter aanspreeklik hou wanneer hy nie toesig gehou het nie of omdat hy op sy foon besig was.*”

(I would hold the coach liable if he did not supervise or if he was busy on his phone). In some instances, the participants indicated that should their child get hurt, then they expect the teacher to phone them immediately. It might happen that the coach is calling a parent and another parent walks in and sees that the coach is not supervising the group. Or a coach can be supervising a gymnast when a new movement is carried out and cannot at that stage supervise the rest of the group.

A Namibian parent [NP3] said that “[s]ometimes coaches take on too many children and cannot supervise all of them properly.” Coaches who take on too many children in a club at a specific time constitutes an unhealthy coach–gymnast ratio. It can be perceived that clubs are chasing numbers to make a larger profit, but mostly it was found that there are simply not enough qualified coaches and volunteers who can coach gymnastics, as was the case in Namibia. It was not clear from the data if this was in fact true in South Africa. Section 8A 2(2) of SASA (1996a) (§ 2.3.5) determines that the teacher/adult–learner ratio should be one to every 20 learners. However, this is not always possible in practice and classes and clubs. There are numerous negative ramifications from such an unhealthy ratio, such as less individual attention, fewer opportunities on the apparatus, slower skills mastery, disciplinary problems, and the possibility of talented children losing interest. The possibility of injuries also increases, especially because supervision becomes more difficult.

When lack of supervision was further explored, another Namibian parent [NP5] said she would first ask “[w]here was the coach during the time of the incident?”. This parent [NP5] also accepted the fact that a teacher cannot be everywhere at the same time by saying that “a teacher does not have 24 eyes and cannot be everywhere at once”. A South African teacher [ST1] supported these statements by saying that, “[d]it is slegs die skool of klub se skuld indien daar geen toesig was nie” (The school or club will only be held liable if there were no supervision). Another South African teacher [ST2] added that a teacher would only be liable if he or she was negligent in carrying out his or her day-to-day activities.

A Namibian coach [NC1] stated that she could be held liable if she allowed a gymnast to try new skills without her being there or assisting him or her with the new skill. The coach

further stated that “[g]ymnasts are never allowed on any apparatus if the coach is not present and coaches should make sure that gymnasts are never left unsupervised”. A South African teacher [ST4] agreed that “[t]here should be no unsupervised activities under any circumstances”. As stated by Rossouw (2006:105), it is reasonably expected that PE teachers cannot be everywhere at once and it is not always foreseeable that children might get injured, but coaches and teachers need to make sure that they do as much as possible to prevent injuries.

From the above, there seems to be an expectation that the coach must provide supervision, but at the same time, there is also appreciation and understanding that one coach cannot continuously have his or her focus on all the children, as confirmed in the Wynkwardt High Court case (§ 1.3.2.8). It can be seen as unfairness towards the volunteer coach or PE teacher who may not have adequate training.

4.3.4.3 Sub-category 4.3: Poor technique

Ensuring that gymnasts master the correct technique will help protect them from sustaining serious injuries (Rossouw, 2006:68). From this statement, one can deduct that injuries are more likely to occur when coaches do not have the know-how to teach the correct technique and knowing how and when to do spotting. Some participants were aware of the importance of teaching the right technique in gymnastics. Two South African teachers [ST4; ST3] referred to the possibility that a child can get injured due to the wrong technique. A Namibian parent [NP3] further added that, “if the basics of a routine is not practised first and the gymnast puts her foot in the wrong position attempting a more advanced movement, she could sprain her ankle or sustain a more serious injury”. From this statement, it is clear that this parent was aware of the importance of proper technique training to reduce the risk of her child getting injured and decrease the potential for injuries that could lead to chronic issues. The Namibian coach [NC1] added that “you can break anything with the wrong technique”.

It is clear that the basics of skills should be taught by a qualified coach or a qualified PE teacher, because only then would the children learn – from the start of their training – how to perform more advanced skills without injuries.

4.3.4.4 Sub-category 4.4: Duty of care

Under the law of delict, it is important to establish whether a duty of care existed between two parties, which relates to the fundamental element of wrongfulness. A coach can only be held liable if his or her action was wrongful, which can only be proved when a duty of care did exist (§ 2.9.1.1). Because PE teachers and educator-coaches stand *in loco parentis* to a learner or gymnast, teachers or coaches should act similarly than a parent would in the same instance (Rossouw, 2006:38). Because of educators' professional position, they also have an original, statutory duty of care (Rossouw, 2006:57) over and above their *in loco parentis* position. In the PE teacher-child relationship, it furthermore needs to be established that the PE teacher or educator-coach, who had the duty of care, fell below the required level of care, which will prove negligence.

Participants showed knowledge and insight about the concept of duty of care. Two teachers [ST2; ST4] stated that teachers are always in the place of the parent and that teachers take over responsibility from parents as soon as they drop off their children at the school or at a school activity. One parent [SP1] and two coaches [SC4; NC1] were unanimous in confirming that coaches are in the place of the parents. This implies that they have a duty of care towards the gymnasts. According to SC4, “[w]e need to always be there for our gymnasts so that they are aware that we listen and that they can trust us”. A Namibian coach [NC1] further agreed: “Should a child be uncomfortable in any situation, we as coaches are always there to listen and see if we can do something about it.” In both statements, I pick up the word that they would “listen”.

All interviewed parents had strong views on what they felt was important in terms of duty of care owed to their children by the coaches and teachers. SP2 said, “[e]k verwag dat die afrigter na my kind se veiligheid moet omsien en sorg dat my kind te alle tye by die klub is” (I expect that the coach should look after my child's safety and make sure that he is at the club at all times). One way to do this would be to lock the club while the session is in place and to ensure that gates are locked. This view from the parents was affirmed by a few teachers [ST3; ST1; ST3] – that it is their duty to ensure the safety of learners, inside and outside the classroom: “Dit is te alle tye belangrik om kinders te beskerm. Ons moet sorg dat kinders veilig is en hulle beskerm sover ons kan” (It is always important to

protect children. We need to make sure that they are safe, and we need to protect them as best we can) [ST1]. Coaches [NC1; SC2; SC3; NC5] further added that the safety of gymnasts is of utmost importance. These teachers and coaches were aware of their legal obligation and responsibility to keep a child in their care safe.

According to ST1, *“[o]ns moet dus optree soos wat die ouer sou...dalk selfs beter omdat ons opgelei is...meer weet as ouers wat om in sekere situasies te doen”* (We must therefore act as the parent would have...even better because we are trained...know better than parents what to do in certain circumstances). This teacher was aware of her legal responsibility as a teacher because of her professional position and qualifications. Some of the responsibilities and functions of a parent become part of teachers' duty, which could include that they are required to teach the child proper behaviour and typical values that are learned at home and foster a desire in the child to learn and to respect teachers and other fellow human beings. Furthermore, a teacher is (as the participant above rightfully stated) legally obliged to act as a reasonable parent would. Because of their qualifications, teachers must meet a higher standard of care because of a higher level of experience and a better knowledge of risks in the specific context a parent might not be aware of.

4.4 Theme 2: Psychological aspects

PE teachers and educator-coaches are prominent role models to the children they teach and the gymnasts they coach respectively, due to the particular close relationships that typically exist between coaches and participants, even more so if considerable time is spent together, as is the case in gymnastics.

The law of delict, as discussed (§ 2.8.1.3), focusses on, amongst others, the setting in which a sport participant can claim compensation from another party for damage and harm suffered due to a negligent act or omission. In § 2.9.1.3, a clear distinction was made between patrimonial loss and non-patrimonial loss, and examples of each were given. Medical expenses that can be claimed for either physical or emotional damage fall under patrimonial loss. Emotional harm, often caused by verbal abuse through derogatory remarks, is sometimes of a long-term nature and may therefore be worse than physical injury. In this instance, it would be more difficult to prove liability, but not impossible if the

causation element can be proved (§ 2.8.1.5).

Claims for non-patrimonial loss can be instituted, which include mental integrity infringements. As mentioned in § 1.3.2.2, the State can be held liable for an act or omission of a South African public school teacher or coach for any delictual harm caused to a learner during an act related to a school activity (section 60 in SASA (1996a)). One principle mentioned in § 2.9.1.3 is the action to claim for pain and suffering or a loss in quality of life (Neethling & Potgieter, 2017:5; Rossouw, 2006:47).

A number of aspects related to physical abuse have been discussed under Theme 1 (§ 4.3), as they emerged from the analysis of the interview transcriptions. Next, under Theme 2, several aspects related to psychological development of children and the possible harm associated with their psychological wellbeing, all within the sport coaching and PE context, are discussed. These discussions are structured under four categories that emerged from the data, namely: (1) Pressures; (2) Authority; (3) Holistic development; and (4) Risks.

4.4.1 Category 5: Pressures

The psychological pressures are high in school communities or clubs where better achievement and winning medals become increasingly important, and as a result, sport participants experience increased pressure to perform from, amongst others, coaches and parents. A study conducted (Raedeke *et al.*, 2002:181) shows that “[t]he most salient cause of burnout cited was parental pressure. One source of parent pressure centred on overinvolved parents who had a zealous need for their children to do well.” Although this is not the case with all coaches, schools or clubs, these pressures increase the potential for conflict between participants in sport and those who coach them (Beloff *et al.*, 2012:10), even more so in the field of gymnastics where participants already from a very young age experience a significant level of pressure.

4.4.1.1 Sub-category 5.1: Pressure to perform

One coach [NC5] pointed out that some parents tend to put pressure on children, because to them, it can lead to a professional career. Another coach [SC4] further demonstrated

that “nowadays too much pressure is put on gymnasts and that it causes a great deal of stress. By the time they join my group they are traumatised and sometimes emotionally too weak to cope when preparing even for a less important competition.” Pressure is therefore felt from all sides – parents, coaches, and peers. In support of this statement, a Namibian parent [NP9] added that “parents getting overly involved can have a negative effect on his performance and confidence”. Too much pressure put on gymnasts could also lead to injury (§ 4.3.4) as they might attempt movements that are too difficult or above their capabilities.

One parent [SP7] complained that the coaches sometimes put too much pressure on her child by saying things like “this one is better than you” in an attempt to motivate her to push herself. However, this kind of pressure does not have the same effect on all gymnasts. A good coach can approach different people according to their personalities. In other words, each gymnast has a unique way of getting motivated. Good coaches pick up on this very quickly and implement it accurately to each individual. Some gymnasts can start to experience constant anxiety and they may start to harbour the feeling that they are not good enough. Linking back to physical harm, some children might be under tremendous pressure and keep on practising for and participating in competitions for fear that their coach might be mad and pull them out of the gymnastics team. This links to self-confidence as well. If one’s confidence is low, the quality of movement or routine execution would be lower, which leads to general poor performance in competitions.

4.4.1.2 Sub-category 5.2: Pressure to provide funding

Another element of pressure that may indirectly cause pressure and anxiety amongst children is the expectation from clubs that parents contribute financially towards school activities and trips. One South African parent [SP3] stated that it was not always easy to “keep up with the Kardashians” and that he was afraid that the stress that he sometimes felt to get money together for a school trip might filter through to his child. Another parent [NP4] agreed, saying that “we are not always able to contribute as much money to the school as other children’s parents”. These parents realised that their stress could have a negative effect on their children. This assumption is supported by a study (Sze Man Wong *et al.*, 2017): that parental stress can be detrimental to children’s health and development.

Another parent [NP6] revealed that “[s]ome parents do not pay school fees and their children are taken out of class to stand in the assembly block until the parents pick them up. It is then also announced in front of the class that their parents did not pay. These children often get teased and I can only think of the amount of stress this puts on the children. Some activities at school costs money and some parents cannot pay, and these children are then not allowed to partake in these activities.”

Statements from teachers [ST1; NT6] illustrated a different perspective. ST3 said that “all things unfortunately cost money. Hence, it is reasonable to ask money for sport participation, cultural tours etc”. Another Namibian teacher [NT5] stated, “I’ve seen where some schools gets it right in that they manage to raise substantial funds through sponsors and fundraisers to help kids with parents who can’t afford it. Parents apply for these grants from the school anonymously. Through this process no one knows except for certain staff at the school.”

Under no circumstances is it allowed to discriminate against or punish a child because parents are not willing or able to pay admission or schools fees. This degrading treatment is directly in conflict with four elements of both Constitutions (§ 2.2). Article 8 of the Constitution of Namibia (NAM, 1990) and section 10 of the Constitution of South Africa (SA, 1996c) imply that human dignity should be respected and that no child may be subjected to degrading treatment and have the right to have their dignity respected. Article 10 (NAM, 1990) and section 9 (SA, 1996c) provide for the right to equality and that no person may be discriminated against on the grounds of social or economic status and equal enjoyment of all rights and freedoms. This implies that children whose parents do not pay admission or school fees may not be prohibited to have access to the classroom based on the provisions above.

4.4.1.3 Sub-category 5.3: Pressure to manage time

A parent [NP3] touched on the fast-paced and complicated world: “Children are rushed to school, rushed to extracurricular activities, rushed home to do homework and then rushed to go to bed.” Other parents concurred [NP9; SP7], and stated that children nowadays need to do even more in less time and with financial burdens, both parents are

forced to have full-time jobs, leading to less valuable interaction and family time. The issue that arises from this is that parents seldom have time for themselves and sometimes do not even realise that their child is under pressure, which could lead to emotional and health issues for the child.

Another parent [NP6] also stated that her child barely had time to relax because “[t]he teachers always expect the best from my child. My child is one of the top learners and therefore teachers expect even more from him and give him even more work than other children in his class.” This parent also stated the importance of lessening the stress at home: “We, the parents try to lessen the pressure by making it clear to him that as long as he does his best, we are happy.”

On the other end of the spectrum, being constantly pressured, the gymnast might not want to participate anymore because he or she does not want to be under constant pressure to be the best – the enjoyment element might be gone.

4.4.2 Category 6: Authority

In § 4.3.2, authority and challenges coaches and teachers face, specifically related to discipline, with the focus on physical aspects, were discussed. Under theme 2, which focusses on psychological aspects, and *pressures* as a category, the subcategory *authority* was identified. These relate to enforcement of rules and procedures in and outside the classroom or club in both a negative and positive way.

4.4.2.1 Sub-category 6.1: Encouragement

Encouragement is a well-known and often successful way to promote good conduct amongst children and helps to motivate a child to complete certain tasks. One coach [SC8] implemented an award system at his club: every time a gymnast learns a new skill or improves on a difficult skill, that gymnast climbs up a ladder and pushes the siren button. All learners must clap their hands if they hear the siren, which serves as an encouragement. This coach sets a perfect example that it does not always have to cost something to reinforce good behaviour. In addition, a Namibian parent [NP9] added: “When I like something my child did or if she managed to perform a difficult routine, I give

her a high five, a pat on the back or I tell my friend (when I know my child is listening) how proud I am of my child's good behaviour or achievement." From this statement, it can be derived that this parent realised the importance of encouragement, such as praising her child. It could possibly enhance self-worth and also take into consideration the best interests of the child – a concept emphasised in both constitutions of Namibia and South Africa (§ 2.2.3).

A coach [SC4] answered "[s]ometimes when gymnasts do not listen to me, I will put them on the spot and let him or her do some movement or element in front of the rest of the group". The possibility exists that this could lead to other children teasing such a child, which, in turn, may lead to emotional damage as few children are mentally strong enough to handle humiliating comments, degrading activities or being teased by peers. The possibility is that this action can disregard the right of the human dignity (§ 2.2.2) of this child. A Namibian coach [NC5] stated that "[s]ome coaches are bad at 'reading the room' and give the wrong punishment. One example is that there is one coach at our club who always shouts at the younger gymnasts." Young children are not emotionally mature yet and do not always know how to handle conflict, especially not when they are shouted at. Another coach [SC2] stated that "[i]f you constantly shout at a child and always tell him or her how bad they are, that child might become too scared to try something due to him being afraid of being yelled at". This can be seen as verbal abuse, which could possibly have a negative impact on an athlete. (Gervis, Rhind & Luzar, 2016:220).

It is important to keep in mind that not all people, and therefore not all gymnasts, are alike. What is encouragement for one child might be experienced negatively by another. Some gymnasts, for example, as pointed out by a Namibian parent [NP10], "will enjoy being praised in front of their peers whilst for others it might create uneasiness to be put in the lime light". Article 8 (NAM, 1990) and section 10 (SA, 1996c) of the Constitutions respectively provide for the inherent right that all persons' dignity should be respected and protected. To add to this statement of the parent, it is the duty of the PE teacher and the coach to ensure that a learner and gymnast is not degraded or treated inhumanely in any way.

A Namibian coach [NC1] added: "Gymnastics is all about discipline and dedication."

These skills together with determination can be learned through regular encouragement, which could lead to gymnasts having more confidence to face their fears to master new skills and to stay positive.

A Namibian coach [NC9] said she encouraged gymnasts at her club and rewarded them by doing a dance after they had done their conditioning routine correctly or if they had mastered an element. All of the above participants understood the importance of discipline and how they had to encourage good conduct and eliminate undesirable conduct where possible. By so doing, they, too, apply the legal principle of preventability and foreseeability (§ 2.9.1.5) by preventing the possibility of a gymnast getting hurt by teaching him or her why and how to apply the rules to avoid foreseeable injury.

4.4.2.2 Sub-category 6.2: Punishment

In § 4.4.2.1, encouragement was discussed where a favourable outcome occurs after an action. In this sub-category, ways of how parents, coaches and teachers punish learners and gymnasts emerged. Punishing a child by taking away a reward after the undesired behaviour had occurred, may have the effect that the child will not do it again. The importance of complying with rules were discussed (§ 4.2.3.2), as well as the focus on one of the important reasons to comply with rules in gymnastics, namely not to get injured and to protect gymnasts from risks not inherent to gymnastics.

Some parents take the route of corporal punishment when their children do not obey. A Namibian parent [NP4] said that “I will repeat the instructions for a second time, and if they still do not listen, they will get a hiding. This to me works very well. Yelling, shouting and trying to talk to them does not work at all.” Another Namibian parent [NP5] also agreed, saying that “I talk two times at most, on the third time I will give a hiding. My child will then know to not do it next time.” Another Namibian parent [NP9] stated that, “[i]f children do not behave like they should, then something needs to be done to prevent that behaviour to be repeated again. Drastic measures sometimes need to be taken.”

A South African coach [SC4] disclosed that, in his club, there was another coach who liked to say “[i]f it does not hurt, you are not doing it right”. He [SC4] said he did not agree with this form of abuse and, for him, there was a significant difference between muscle

stretching and muscle tearing. This statement was made after the coach reported about another coach who he saw applying this form of torturing by forcing a gymnast to practise the same element repeatedly, even after complaining about pain. Physical abuse or physical overtraining could be seen as a form of corporal punishment, which is wrongful in terms of both schools acts of Namibia (NAM, 2001) and South Africa (SA, 1996a) respectively. Furthermore, in article 8 of the Namibian Constitution (NAM, 1990), human dignity is provided for and prohibits “cruel, inhuman or degrading treatment or punishment”. A similar statement is also made in section 10 of the Constitution of South Africa (SA, 1996c) (§ 2.2.1).

Other participants, however, did not agree that corporal punishment was the only route to go: ST1 stated “[w]anneer hulle nie luister nie, sal ek dat almal opstaan en ’n dans doen om almal se aandag te kry en ’n bietjie suurstof deur die brein te laat gaan” (When they do not listen, I will let them get up and dance to get their attention and to allow some oxygen to reach their brains). When asked if this is an effective alternative to corporal punishment, she said yes, as “kinders hoef nie altyd gestraf te word en half doodgeslaan te word nie, en so kry die kinders sommer baie nodige oefening. Alternatief laat ek hulle ook opstaan en ’n ‘Simon says’ speletjie te speel. Dit help hulle om te luister en te konsentreer en so vergeet hulle sommer om stout te wees.” (Children do not always have to be punished and beaten half to death – this practice allows them to get much-needed exercise while being punished. Alternatively, I let them stand up and play Simon says. This helps them to listen and concentrate and so they forget to be naughty). Another practical approach to follow, as affirmed by a Namibian coach [NC1], is to “[make] them sit out for a while until they feel ready to come back”. Exclusion from a much-needed physical education lesson is not the best practice to discipline a child, and this teacher could have used another approach, like giving the child a five-minute time-out session, whereafter he could re-join this important lesson. Punishment is not meant to hurt a child; the main outcome of punishment should be to teach the child what is right and what is wrong. It should be used as a learning opportunity and not merely to potentially injure or harm the child.

A Namibian parent [NP6] said that she did not allow any form of corporal punishment: “I will have a debate and then conclude together with my child. I punish only verbally, no

physical punishment allowed. If I need to talk twice, I take away privileges, like iPad and cellphones. Latest punishment was that he got grounded for a week.” A South African teacher [ST4] claimed that “*I will give them a time out and explain again.*” This teacher felt that it was not necessarily that the child did not want to listen, but it could be that he did not understand what to do. Similarly, two coaches agreed [SC2; SC3], saying “[n]o, they do not always listen. I will call them away from the group and talk to them privately if they don’t grasp the new steps or movements.” These two coaches were of the view that it is not necessarily that gymnasts are disobedient; they may be reluctant to do so as they are either too scared to try the movement or simply because they do not understand what the coach wants them to do.

Another important aspect to keep in mind is that all punishment is not necessarily equal to corporal punishment. It is important for gymnasts to be well-conditioned and physically strong and therefore conditioning is an important aspect in gymnastics. If coaches, however, use conditioning for punishment, it may take the fun element out of it and gymnasts will start to resent the conditioning element of the practice. They might associate conditioning with punishment, which could lead to a long-term displeasure in exercise.

4.4.3 Category 7: Holistic development

Mention was made of the *School sports for development* programmes (§ 1.2.5) in Namibia and South Africa. One of the participants [NMoE1] stated that these programmes are used as tools to impart life skills on children and to be integrated in the school curriculums to strengthen the life skills and to improve children’s levels of activity. Both the Namibian and South African school curriculum put emphasis on the importance that a child should be developed in a holistic manner, which means physical as well as psychological development. In other words, education makes provision for the development of mind and body. Gymnastics as a sport adds value to such holistic development in the sense that it requires a lot of discipline, social skills and commitment but also emotional intelligence to be able to cope with stress, injury and fear of failure. Holistic development can in general be expected from parents and does not entirely rest on the shoulders of the coach. One South African parent [SP1] summarised it very well by stating that it was important for her

that her child was developed completely. A South African parent [SP2] stated that she expected that one of the roles of her child's teacher and coach was to create a learning environment for her child to grow and to develop.

A South African teacher [ST1] agreed with this parent [SP2] by saying *“[o]ns is gek oor Piaget se teorie wat fokus op ontwikkeling eerder as leer. Ons hoofdoel is om leerders te lei om selfstandig te dink en te redeneer sodat hulle as 'n geheel kan funksioneer en ontwikkel op 'n emosionele en intellektuele vlak en kan leer hoe om konflik te hanteer en kritiek te kan ontvang”* (We are fond of Piaget's theory, which focusses on development rather than learning. Our main aim is to lead children to be able to think and reason independently so that they can function on an emotional and intellectual level and to be able to handle conflict and criticism). This teacher [ST1] put emphasis on the importance to teach children the importance to think and dictate on their own as she repeated it again at a later stage. This concept is further supported by two teachers [ST2; ST4], who added that this includes academics and sport. Children need to be developed and guided to reach their full potential, and this is only possible if parents, teachers and coaches focus on the holistic development of a child to enable them to become fully functional adults.

A Namibian parent [NP5] agreed and said *“[t]eachers must educate on my child's level to develop emotionally and intellectually and it is the duty of teachers to teach my child Physical Education which focusses on this aspect in the curriculum”*. The teacher [ST1] agreed, saying *“[om 'n] kind op te lei volgens wat hulle moet weet volgens hulle ouderdom [sic]”* (to train the child according to what he or she must know according to his or her age). There are different things that children need to know as set out by the curricula (Namibian and South Africa), and it is the responsibility of the teacher to make sure that the children are taught on the level based on her grade and age.

For one Namibian parent [NP3], it was important that her child *“progresses in everything she does”*. A Namibian parent [NP4] said that there should be an environment created for her child to be the *“the best he can (be)”*. The school and club environments are the best places, as affirmed by a Namibian parent [NP4]: *“for a child to learn more about him or herself and to gain self-confidence, self-discipline and integrity”*.

Coaches' approach to holistic development is similar to those of parents and teachers. One South African coach [SC3] said "[i]t is possible to also develop a child on a physical and emotional level in gymnastics". The physical aspect speaks for itself; the emotional level is how you teach the gymnast to react – for example, if he or she does not win. This is confirmed by a Namibian coach [NC5] when he pointed out: "Teach them early on how to deal with not winning a competition and to deal with criticism as this will help him later in life." One official [NMoE1] also stated that children should develop holistically: "not only body but also in their mind".

More pressure is put on teachers and coaches as it appears that the duty now lies with them to transfer essential life skills to the children and to expose them to valuable learning opportunities.

4.4.4 Category 8: Risks

The coaching context is in an ideal place to encourage and apply principles of human dignity and respect for others (Rossouw, 2006:18). A coach [SC2] mentioned that children today are under stress due to bullying at school. Sometimes, children get teased for being part of the gymnastics club and not being part of contact sports, like rugby for the boys, and team sports, such as netball or hockey for the girls. One approach from coaches and parents can be to encourage gymnasts to also take part in other kinds of sport, if time allows.

In the preamble of SASA (1996a), it clearly specifies, amongst others, to combat all forms of unfair discrimination and intolerance. Therefore, teachers are legally obligated to try and put measures in place to prevent bullying and promote understanding and respect for all. A Namibian parent [NP6] stated that bullying was a big problem in the club and that she knew other children sometimes laughed at her son. A South African teacher [ST1] agreed that victimisation and bullying were big problems in her class and that children, specifically in the younger grades, grades 3 and 4, often tease one another. From this statement, one can see that bullying is not only physical but also in the form of exclusion, which can trigger emotional rather than physical pain. A Namibian parent [NP3] confirmed this by saying that her child was often teased because of body size and when

her child struggled to perform a routine at gymnastics. Another parent [SP2] pointed out *“[d]aar is heelwat boelies in my kind se klub en boelies moet beter beheer word en dit is teen die Skolewet dat kinders of grootmense ander kinders mag boelie”* (There are a few bullies in my child’s club and bullies must be handled better as it is, after all, against the Schools Act that a person may bully another person). From this statement, one can see that some parents were informed about the law and knew what was allowed and what not.

Two Namibian coaches [NC1; SC4] said that they did not tolerate bullying in their club: *“Sometimes you get children that are just mean...bullying other children. In other instances, stronger gymnasts see other children not as strong and makes fun of them. That makes them negative. We as coaches are hands on, we do not allow such degrading behaviour”* [SC4]. The Namibian coach [NC1] further added that, in 2015, a national anti-bullying campaign was launched in Namibia as part of the School Governance and Social Accountability Initiative to curb violence and bullying in schools (UNICEF, 2017).

Another teacher [ST2] added to this: *“Hoe die kinders lyk, met ander woorde, as hulle oorgewig is, is hulle skaam omdat hulle weet hulle gaan laaste kom en dat die kinders hulle alwéér gaan spot”* (What the children look like, in other words, if they are overweight, they are ashamed because they know that they will be teased again). Some children have a complex already at a young age about being overweight and do not actively participate in activities and sport as they assume that the other children would make fun of them and that they would end up last in competitions. This teacher also emphasised that children can be very nasty [ST2]: *“Kinders kan soms vieslik wees.”* A study conducted in the United States of America clearly illustrates that there are long-lasting and direct psychiatric effects on adolescents who have been bullied by peers at a younger age (Copeland et al., 2013:424).

A South African parent [SP2] exclaimed: *“n Onderwyser het al my kind verneder voor die hele skool! Hy was platgeslaan, wou nie skool toe gaan nie”* (A teacher humiliated my child in front of the whole school! He was devastated and did not want to go to school). A South African coach [SC3] said *“[o]ne of my children gets very emotional as she cannot manage to do a routine properly and on top of it other children make fun of her while*

struggling”. Gymnastics can be a mentally draining sport and it can cause a lot of pressure. Sometimes a gymnast can get the routine done perfectly and other times he or she struggles to get the simplest of elements done well.

4.4.4.1 Sub-category 8.1: Abuse

As stated by Rossouw (2006:117), abuse manifests itself in physical abuse, emotional abuse, inappropriate training, inappropriate touching, and neglect, or a combination of these. PE teachers, educator-coaches and gymnastics coaches are always at risk to be held liable for harm suffered by children if they breach their legal duty to protect them (Rossouw, 2006:32).

A form of verbal abuse is when a teacher humiliates a child, something that made a South African parent [SP2] the angriest: *“Dit maak my woedend wanneer ouer mense in posisies van gesag hulle mag misbruik en kinders links en regs verneder net omdat hulle (dikwels onderwysers) aan ’n lae selfbeeld ly.”* (It makes me furious when older people in position of authority misuse their power and humiliates children left, right and centre just because they [often teachers] suffer from a low self-esteem). Two coaches [NC1; NC5] agreed that it was the responsibility of all coaches to create a safe and trusting environment free from verbal and physical abuse. This was also emphasised by two other parents: *“Children are so innocent and frail...Children should not be shouted at... or hurt in anyway”* [NP4; NP6] and *“[i]t is up to the family, more than the country, to make sure that the children are protected from verbal and physical abuse”*.

Learners are exposed to more abuse and harassment at the hands of sport coaches than at any other school activity (Rossouw, 2006:117). The reason for this, and especially pertaining to gymnastics, is that there is more physical contact than in the classroom, it being an integral part of gymnastics coaching during spotting and assistance to master certain movements. In gymnastics, a coach has every opportunity and the duty to establish a safe and trusting environment. As a result, a personal bond may develop between gymnasts and coaches. Unfortunately, this also creates a unique situation that some unscrupulous coaches exploit. One of the parents [NP6] felt that there should be more done in the country as she stated that *“[n]ot much is in place in Namibia to protect*

children from child trafficking, molesting, rape, etc.”.

A teacher [ST1] puts emphasis on the importance of a good relationship between a learner and a *teacher “...sodat leerders weet wat om te doen wanneer hulle nie gelukkig is nie” (...so that learners know what to do when they are unhappy)*. If children are not happy, they should know that they can talk to the teachers. In order to do this, they must have enough trust and courage to inform a teacher what happened and that they are unhappy. Children can be unhappy for various reasons. Someone, a teacher or a peer, may hurt them physically or someone may have shouted or verbally abused him or her in one way or another. The same teacher [ST1] highlighted to the importance of the duty of care owed by a teacher to a child by stating *“[o]ns moet sorg dat hulle nie seerkry nie...verhoed dat hulle mekaar sleg sê en spot” (we must ensure that children do not get hurt...prevent that they insult and tease one another)*. This teacher was not only aware that children need to be developed physically and mentally, but also that a child can be hurt physically and mentally. This is important as mental/psychological scars can be kept for much longer and may lead to emotional disorders later in life.

4.4.4.2 Sub-category 8.2: Intolerance and discrimination

Gymnastics as a sport affords gymnasts the opportunity to learn new elements and routines but also to learn how to be compassionate and to understand and accept differences. Bullying, as discussed above, and discrimination were two of the highlighted aspects.

A Namibian parent [NP3] made a statement to never give preference to a child because he or she is male or female: *“I try to teach my children that all people are equal.”* Another Namibian parent [NP5] added that *“we are all humans; never mind our culture or tribe”*. A South African teacher [ST1] said that the parents’ culture and background should also be considered when making decisions regarding the children in her class. Equal treatment was also important to a Namibian parent [NP6], who emphasised: *“I teach my child that everyone is peach, we are just different shades of peach, not black or white”*, and another South African parent [SP2] agreed: *“Kleur is nie ’n faktor nie” (Colour is not a factor)*.

A few teachers talked about the topic of unfair discrimination. One South African teacher

[ST1] explained that they taught the learners what was right and wrong in terms of discrimination. “Our Code of Conduct condemns unfair discrimination,” stated another South African teacher [ST3], and where possible, “we try and incorporate it in most Life Orientation lessons.” Similarly, another teacher [ST2] expressed that she also used subjects like “Life Orientation to make children aware of discrimination”. A Namibian parent [NP4], however, stated that she had explained to her children what discrimination was, and they “have unfortunately already experienced it at school and at the gymnastics club”. A last comment was made by a South African parent [SP2], who responded that “[e]k sal baie vies raak indien my kind nie toegelaat word om iets te doen omdat hy ’n seun is of oor wat sy velkleur is” (I would be very angry if my child was not allowed to do something due to the fact that he is a boy or because of his skin colour). Coaches should always treat all gymnasts the same, and this was also what a Namibian parent [NP6] expected: “I expect the teacher and coach to provide for equal treatment and that everyone is treated the same.” According to another participant [NP9], “[l]ast year my child was not allowed to partake in an activity due to being called a moffie by the teacher”. ST2 was of the opinion that “*n Onderwyser kan nie almal altyd gelukkig hou nie*” (A teacher cannot always keep everyone happy). It is important to note that there would be instances where discrimination would take place and where it would not always be seen as unfair discrimination (§ 2.2.2). For example, girls and boys will never compete against each other in gymnastics for obvious reasons.

In addition to the legal implication, it is important that not all people always agree with other people’s views and not all people agree on what is the best for their child. Parents might not agree how teachers educate their children and, similarly, teachers will not always agree with the way parents educate their children. It is therefore important to have a good teacher-child relationship, but even more so, a good teacher-parent relationship as the ultimate goal should always be the best interests of the child (§ 2.2.3).

4.5 Concluding remarks

From the empirical data, two themes emerged, namely physical and psychological aspects pertaining to liability as the overarching theme. The empirical study provided a deeper understanding of the phenomenon, namely legal implications and common law principles regulating teaching and coaching of junior gymnastics. The following categories

emerged: facilities and equipment; authority; coaching methods and approach; risks (physical); duty of care; pressures; authority (psychological); holistic development; and risks (psychological).

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

In the previous chapter, the empirical data were analysed, and a central theme of liability transpired, with two major themes, namely psychological and physical aspects pertaining to liability. The central aim of this study was outlined in chapter 1, namely, to establish what the nature and implications of legal principles are regarding coaching of junior gymnastics in the contexts of Namibia and South Africa in the school environment as well as in the private club environment.

In chapter 1, the following four objectives were formulated to reach the central aim:

- which legal principles regulate educational gymnastics and junior gymnastics coaching and participation;
- the nature of legal risks in coaching of educational and junior gymnastics in Namibia and South Africa;
- the nature and level of legal knowledge of PE teachers of educational gymnastics, and educator-coaches and coaches of junior gymnastics in Namibia and South Africa; and
- how PE teachers and educator-coaches and coaches of junior gymnastics in Namibia and South Africa apply legal principles in their coaching of educational and junior gymnastics.

The first objective was reached through the initial literature review offered in chapter 1, as well as the analysis of the legal determinants in chapter 2. The second objective was reached through the literature review that was conducted in chapter 1, the analysis of the legal determinants in chapter 2, as well as, in part, the empirical data analysis conducted in chapter 4. The third and fourth objectives were reached by means of the empirical data analysis conducted in chapter 4.

In the literature review of chapter 1, legal principles that regulate educational and junior gymnastics were explored to determine which legal provisions and principles protect the

rights of PE teachers, educator-coaches, as well as learners in terms of risks, security and health.

In chapter 2, the Constitution, original legislation (education and general legislation), as well as subordinate legislation (Oosthuizen *et al.*, 2017: 46) were discussed. Common law was further examined and interpreted with a specific focus on the law of delict as well as two defences, namely assumption of risk and indemnification. The aim was to determine the nature and implications of this legal framework with regard to coaching of junior gymnastics and PE in the contexts of Namibia and South Africa. The constitutions of both Namibia and South Africa were explored because they are the supreme law of both Namibia and South Africa and provide principles on how the respective governments should execute power (Von Wietersheim, 2015:11). Therefore, both constitutions were used as the respective foundations on which other legislation was interpreted and the nature and the implications thereof for every citizen in Namibia and South Africa and, by implication, also for all junior participants or learners, PE teachers and educator-coaches. The focus was on the relevant aspects of human rights, namely dignity, equality, children rights and education, and how they apply to PE teachers and educator-coaches (§ 2.2). Education-specific legislation (§§ 2.3; 2.4) and general legislation (§§ 2.5; 2.6; 2.7) were also examined due to the nature of the study, with a focus on children and education. Common law, specifically the law of delict and some defences (§ 2.9.2) were also discussed in some detail to establish what legal principles are applicable to teaching educational gymnastics and coaching of junior sport, more specifically junior gymnastics. It is derived from the research that there is a well-developed legal framework in both countries which protect learner or gymnast as well as the PE teacher or educator-coach with regard to the liabilities and implications of gymnastic coaching.

In chapter 3, the reason and rationale for the research design and methodology were discussed on how to understand the phenomena of legal implications and common law principles regulating teaching and coaching of junior gymnastics. The data were collected by means of interviews and open-ended questionnaires. This chapter gave an extensive outline on strategies to ensure trustworthiness and procedures and steps implemented to adhere to ethical principles and rules.

In chapter 4, the themes and categories that emerged from the data were discussed. Two major themes emerged, namely physical and psychological aspects pertaining to the position of the coach and the interaction between the coaches, learners and gymnasts. Both a literature analysis and an empirical study were conducted to gain a deeper understanding of the phenomenon, namely legal implications and common law principles regulating teaching and coaching of junior gymnastics. Eight categories were identified during data analysis: Facilities and equipment; Positive authority; Tolerance; Coaching methods and approach; Risks (Physical); Duty of care; Pressures; Negative authority; Holistic development; and Risks (Psychological). These key findings are discussed next, and recommendations are made. Legal implications are also highlighted, where applicable, to better support and showcase deeper understanding.

5.2 Key findings and recommendations

5.2.1 Finding 1: Facilities and equipment

I found that some participants showed insight into the importance of apparatus and equipment management in the PE class or club itself. The ideal is to minimise risks and to ensure that apparatus are safe before a lesson or session starts. This is consistent to what was found in the literature (§§ 2.9.2.1 & 4.3.1).

Additionally, it was also found that it is the statutory duty (§§. 2.9.1.2 & 2.8.2) of PE teachers, educator-coaches and gymnastics coaches to ensure that apparatus is set up correctly and safe for participation. If any of the apparatus in schools have defects, it should be reported to the correct authorities as determined in legislation (SA, 1996a; NAM, 2001). In the instance of a private club, it should be reported to the owner of the apparatus (§§ 2.2.3 & 4.3.1).

If the coach and responsible stakeholders do not adequately ensure that apparatus and buildings are safe for participation, PE teachers, educator-coaches and gymnastics coaches can be held liable should a child suffer an injury because of such negligence (§ 2.9.1.5). The principles of foreseeability and preventability can specifically be applied here, as discussed under the law of delict under the fundamental element of fault (§ 2.9.1.5).

5.2.2 Recommendations: Facilities and equipment

The first recommendation regarding facilities and equipment is that the guidelines for good practice pertaining to the facility are prominently displayed for the attention of parents, participants and coaches. An example of such a display can typically be a floor plan of where loose-standing equipment and items should be when not in use.

Secondly, the building structures and equipment should be maintained well so that damage or deterioration is repaired timeously in order to ensure safe participation. A schedule can be drawn up and reviewed on a regular basis, which provides for exact dates when inspections should be done. Requests should be then submitted in writing to the correct authorities. After inspections are done, it should be seen as a matter of urgency to complete repairs, record these repairs, sign them off and file them.

The third recommendation is to coach gymnasts, starting at a young age, to be safety conscious and also do a visual inspection of the equipment before starting any routine to help ensure their own safety. Without taking away the primary responsibility of the coach or PE teacher, a shared responsibility develops between the coach and especially the older gymnasts. This links to the legal principle of contributory negligence discussed under the fundamental element of fault (§ 2.9.1.5). An example of gymnasts taking some responsibility to ensure their own safety is to encourage them to ask questions such as: Did I remind the coach or a fellow gymnast to take away the springboard? Did I remember to powder my hands properly before mounting the high bar or parallel bars?

5.2.3 Finding 2: Authority

It was found that gymnastics are governed by FIG sport codes, which are imposed on all affiliated NFs (§§ 1.3.2.7 & 2.8.1). Participants were aware of different rules and legislation that were in place – especially rules in the classroom and rules in the club. Private clubs then have their own individual rules derived and adopted from these codes in order to enforce discipline to prevent injuries and psychological harm in the process (§ 2.8.2). If all activities stay within the rules of a specific sport, it would be more difficult for the coach to be found delictually liable, as discussed under the fundamental elements of wrongfulness and fault (§§ 2.9.1.2 & 2.9.1.5). To these can be added some other

advantages of an orderly environment, such as progression of skills, educating gymnasts to have respect for others, and to improve the quality of the learning process (§ 1.3.2.2).

Ill-discipline and unruliness were found to be two of the high-risk elements which most participants could foresee as the cause of injuries (§. 4.3.2.3). It was further found that the responsibility to teach children to obey figures of authority must start at home (§ 4.3.2.3). Another way to promote discipline, in addition to encouragement, is to explain the rules in detail and also why it is important to adhere to them and to involve gymnasts in the decision-making process (§ 4.3.2.3; SAGF, 2018:31) and to let them take ownership of some of the responsibilities (§ 4.2.2.2). An award system was implemented in one of the clubs to reinforce good behaviour (par 4.4.2.1) as it is also important to improve a gymnast's self-worth and dignity (§ 2.2.1).

Views on how to punish disobedience differed from participant to participant. Some coaches said that to promote discipline, they put the gymnast on the spot; and others used verbal abuse, such as shouting, which could lead to emotional harm and lower self-confidence. This might lead to psychological harm and physical injuries as a child might not have the confidence to execute or even attempt a difficult movement (§ 4.4.2). Other participants reported that they applied corporal punishment like overly strenuous exercises for a period of time (under the banner of body conditioning) (§ 4.4.2.2), which is strictly prohibited by legislation in Namibia and South Africa (§§ 1.1; 2.2.1; 2.3.2). In such a case, a coach could be found delictually liable based on intent, as discussed under the fundamental element of fault (§ 2.9.1.5). Studies have shown that this can also cause psychological harm (§ 4.4.2.2) which can be actioned under the *actio legis Aquiliae* principle discussed under the fundamental element of damage (§ 2.9.1.3).

5.2.4 Recommendations: Authority

The first recommendation regarding authority is to put measures in place to acknowledge and reward good behaviour. If, for example, a young gymnast has performed or done his or her utmost in succeeding in a difficult skill or has made good progress, then he or she receives an item or token that highlights and rewards such efforts. Good coaches encourage gymnasts to celebrate each other's successes and achievements and give

support where needed.

Secondly, rules of the clubs should be prominently displayed. Visual images also help younger learners to understand. The parameters should be clearly stated in the club so that gymnasts can know what is allowed and what is expected of them. It should also clearly state what would be regarded as unacceptable behaviour. If a child creates a disturbance, he or she should be dealt with in an age-appropriate manner.

Thirdly, information sessions with parents are of high value so as to clearly communicate the do's and don'ts. A simple one pager that clearly outlines instructions, rules, contact persons, etcetera, should be handed out after the session. Parents' involvement and support towards the club and its activities is also important. It can positively encourage the child as they then personally experience their parents' efforts and commitment towards their club or school. The coach's main responsibility remains to teach the sport and not to solely focus on challenges such as transport and other logistics, where supportive parents could assist.

Fourthly, involve and consult gymnasts when compiling or amending the rules. This would encourage gymnast to perceive the rules more positively because it showcases confidence. For example: "If we go to the next apparatus, do we run or walk? If a fellow gymnast is busy with a routine, should we sit and watch, or wander through the gymnasium?"

It should further be clear what is not allowed in terms of degrading behaviour. The intent to cause physical or psychological harm (seen as forms of bullying) should be stopped immediately. Also, it must be clear that no forms of corporal punishment are allowed by any coach or parent.

5.2.5 Finding 3: Coaching methods and approach

From the theory of delict, it was established that coaches have a statutory duty towards gymnasts and that coaches will be held to a higher degree of care because of qualifications and experience (§§ 2.9.1; 4.3.3.1) when they are accused of negligence during their coaching. At the time of the study, the expectations towards coaches were

very high even though there was a limited number of skilled coaches in both Namibia and South Africa. Few programmes were in place to enhance the skill level and to increase the number of qualified coaches (§§ 3.3.1; 4.3.3.1). All existing coaches had to be registered, through their affiliated clubs, with the national gymnastics' bodies.

Spotting by a coach was found to be a critical element of skills training to ensure that gymnasts safely executed a new or complicated skill. Some coaches said they also made use of experienced and responsible fellow gymnasts for spotting. This does not mean these experienced gymnasts take over the liability should an injury occur (§ 4.3.3.1). Spotting lowers fear and increases self-confidence, which will decrease the risk of injury during skills training (§§ 1.2.3; 4.3.3.1). Other elements important during the skills training approach are that of skills progression and the importance to teach the correct technique to execute movements as they forms the building blocks on which other movements would be based (par 4.3.3). It is also important for discipline and for the gymnast to obey instructions on how to do basic steps for a new movement and to ensure safe participation (§ 2.3).

Participants showed awareness of legal knowledge in terms of foreseeability and preventability as well as the reasonable person test (§ 4.3.3.2). Coaches should take measures to prevent injuries from occurring (§§ 2.9.1.5; 4.3.3.2).

5.2.6 Recommendations: Coaching methods and approach

It is recommended that existing gymnastics programmes be revised in collaboration with policy-makers of other sport codes. By doing this, these programmes can be enhanced and also taken outside of main centres to more remote areas. This would afford children across both countries the opportunity to participate in gymnastics. A sport can only be developed if it is promoted at grass-roots level with competent coaches. The inclusion of assistant coaches and more mature fellow gymnasts has proven itself and can be recommended as a successful strategy to promote the sport as these young persons gain coaching experience while being mentored by head coaches.

PE teachers and educator-coaches should as far as possible identify barriers to participation and work together with schools or clubs to address them as part of inclusive

education, which is prescribed by the South African Department of Basic Education. Possible ways are to develop policies and practices to encourage positive outcomes, to promote equality, and to cater for diversity. There are bodies in place – such as the Namibian Gymnastics Federation (NGF), and the South African Gymnastics Federation (SAGF) – to which clubs are obliged to affiliate to ensure that they follow national as well as the international standards of FIG.

Well-equipped hubs should be created per region (Namibia) and district (South Africa) where coaches and assistant coaches can go for training to promote coaching skills and development. Guidelines for coaches should be recorded and electronically or otherwise be distributed by each region and district. These guidelines could include tips for classroom management and working out low-risk activities that children can do by themselves so that the coach can focus his or her attention on a group. Other groups must be taught to continue with activities even though the teacher is not at that time directly monitoring their activities. Such an approach should, however, not detrimentally influence the supervision duty of the coach, which never ceases.

Coaches should also be made aware of certain legal principles as part of orientation and induction programmes to add to their security in the classroom as well as in sport. Coomer (2009:90) reiterates: “There is an urgent need for all countries, including Namibia, to ensure that they have legislation in place that provides the basis for the care and protection of children.” For example, how a teacher must care for learners in a classroom; how a teacher must care for learners outside of the classroom; and what a teacher or coach can and cannot do on a sports field.

5.2.7 Finding 4: Risks

It was found that injuries are one of the biggest risks of PE lessons and gymnastics (§ 4.3.4.1). Another risk that emerged from the data was that, by attempting to assist an injured child or gymnast, there is a possibility that the PE teacher or coach could aggravate the injury (§ 4.3.4.1). Even though the intention may have been good, such a PE teacher and coach could be held liable as it could be argued that a reasonable person would not in such a situation have acted above his or her level of competence (§§ 2.4.1;

2.4.3; 2.4.4, 2.9.1.2; 2.9.1.5).

It was further found that there are not always skilled PE teachers and qualified coaches in the majority of geographical locations – in this case, specifically Namibia – which poses a risk to the development of the children (§ 4.3.4.1). This means that not all children are exposed to the same opportunities as others, and this might result in many children not receiving the same opportunities as others of the same age or with similar potential.

Lack of supervision is another risk found that could result in PE teachers and coaches being held liable (§§ 1.2.3; 1.3.2.8; 2.3.5; 2.9.1.1). Focussing on the club environment, the same could be said for children allowed to execute a movement without close spotting and spending time alone on apparatus, and not ensuring that apparatus is safe. It was, on the other hand, identified that no supervisor can be everywhere at once and as long as the PE teacher and coach did everything to the best of their ability, the chances for being found liable decrease (§ 4.3.3.1). Some parent participants have the unrealistic expectation that a teacher must immediately take her or his child to the clinic or hospital in case of a serious injury. It is, however, not advisable to leave the other children unattended (§ 4.3.4.1).

Although there was an awareness regarding risk and when participants could be held liable, some participants did, however, interpret legal principles incorrectly, notably with indemnity forms. They assumed that if parents had signed indemnity forms, they (the coach) could not be held liable, and some parents also said that they did not want to sign indemnity forms as it seemed as if they removed responsibility from the teachers, coaches and schools. Indemnity forms are not always a valid defence (§§ 2.9.2.2; 4.3.4.2).

Bullying and abuse in the coaching context was found to be a prominent risk which can result in psychological harm (§ 4.4.4.1), not only from fellow gymnastics but also from coaches. Participants are aware of the long term psychological harm that this can lead to. Cyber bullying is also becoming more prominent in today's digital era because children can hide behind their phones or tablets, but this topic falls beyond the scope of this study. Emotional and physical abuse were found to be a prominent risk in a sport such as gymnastics where the relationship between a gymnast and coach is very close and

physical in nature. The most salient issues here is unwelcome touching during spotting and assistance, and the long hours spent together. Sexual abuse was not specifically researched in this study, nor did it come to the fore during the interviews. Nevertheless, it should be noted that sexual scandals in sport are reported nationally and internationally, such as the South African tennis related case *Hewitt v S* 2017 1 SACR 309 (SCA), where Bob Hewitt, former tennis champion, was imprisoned after committing several sexual offences against young girls, some more than thirty years ago.

5.2.8 Recommendations: Risks

The first recommendation regarding risks is that it is important to have specific guidelines in place as to how and when coaches should communicate with parents. One example is to have an addendum in the application forms where the parents' contact details are listed and also who to call if parents are not reachable.

The second recommendation is to have a policy and procedure in place that all incidents and accidents must be recorded. The actions or remedies taken afterwards and by whom, should also be recorded. This is to create a paper trail of incidents and accidents which will be valuable in case of future allegations related to delictual liability.

The third recommendation is to have, as part of induction training, a section specifically focusing on coaches' statutory duties and legal principles so that coaches can know in what instances they could be found delictually liable.

The fourth recommendation is to have regular sessions to talk about sensitive issues such as abuse and bullying and to have visuals put up so that children know what they must do if they are being abused or bullied. In order to know that they must understand what bullying and abuse entails, and this can form part of these information sessions.

5.2.9 Finding 5: Pressures

The society of today puts a lot of pressure on all people and it was found in data generated and in recent studies that considerable pressure is put on children to perform (§ 4.4.1).

This pressure to perform is prone to lead to stress among children. This stress is

sometimes so severe that some gymnasts become anxious and are not even able to prepare properly for upcoming competitions. On the other end of the spectrum, gymnasts might over-exert themselves because of pressures to do well in competitions (§ 4.4.1.1).

Another type of pressure found was that of funding and the strain that it puts on parents of children. Some parents stated that it is sometimes difficult to keep up with all the activities that children are involved in, and sometimes it is not possible to send children on all the trips that are planned due to financial constraints. This stress amongst parents filters through to children and then they become tense and might feel left out (§ 4.4.1.2).

It was also found that children are sometimes excluded and humiliated from some activities in front of their peers (§ 4.4.1.2). Exclusion from much needed education and activities should not be used as a form of punishment (§ 4.4.2.2) and children should not be excluded from education (§ 2.2.4).

Time management was found to be a big issue among children and adults alike. Lives of children are rushed, and they have full schedules, with hardly any room to have fun, a chance to relax and sometimes not even enough time to get adequate sleep. Gymnastics is a type of sport that requires many hours of training, and often gymnasts also have a variety of other interests and commitments. This may add up to not having quality time with parents and loved ones and may lead to parents being unaware that there are psychological problems, stress, depression, or abuse. Other participants made it clear that it is important for parents to try and reduce stress and anxiety at home and that they are satisfied as long as the child does his or her best.

5.2.10 Recommendations: Pressure

It is recommended to provide a fixed schedule for each gymnastic lesson so that gymnasts know exactly when they need to do what. For example; (1) Warm up and flexibility for 30 minutes, which can be used to add a fun element to the practice session; (2) skills progression and apparatus work for 1 hour (3) conditioning on strength, muscle endurance and flexibility for 30 minutes. This will change closer to a competition, where the focus will be more on skills training and routines rather than conditioning. It will help to reduce stress for both the coaches and gymnasts if there are well planned flexible

lessons for each session. This principle is also applicable to PE lessons.

It is recommended for clubs to raise awareness among the public and businesses alike on the importance of gymnastics as well as the benefit thereof for the youth. This can then be used as part of a letter to request for funding. Events can be organised together with event planners and tables can be sold to companies. The funds raised can then be used for club activities, transport to competitions and even clothing where needed which will reduce the financial pressure from both the clubs and the parents.

5.3 Contribution of the study

This study has contributed to the field of Education Law, and the application of sport law, specifically in the context of gymnastics. This research was conducted within the Legal Perspectives in Education subarea of the Edu-HRight Research Unit of the Faculty of Education of the North-West University. The research forms part of the established research project of professional security, employment and human rights in schools and higher education. In addition, this study contributed to the existing literature and the current understanding regarding law and education and the legal principles with implications for gymnastics in both Namibia and South Africa. Such a study has not been done before, and it includes recommendations for improvements on existing practices. Once published, this research will create increased awareness in practice and broaden scholarly knowledge of researchers and academics in the field of Sport Law in Education.

5.4 Recommendation for further study

This study identified *lacunae* in the field of Education Law, more specifically the application of sport law principles in the context of gymnastics and Physical Education. The following themes can be considered as opportunities for further research:

- Strategies towards improvement on current development programmes for gymnastics in Namibia and South Africa. This can include the study of elements such as public awareness, gymnasts' physical and psychological well-being, coaches' training, funding, and community involvement.
- An inquiry into psychological and other aspects of bullying by coaches and peers in the sport context, including physical abuse and cyberbullying.

- An investigation into the possible *lacunae* in current legislation and lack of legal awareness amongst PE teachers and educator-coaches and gymnastics coaches, in terms of education and sport.
- A more extensive quantitative survey, provincial, national or international, on the legal aspects associated with one or more of the following: Physical Education, school sport, junior gymnastics.

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MA (Linguistiek) (UNISA)



EDITING

18 November 2019

To whom it may concern

This letter serves to confirm that the following dissertation was edited:

“An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa”

The onus is on the client(s) to work through the proposed track changes and to accept or reject proposed changes. Clients might make changes to the content after the editing process. Clients should also make certain that all sources/references have been cited.

Addendum B: Ethical Clearance – Letter of approval



16 August 2018

To Whom It May Concern

I hereby confirm that the ethics application, as stated below, was approved on the Edu-REC meeting of 26 July 2018.

Ethics number: NWU-HS-2017-0065

Project head: Prof JP Rossouw

Project team: M Cohen

Title: An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa

Period: 17 August 2017 – 17 August 2018.

Risk level: Low

Should you have further enquiries in this regard, you are welcome to contact Prof Jako Olivier at 018 285 2078 or by email at Jako.Olivier@nwu.ac.za or Ms Erna Greyling at 018 299 4656 or by email at Erna.Greyling@nwu.ac.za.

Yours sincerely

Prof J Olivier
Chair Edu-REC

Addendum C: Request for permission from Ministry of Education, Arts and Culture – Namibia



Edu-HRight Research Unit
Faculty of Education Sciences
Private Bag X6001
Potchefstroom
2520
South Africa
Tel. (018) 2994782

14 April 2018

Permanent Secretary
Ministry of Education, Arts and Culture
Private Bag 13186
Windhoek
Namibia

Attention: Ms Sanet Steenkamp

Dear Ms Steenkamp

PERMISSION TO CONDUCT RESEARCH AT SCHOOLS IN NAMIBIA

I am a student at the North-West University doing my master's degree. I am about to embark on the field research and hereby apply for permission to conduct research at schools in Namibia. I request permission to invite two or more Physical Education (PE) teachers (with more than 3 years teaching experience) from schools to participate by either taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires.

The research information is as follows:

TITLE OF THE RESEARCH PROJECT

An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa.

THE RESEARCH TEAM

The research team consists of myself, Marilize Cohen, under the guidance of Prof. J.P. Rossouw and Dr. D. du Toit. My two supervisors will not be present during my visit to the school.

PERMISSION TO DO THE RESEARCH

As the primary researcher I would like to obtain permission to conduct the research from the Ministry of Education, Arts and Culture of Namibia. The research content and procedure have been approved by the PC EduRec the Education Research Ethics Committee on Potchefstroom Campus (Ethics number: NWU-HS-2017-0065). The researcher intends to obtain informed consent and permission from all relevant parties. This research is regarded as a low-risk study, because there is a low likelihood that the wellness of participants may be negatively influenced.

SCHOOLS AND CLUBS WHERE THE RESEARCH WILL BE CONDUCTED

The research will be conducted at various schools and gymnastics clubs in the Otjozondjupa, Khomas and Erongo regions with PE teachers as well as educator-coaches with more than three years teaching/coaching experience.

PURPOSE OF THE STUDY

The central aim of this study is to establish the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa.

The intention of this research, is to establish, identify, describe and interpret the legal risks in junior sport, with reference to coaching of junior gymnastics in Namibia and South Africa. The study will present an Education Law perspective on legal risks in junior gymnastics in Namibia and South Africa. Gymnastics in the school context refers to the practicing of basic gymnastics movement, without any elements of competition.

RESEARCH PROCEDURES

The selected PE teachers and educator-coaches will be required to participate either by taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires. Teachers and coaches will be requested to participate in the research outside of school and club hours so that no teaching and learning time is compromised.

POTENTIAL RISKS AND DISCOMFORTS

I do not foresee possible risks or discomforts to the participants in this research. It is important to note though, that all information will be treated with strict confidentiality and that teachers and schools will not be identified in the outcomes of the study.

POTENTIAL BENEFITS TO FIELD AND/OR TO SOCIETY

There will not be any direct benefits to the participants. The research findings will later be shared with the participating schools for the purpose that it will broaden existing knowledge in the field of education law, and it may contribute to a better way of teaching. It will also increase the legal knowledge base to assist teachers and coaches to lower the risk of liability to protect themselves and ensure safety for learners not only in the classroom but all outdoor and co-curricular activities.

PAYMENT FOR PARTICIPATION

Participation in this study is voluntary. There will be no remuneration for the participants in this study.

ETHICS AND CONFIDENTIALITY

The research will strictly adhere to the ethical guidelines prescribed by the Ethics Committee of the Faculty of Education Sciences at the NWU. Confidentiality will be assured as the data will be used for academic purposes only and no personal or school-related information will be divulged at any time.

PARTICIPATION AND WITHDRAWAL

Participants will be informed that they can withdraw from the research at any time without penalty. All participants will be assured that the researcher will respect their privacy and that all their rights will be upheld. All schools' identity will be protected at all times.

STORAGE OF THE INFORMATION

Electronic copies of all data will be kept on the primary researcher's computer and hard copies of data will be locked in a safe in the office of the primary study supervisor, while the research is in progress. On completion of the research the electronic data will be transferred to a DVD and stored with all hard copies in a safe at the study supervisor's office for a period of 5 years after which it will be securely destroyed. Should you need more information, please feel free to contact me, or my supervisor. I trust that my request will meet your favourable consideration.

GENERAL ADMINISTRATION

The permission letter can either be dropped off at 106 Hans-Dietrich Genscher Street, Khomasdal or an e-mail can be sent to marilize.cohen@gmail.com with instruction to pick up the original letter.

Kind regards

Marilize Cohen

Primary researcher – North-West University

Contact details:

Primary Researcher:

Marilize Cohen

marilize.cohen@gmail.com

Supervisors:

Prof J.P. Rossouw

JP.Rossouw@nwu.ac.za

Dr. D. du Toit

dorita.dutoit@nwu.ac.za

Addendum D: Permission obtained to conduct research - Ministry of Education, Arts and Culture – Namibia



REPUBLIC OF NAMIBIA

MINISTRY OF EDUCATION, ARTS AND CULTURE

Tel: +264 61 -2933200
Fax: +264 61- 2933922
Enquiries: C. Muchila/ G. Munene
Email: Cavin.Muchila@moe.gov.na/gm12munene@yahoo.co.uk

Luther Street, Govt. Office Park
Private Bag 13186
Windhoek
Namibia

File no: 11/1/1

Ms. Marilize Cohen
105 Hans-Dietrich Genscher Street
Khomasdal, Windhoek
Email: marilize.cohen@gmail.com.na

Dear Ms. M. Cohen

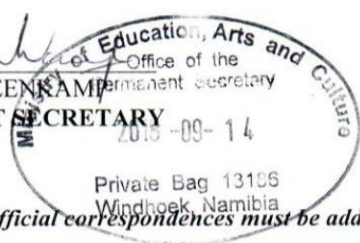
**SUBJECT: PERMISSION TO CONDUCT RESEARCH IN KHOMAS,
OTJOZONDJUPA AND ERONGO REGION SCHOOLS**

Kindly be informed that permission to conduct an academic research for your Master's degree on "*An Education Law Perspective on Legal Principles and Risks in Junior Gymnastics in Namibia and South Africa*" in Khomas, Otjozondjupa and Erongo regions is here with granted. You are further requested to present the letter of approval to the Regional Directors of Education, Arts and Culture to ensure that research ethics are adhered to and disruption of curriculum delivery is avoided.

Furthermore, we humbly request you to share your research findings with the Ministry. You may contact Mr. C. Muchila/ Mr. G. Munene at the Directorate: Programmes and Quality Assurance (PQA) for provision of summary of your research findings.

I wish you the best in conducting your research and I look forward to hearing from you upon completion of your study.

Sincerely yours


SANET L. STEENKAMP
PERMANENT SECRETARY


14. 09. 18
Date

All official correspondences must be addressed to the Permanent Secretary

Addendum E: Request for permission from Department of Education – Kenneth Kaunda District - South Africa



**Edu-HRight Research Unit
Faculty of Education Sciences
Private Bag X6001
Potchefstroom
2520
South Africa
Tel. (018) 2994782**

2 May 2018

**District Director: Dr Kenneth Kaunda District
North-West Department of Education
Temane Building, 8 O.R. Tambo Street, Potchefstroom**

Attention: Mr B. Monale

Dear Mr Monale

PERMISSION TO DO RESEARCH IN THE NORTH-WEST PROVINCE – DR KENNETH KAUNDA DISTRICT

My letter on the 16th of November 2017 bears reference.

I am a student at the North-West University doing my master's degree. I am about to embark on the field research and hereby apply for permission to conduct research in the North-West province. I request permission to invite two or more Physical Education (PE) teachers (with more than 3 years teaching experience) from schools to participate by either taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires.

The research information is as follows:

TITLE OF THE RESEARCH PROJECT

An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa.

THE RESEARCH TEAM

The research team consists of myself, Marilize Cohen, under the guidance of Prof. J.P. Rossouw and Dr. D. du Toit. My two supervisors will not be present during my visit to the school.

PERMISSION TO DO THE RESEARCH

As the primary researcher I would like to obtain permission to conduct the research from the Ministry of Education, Arts and Culture of Namibia. The research content and procedure have been approved by the PC EduRec the Education Research Ethics Committee on Potchefstroom Campus (Ethics number: NWU-HS-2017-0065). The researcher intends to obtain informed consent and permission from all relevant parties. This research is regarded as a low-risk study, because there is a low likelihood that the wellness of participants may be negatively influenced.

SCHOOLS AND CLUBS WHERE THE RESEARCH WILL BE CONDUCTED

The research will also be conducted at various schools and gymnastics clubs in the North-West Province with PE teachers as well as educator-coaches with more than three years teaching/coaching experience.

PURPOSE OF THE STUDY

The central aim of this study is to establish the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa.

The intention of this research, is to establish, identify, describe and interpret the legal risks in junior sport, with reference to coaching of junior gymnastics in Namibia and South Africa. The study will present an Education Law perspective on legal risks in junior gymnastics in Namibia and South Africa. Gymnastics in the school context refers to the practicing of basic gymnastics movement, without any elements of competition.

RESEARCH PROCEDURES

The selected PE teachers and educator-coaches will be required to participate either by taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires. Teachers and coaches will be requested to participate in the research outside of school and club hours so that no teaching and learning time is compromised.

POTENTIAL RISKS AND DISCOMFORTS

I do not foresee possible risks or discomforts to the participants in this research. It is important to note though, that all information will be treated with strict confidentiality and that teachers and schools will not be identified in the outcomes of the study.

POTENTIAL BENEFITS TO FIELD AND/OR TO SOCIETY

There will not be any direct benefits to the participants. The research findings will later be shared with the participating schools for the purpose that it will broaden existing knowledge in the field of education law, and it may contribute to a better way of teaching. It will also increase the legal knowledge base to assist teachers and coaches to lower the risk of liability to protect themselves and ensure safety for learners not only in the classroom but all outdoor and co-curricular activities.

PAYMENT FOR PARTICIPATION

Participation in this study is voluntary. There will be no remuneration for the participants in this study.

ETHICS AND CONFIDENTIALITY

The research will strictly adhere to the ethical guidelines prescribed by the Ethics Committee of the Faculty of Education Sciences at the NWU. Confidentiality will be assured as the data will be used for academic purposes only and no personal or school-related/club-related information will be divulged at any time.

PARTICIPATION AND WITHDRAWAL

Participants will be informed that they can withdraw from the research at any time without penalty. All participants will be assured that the researcher will respect their privacy and that all their rights will be upheld. All schools' identity will be protected at all times.

STORAGE OF THE INFORMATION

Electronic copies of all data will be kept on the primary researcher's computer and hard copies of data will be locked in a safe in the office of the primary study supervisor, while the research is in progress. On completion of the research the electronic data will be transferred to a DVD and stored with all hard copies in a safe at the study supervisor's office for a period of 5 years after which it will be securely destroyed. Should you need more information, please feel free to contact me, or my supervisor. I trust that my request will meet your favourable consideration.

GENERAL ADMINISTRATION

The permission letter can be sent via e-mail to marilize.cohen@gmail.com with instruction of where to pick up the original letter.

Kind regards

Marilize Cohen

Primary researcher – North-West University
marilize.cohen@gmail.com

Contact details:

Supervisors:

Prof. J.P. Rossouw
JP.Rossouw@nwu.ac.za

Dr. D. du Toit
dorita.dutoit@nwu.ac.za

Addendum F: Permission obtained to conduct research - Kenneth Kaunda District – South Africa

	Education and Sport Development Department of Education and Sport Development Departement van Onderwys en Sportontwikkeling Lefapha la Thuto le Tlhabololo ya Metshameko NORTH WEST PROVINCE	Teemane Building, 8 O.R. Tambo Street, Potchefstroom Private Bag X1256, Potchefstroom 2520 Tel: (018) 299-8216 / Fax: 294-8234 e-mail: bmonale@nwpg.gov.za Office Manager: Linda Nelson - Tel: (018) 299-8264 e-mail: lnelson@nwpg.gov.za
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**OFFICE OF THE DISTRICT DIRECTOR
Dr KENNETH KAUNDA DISTRICT**

Enquiries: Linda Nelson	Tel: (018) 299 8264 / e-mail : lnelson@nwpg.gov.za	Fax: 018 294 8234
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03 May 2018

To: Marlize Cohen
North West University
Faculty of Education Sciences

From: Mr. B. Monale
District Director

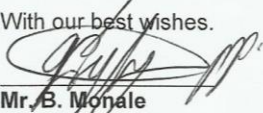
PERMISSION TO CONDUCT RESEARCH:
"AN EDUCATION LAW PERSPECTIVE ON LEGAL PRINCIPLES AND RISKS IN JUNIOR GYMNASTICS IN NAMIBIA AND SOUTH AFRICA"

Reference is made to your hand-delivered correspondence to Dr. Kenneth Kaunda Department of Education & Sport Development, being a request for permission to conduct a research study under the above-stated topic.

Accordingly, permission is hereby granted for you to conduct the research as per your request, subject to the following provisions:

1. Considering that your research work will involve a selection of members of the teaching staff, it is directed that you take active steps to ensure that the research work itself does not compromise school functionality, in line with the principle of protection of teaching time.
2. That the onus to make individual arrangements with your targeted schools rests with you.
3. That the principle of confidentiality will be observed in its strictest terms.
4. That the research findings will be made available to the Department of Education & Sport Development upon request.

With our best wishes.


Mr. B. Monale
District Director
Dr. Kenneth Kaunda District

CC: Prof. J.P. Rossouw – Supervisor (JP.Rossouw@nwu.ac.za)
Mr. S.S. Mogotsi – Matlosana Sub-district Manager
Ms. S. Yssel – J.B. Marks Sub-district Manager



"Towards Excellence in Education and Sport Development"

Addendum G: Request for permission from School Governing Body (SGB) – Namibia



Edu-HRight Research Unit
Faculty of Education Sciences
Private Bag X6001
Potchefstroom
2520
South Africa
Tel. (018) 2994782

LETTER TO THE SCHOOL GOVERNING BODY (SGB)

TO WHOM IT MAY CONCERN

16 June 2017

Dear Sir/Madam

I am a student at the North-West University doing my master's degree. I am about to embark on the field research and hereby apply for permission to conduct research at schools in Namibia. I request permission to invite two or more Physical Education (PE) teachers (with more than 3 years teaching experience) from schools to participate by either taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires.

The research information is as follows:

TITLE OF THE RESEARCH PROJECT

An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa.

THE RESEARCH TEAM

The research team consists of myself, Marilize Cohen, under the guidance of Prof. JP Rossouw and Dr. Dorita du Toit. My two supervisors will not be present during my visit to the school.

PERMISSION TO DO THE RESEARCH

I have obtained permission to conduct the research from the Ministry of Education, Arts and Culture of Namibia. The research content and procedure have been approved by the PC EduRec the = Education Research Ethics Committee on Potchefstroom Campus. (Ethics number: NWU-HS-2017-0065) The researcher intends to obtain informed consent and permission from all relevant parties. This research is regarded as a low-risk study, because there is a low likelihood that the wellness of participants may be negatively influenced.

SCHOOLS AND CLUBS WHERE THE RESEARCH WILL BE CONDUCTED

The research will be conducted at various schools and gymnastics clubs in the Otjozondjupa, Khomas and Erongo regions with PE teachers as well as educator-coaches with more than three years teaching/coaching experience.

PURPOSE OF THE STUDY

The central aim of this study is to establish the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa.

The intention of this research, is to establish, identify, describe and interpret the legal risks in junior sport, with reference to coaching of junior gymnastics in Namibia and South Africa. The study will present an Education Law perspective on legal risks in junior gymnastics in Namibia and South Africa. You are hereby formally invited to be part of the group for this study. Gymnastics in the school context refers to the practicing of basic gymnastics movement, without any elements of competition.

RESEARCH PROCEDURES

The selected PE teachers and educator-coaches will be required to participate either by taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires. Teachers and coaches will be requested to participate in the research outside of school and club hours so that no teaching and learning time is compromised.

POTENTIAL RISKS AND DISCOMFORTS

I do not foresee possible risks or discomforts to the participants in this research. It is important to note though, that all information will be treated with strict confidentiality and that teachers and schools will not be identified in the outcomes of the study.

POTENTIAL BENEFITS TO FIELD AND/OR TO SOCIETY

There will not be any direct benefits to the participants. The research findings will later be shared with the participating schools for the purpose that it will broaden existing knowledge in the field of education law, and it may contribute to a better way of teaching. It will also increase the legal knowledge base to assist teachers and coaches to lower the risk of liability to protect themselves and ensure safety for learners not only in the classroom but all outdoor and co-curricular activities.

PAYMENT FOR PARTICIPATION

Participation in this study is voluntary. There will be no remuneration for the participants in this study.

ETHICS AND CONFIDENTIALITY

The research will strictly adhere to the ethical guidelines prescribed by the Ethics Committee of the Faculty of Education Sciences at the NWU. Confidentiality will be assured as the data will be used for academic purposes only and no personal or school-related information will be divulged at any time.

PARTICIPATION AND WITHDRAWAL

Participants will be informed that they can withdraw from the research at any time without penalty. All participants will be assured that the researcher will respect their privacy and that all their rights will be upheld. All schools' identity will be protected at all times.

STORAGE OF THE INFORMATION

Electronic copies of all data will be kept on the primary researcher's computer and hard copies of data will be locked in a safe in the office of the primary study supervisor, while the research is in progress. On completion of the research the electronic data will be transferred to a DVD and stored with all hard copies in a safe at the study supervisor's office for a period of 5 years after which it will be securely destroyed. Should you need more information, please feel free to contact me, or my supervisor. I trust that my request will meet your favourable consideration.

GENERAL ADMINISTRATION

The permission letter can either be dropped off at 106 Hans-Dietrich Genscher Street, Khomasdal or an e-mail can be sent to marilize.cohen@gmail.com with instruction to pick up the original letter.

Kind regards

Marilize Cohen

Primary researcher – North-West University

Contact details:**Primary Researcher:**

Marilize Cohen
marilize.cohen@gmail.com

Supervisors:

Prof J.P. Rossouw
JP.Rossouw@nwu.ac.za
Dr. D. du Toit
dorita.dutoit@nwu.ac.za

Addendum H: Request for permission from School Governing Body (SGB) – South Africa



Edu-HRight Research Unit
Faculty of Education Sciences
Private Bag X6001
Potchefstroom
2520
South Africa
Tel. (018) 2994782

LETTER TO THE SCHOOL GOVERNING BODY (SGB)

TO WHOM IT MAY CONCERN

16 June 2017

Dear Sir/Madam

I am a student at the North-West University doing my master's degree. I am about to embark on the field research and hereby apply for permission to conduct research at schools in Namibia. I request permission to invite two or more Physical Education (PE) teachers (with more than 3 years teaching experience) from schools to participate by either taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires.

The research information is as follows:

TITLE OF THE RESEARCH PROJECT

An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa.

THE RESEARCH TEAM

The research team consists of myself, Marilize Cohen, under the guidance of Prof. JP Rossouw and Dr. Dorita du Toit. My two supervisors will not be present during my visit to the school.

PERMISSION TO DO THE RESEARCH

I have obtained permission to conduct the research from the Department of Education and Sport Development – Kenneth Kaunda District. The research content and procedure have been approved by the PC EduRec the = Education Research Ethics Committee on Potchefstroom Campus. (Ethics number: NWU-HS-2017-0065) The researcher intends to obtain informed consent and permission from all relevant parties. This research is regarded as a low-risk study, because there is a low likelihood that the wellness of participants may be negatively influenced.

SCHOOLS AND CLUBS WHERE THE RESEARCH WILL BE CONDUCTED

The research will be conducted at various schools and gymnastics clubs in the Kenneth Kaunda District with PE teachers as well as educator-coaches with more than three years teaching/coaching experience.

PURPOSE OF THE STUDY

The central aim of this study is to establish the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa.

The intention of this research, is to establish, identify, describe and interpret the legal risks in junior sport, with reference to coaching of junior gymnastics in Namibia and South Africa. The study will present an Education Law perspective on legal risks in junior gymnastics in Namibia and South Africa. You are hereby formally invited to be part of the group for this study. Gymnastics in the school context refers to the practicing of basic gymnastics movement, without any elements of competition.

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POTENTIAL RISKS AND DISCOMFORTS

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POTENTIAL BENEFITS TO FIELD AND/OR TO SOCIETY

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PAYMENT FOR PARTICIPATION

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ETHICS AND CONFIDENTIALITY

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PARTICIPATION AND WITHDRAWAL

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GENERAL ADMINISTRATION

The permission letter can be sent to marilize.cohen@gmail.com with instruction to pick up the original letter.

Kind regards

Marilize Cohen

Primary researcher – North-West University

Contact details:

Primary Researcher:

Marilize Cohen
marilize.cohen@gmail.com

Supervisors:

Prof J.P. Rossouw
JP.Rossouw@nwu.ac.za
Dr. D. du Toit
dorita.dutoit@nwu.ac.za

Addendum I: Request for Permission (Example sent to principals) – Namibia



**Edu-HRight Research Unit
Faculty of Education Sciences
Private Bag X6001
Potchefstroom
2520
South Africa
Tel. (018) 2994782**

LETTER TO THE PRINCIPAL

TO WHOM IT MAY CONCERN

16 June 2017

Dear Sir/Madam

I am a student at the North-West University doing my master's degree. I am about to embark on the field research and hereby apply for permission to conduct research at schools in Namibia. I request permission to invite two or more Physical Education (PE) teachers (with more than 3 years teaching experience) from schools to participate by either taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires.

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THE RESEARCH TEAM

The research team consists of myself, Marilize Cohen, under the guidance of Prof. JP Rossouw and Dr. Dorita du Toit. My two supervisors will not be present during my visit to the school.

PERMISSION TO DO THE RESEARCH

I have obtained permission to conduct the research from the Ministry of Education, Arts and Culture of Namibia as well as the School Governing Body (refer to attached letter). The research content and procedure have been approved by the PC EduRec the = Education Research Ethics Committee on Potchefstroom Campus. (Ethics number: NWU-HS-2017-0065) The researcher intends to obtain informed consent and permission from all relevant parties. This research is regarded as a low-risk study, because there is a low likelihood that the wellness of participants may be negatively influenced.

AT WHICH SCHOOLS WILL THE RESEARCH BE CONDUCTED?

The research will be conducted at various schools in the Otjozondupa, Khomas and Erongo Regions with 4 Physical Education teachers with more than three years teaching experience.

PURPOSE OF THE STUDY

The central aim of this study is to establish the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa.

The intention of this research, is to establish, identify, describe and interpret the legal risks in junior sport, with reference to coaching of junior gymnastics in Namibia and South Africa. The study will present an Education Law perspective on legal risks in junior gymnastics in Namibia and South Africa. You are hereby formally invited to be part of the group for this study. Gymnastics in the school context refers to the practicing of basic gymnastics movement, without any elements of competition.

RESEARCH PROCEDURES

The selected PE teachers and educator-coaches will be required to participate either by taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires. Teachers and coaches will be requested to participate in the research outside of school and club hours so that no teaching and learning time is compromised.

POTENTIAL RISKS AND DISCOMFORTS

I do not foresee possible risks or discomforts to the participants in this research. It is important to note though, that all information will be treated with strict confidentiality and that teachers and schools will not be identified in the outcomes of the study.

POTENTIAL BENEFITS TO FIELD AND/OR TO SOCIETY

There will not be any direct benefits to the participants. The research findings will later be shared with the participating schools for the purpose that it will broaden existing knowledge in the field of education law, and it may contribute to a better way of teaching. It will also increase the legal knowledge base to assist teachers and coaches to lower the risk of liability to protect themselves and ensure safety for learners not only in the classroom but all outdoor and co-curricular activities.

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Electronic copies of all data will be kept on the primary researcher's computer and hard copies of data will be locked in a safe in the office of the primary study supervisor, while the research is in progress. On completion of the research the electronic data will be transferred to a DVD and stored with all hard copies in a safe at the study supervisor's office for a period of 5 years after which it will be securely destroyed. Should you need more information, please feel free to contact me, or my supervisor. I trust that my request will meet your favourable consideration.

GENERAL ADMINISTRATION

The permission letter can either be dropped off at 106 Hans-Dietrich Genscher Street, Khomasdal or an e-mail can be sent to marilize.cohen@gmail.com with instruction to pick up the original letter.

Kind regards

Marilize Cohen

Primary researcher – North-West University

Contact details:**Primary Researcher:**

Marilize Cohen

marilize.cohen@gmail.com

Supervisors:

Prof J.P. Rossouw

JP.Rossouw@nwu.ac.za

Dr. D. du Toit

dorita.dutoit@nwu.ac.za

Addendum J: Request for Permission (Example sent to principals) – South Africa



**Edu-HRight Research Unit
Faculty of Education Sciences
Private Bag X6001
Potchefstroom
2520
South Africa
Tel. (018) 2994782**

LETTER TO THE PRINCIPAL

TO WHOM IT MAY CONCERN

16 June 2017

Dear Sir/Madam

I am a student at the North-West University doing my master's degree. I am about to embark on the field research and hereby apply for permission to conduct research at schools in Namibia. I request permission to invite two or more Physical Education (PE) teachers (with more than 3 years teaching experience) from schools to participate by either taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires.

The research information is as follows:

TITLE OF THE RESEARCH PROJECT

An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa.

THE RESEARCH TEAM

The research team consists of myself, Marilize Cohen, under the guidance of Prof. JP Rossouw and Dr. Dorita du Toit. My two supervisors will not be present during my visit to the school.

PERMISSION TO DO THE RESEARCH

I have obtained permission to conduct the research from the Department of Education and Sport Development – Kenneth Kaunda District as well as the School Governing Body (refer to attached letter). The research content and procedure have been approved by the PC EduRec the = Education Research Ethics Committee on Potchefstroom Campus. (Ethics number: NWU-HS-2017-0065) The researcher intends to obtain informed consent and permission from all relevant parties. This research is regarded as a low-risk study, because there is a low likelihood that the wellness of participants may be negatively influenced.

SCHOOLS AND CLUBS WHERE THE RESEARCH WILL BE CONDUCTED

The research will be conducted at various schools and gymnastics clubs in the Kenneth Kaunda District with PE teachers as well as educator-coaches with more than three years teaching/coaching experience.

PURPOSE OF THE STUDY

The central aim of this study is to establish the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa.

The intention of this research, is to establish, identify, describe and interpret the legal risks in junior sport, with reference to coaching of junior gymnastics in Namibia and South Africa. The study will present an Education Law perspective on legal risks in junior gymnastics in Namibia and South Africa. You are hereby formally invited to be part of the group for this study. Gymnastics in the school context refers to the practicing of basic gymnastics movement, without any elements of competition.

RESEARCH PROCEDURES

The selected PE teachers and educator-coaches will be required to participate either by taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires. Teachers and coaches will be requested to participate in the research outside of school and club hours so that no teaching and learning time is compromised.

POTENTIAL RISKS AND DISCOMFORTS

I do not foresee possible risks or discomforts to the participants in this research. It is important to note though, that all information will be treated with strict confidentiality and that teachers and schools will not be identified in the outcomes of the study.

POTENTIAL BENEFITS TO FIELD AND/OR TO SOCIETY

There will not be any direct benefits to the participants. The research findings will later be shared with the participating schools for the purpose that it will broaden existing knowledge in the field of education law, and it may contribute to a better way of teaching. It will also increase the legal knowledge base to assist teachers and coaches to lower the risk of liability to protect themselves and ensure safety for learners not only in the classroom but all outdoor and co-curricular activities.

PAYMENT FOR PARTICIPATION

Participation in this study is voluntary. There will be no remuneration for the participants in this study.

ETHICS AND CONFIDENTIALITY

The research will strictly adhere to the ethical guidelines prescribed by the Ethics Committee of the Faculty of Education Sciences at the NWU. Confidentiality will be assured as the data will be used for academic purposes only and no personal or school-related information will be divulged at any time.

PARTICIPATION AND WITHDRAWAL

Participants will be informed that they can withdraw from the research at any time without penalty. All participants will be assured that the researcher will respect their privacy and that all their rights will be upheld. All schools' identity will be protected at all times.

STORAGE OF THE INFORMATION

Electronic copies of all data will be kept on the primary researcher's computer and hard copies of data will be locked in a safe in the office of the primary study supervisor, while the research is in progress. On completion of the research the electronic data will be transferred to a DVD and stored with all hard copies in a safe at the study supervisor's office for a period of 5 years after which it will be securely destroyed. Should you need more information, please feel free to contact me, or my supervisor. I trust that my request will meet your favourable consideration.

GENERAL ADMINISTRATION

The permission letter can be sent to marilize.cohen@gmail.com with instruction to pick up the original letter.

Kind regards

Marilize Cohen

Primary researcher – North-West University

Contact details:

Primary Researcher:

Marilize Cohen

marilize.cohen@gmail.com

Supervisors:

Prof J.P. Rossouw

JP.Rossouw@nwu.ac.za

Dr. D. du Toit

dorita.dutoit@nwu.ac.za

Addendum K: Request for Permission (Head Coach) (Example sent to Namibia)



Edu-HRight Research Unit
Faculty of Education Sciences
Private Bag X6001
Potchefstroom
2520
South Africa
Tel. (018) 2994782

LETTER TO [NAME OF GYMNASTICS CLUB]

Attention: [Head Coach]

03 May 2018

Dear Sir/Madam

I am a student at the North-West University doing my master's degree. I am about to embark on the field research and hereby apply for permission to conduct research at your club. I request permission to invite two to four coaches (with more than 3 years' coaching experience) from your club to participate, by either taking part in an in-depth individual interviews or by filling out an open-ended questionnaire.

The research information is as follows:

TITLE OF THE RESEARCH PROJECT

An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa.

THE RESEARCH TEAM

The research team consists of myself, Marilize Cohen, under the guidance of Prof. JP Rossouw and Dr. Dorita du Toit. My two supervisors will not be present during my visit to the club.

PERMISSION TO DO THE RESEARCH

The research content and procedure have been approved by the PC EduRec the = Education Research Ethics Committee on Potchefstroom Campus. (Ethics number: NWU-HS-2017-0065). The researcher intends to obtain informed consent and permission from all relevant parties. This research is regarded as a low-risk study, because there is a low likelihood that the wellness of participants may be negatively influenced.

GYMNASTICS CLUBS WHERE THE RESEARCH WILL BE CONDUCTED

The research will be conducted at various schools in the Otjozondupa, Khomas and Erongo Regions with coaches with more than three years coaching experience.

PURPOSE OF THE STUDY

The central aim of this study is to establish the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa.

The intention of this research, is to establish, identify, describe and interpret the legal risks in junior sport, with reference to coaching of junior gymnastics in Namibia and South Africa. The study will present an Education Law perspective on legal risks in junior gymnastics in Namibia and South Africa. You are hereby formally invited to be part of the group for this study. Gymnastics in the school context refers to the practicing of basic gymnastics movement, without any elements of competition.

RESEARCH PROCEDURES

The selected PE teachers and educator-coaches will be required to participate either by taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires. Teachers and coaches will be requested to participate in the research outside of school and club hours so that no teaching and learning time is compromised.

POTENTIAL RISKS AND DISCOMFORTS

I do not foresee possible risks or discomforts to the participants in this research. It is important to note though, that all information will be treated with strict confidentiality and that teachers and schools will not be identified in the outcomes of the study.

POTENTIAL BENEFITS TO FIELD AND/OR TO SOCIETY

There will not be any direct benefits to the participants. The research findings will later be shared with the participating schools for the purpose that it will broaden existing knowledge in the field of education law, and it may contribute to a better way of teaching. It will also increase the legal knowledge base to assist teachers and coaches to lower the risk of liability to protect themselves and ensure safety for learners not only in the classroom but all outdoor and co-curricular activities.

PAYMENT FOR PARTICIPATION

Participation in this study is voluntary. There will be no remuneration for the participants in this study.

ETHICS AND CONFIDENTIALITY

The research will strictly adhere to the ethical guidelines prescribed by the Ethics Committee of the Faculty of Education Sciences at the NWU. Confidentiality will be assured as the data will be used for academic purposes only and no personal or school-related information will be divulged at any time.

PARTICIPATION AND WITHDRAWAL

Participants will be informed that they can withdraw from the research at any time without penalty. All participants will be assured that the researcher will respect their privacy and that all their rights will be upheld. All schools' identity will be protected at all times.

STORAGE OF THE INFORMATION

Electronic copies of all data will be kept on the primary researcher's computer and hard copies of data will be locked in a safe in the office of the primary study supervisor, while the research is in progress. On completion of the research the electronic data will be transferred to a DVD and stored with all hard copies in a safe at the study supervisor's office for a period of 5 years after which it will be securely destroyed. Should you need more information, please feel free to contact me, or my supervisor. I trust that my request will meet your favourable consideration.

GENERAL ADMINISTRATION

The permission letter can either be dropped off at 106 Hans-Dietrich Genscher Street, Khomasdal or an e-mail can be sent to marilize.cohen@gmail.com with instruction to pick up the original letter.

Kind regards

Marilize Cohen

Primary researcher – North-West University

Contact details:**Primary Researcher:**

Marilize Cohen

marilize.cohen@gmail.com

Supervisors:

Prof J.P. Rossouw

JP.Rossouw@nwu.ac.za

Dr. D. du Toit

dorita.dutoit@nwu.ac.za

Addendum L: Request for Permission (Head Coach) (Example sent to South Africa)



**Edu-HRight Research Unit
Faculty of Education Sciences
Private Bag X6001
Potchefstroom
2520
South Africa
Tel. (018) 2994782**

LETTER TO [NAME OF GYMNASTICS CLUB]

Attention: [Head Coach]

03 May 2018

Dear Sir/Madam

I am a student at the North-West University doing my master's degree. I am about to embark on the field research and hereby apply for permission to conduct research at your club. I request permission to invite two to four coaches (with more than 3 years' coaching experience) from your club to participate, by either taking part in an in-depth individual interviews or by filling out an open-ended questionnaire.

The research information is as follows:

TITLE OF THE RESEARCH PROJECT

An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa.

THE RESEARCH TEAM

The research team consists of myself, Marilize Cohen, under the guidance of Prof. JP Rossouw and Dr. Dorita du Toit. My two supervisors will not be present during my visit to the club.

PERMISSION TO DO THE RESEARCH

The research content and procedure have been approved by the PC EduRec the = Education Research Ethics Committee on Potchefstroom Campus. (Ethics number: NWU-HS-2017-0065). The researcher intends to obtain informed consent and permission from all relevant parties. This research is regarded as a low-risk study, because there is a low likelihood that the wellness of participants may be negatively influenced.

GYMNASTICS CLUBS WHERE THE RESEARCH WILL BE CONDUCTED

The research will also be conducted at various other schools and clubs in the Kenneth Kaunda District with coaches with more than three years coaching experience.

PURPOSE OF THE STUDY

The central aim of this study is to establish the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa.

The intention of this research, is to establish, identify, describe and interpret the legal risks in junior sport, with reference to coaching of junior gymnastics in Namibia and South Africa. The study will present an Education Law perspective on legal risks in junior gymnastics in Namibia and South Africa. You are hereby formally invited to be part of the group for this study. Gymnastics in the school context refers to the practicing of basic gymnastics movement, without any elements of competition.

RESEARCH PROCEDURES

The selected PE teachers and educator-coaches will be required to participate either by taking part in focus group interviews, in-depth individual interviews or filling out open-ended questionnaires. Teachers and coaches will be requested to participate in the research outside of school and club hours so that no teaching and learning time is compromised.

POTENTIAL RISKS AND DISCOMFORTS

I do not foresee possible risks or discomforts to the participants in this research. It is important to note though, that all information will be treated with strict confidentiality and that teachers and schools will not be identified in the outcomes of the study.

POTENTIAL BENEFITS TO FIELD AND/OR TO SOCIETY

There will not be any direct benefits to the participants. The research findings will later be shared with the participating schools for the purpose that it will broaden existing knowledge in the field of education law, and it may contribute to a better way of teaching. It will also increase the legal knowledge base to assist teachers and coaches to lower the risk of liability to protect themselves and ensure safety for learners not only in the classroom but all outdoor and co-curricular activities.

PAYMENT FOR PARTICIPATION

Participation in this study is voluntary. There will be no remuneration for the participants in this study.

ETHICS AND CONFIDENTIALITY

The research will strictly adhere to the ethical guidelines prescribed by the Ethics Committee of the Faculty of Education Sciences at the NWU. Confidentiality will be assured as the data will be used for academic purposes only and no personal or school-related information will be divulged at any time.

PARTICIPATION AND WITHDRAWAL

Participants will be informed that they can withdraw from the research at any time without penalty. All participants will be assured that the researcher will respect their privacy and that all their rights will be upheld. All schools' identity will be protected at all times.

STORAGE OF THE INFORMATION

Electronic copies of all data will be kept on the primary researcher's computer and hard copies of data will be locked in a safe in the office of the primary study supervisor, while the research is in progress. On completion of the research the electronic data will be transferred to a DVD and stored with all hard copies in a safe at the study supervisor's office for a period of 5 years after which it will be securely destroyed. Should you need more information, please feel free to contact me, or my supervisor. I trust that my request will meet your favourable consideration.

GENERAL ADMINISTRATION

The permission letter can be sent to marilize.cohen@gmail.com with instruction to pick up the original letter.

Kind regards

Marilize Cohen

Primary researcher – North-West University

Contact details:**Primary Researcher:**

Marilize Cohen

marilize.cohen@gmail.com

Supervisors:

Prof J.P. Rossouw

JP.Rossouw@nwu.ac.za

Dr. D. du Toit

dorita.dutoit@nwu.ac.za

Addendum M: Participant information letter and consent form – Coaches - Namibia and South Africa



Edu-HRight Research Unit
Faculty of Education Sciences
Private Bag X6001
Potchefstroom
2520
South Africa
Tel. (018) 2994782

PARTICIPANT INFORMATION LEAFLET AND CONSENT FORM FOR **Coaches - Consent**

TITLE OF THE RESEARCH PROJECT

An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa.

RESEARCHER

Ms. Marilize Cohen

CONTACT DETAILS

+264 61 24 5588/+264 81 387 7885
marilize.cohen@gmail.com

Dear Coach

You are being invited to take part in this research project conducted in gymnastics clubs and schools in Namibia and the North-West province of South Africa.

Firstly, the research entails that the results obtained can be anonymously used and published.

Secondly, that you will either be part of an in-depth individual interview or fill out a questionnaire of which the results will also be used and published anonymously. It is important to understand that you can still decide if you want your results to be used, and if you want to participate in this research project. You should not feel that anyone forced you to take part in the research. If you decide that you do not want to participate, you will not be affected negatively in any way whatsoever. You will also be free to withdraw from the study at any point, even if you do agree to take part.

The study and research content and procedure have been approved by the PC EduRec the = Education Research Ethics Committee on Potchefstroom Campus. (Ethics number: NWU-HS-2017-0065). This means that there is a committee at the University dedicated to ensuring that researchers act per rules and regulations for research.

If you consider participation, please take some time to read the information presented here, which will explain the details of this project. It is very important that you are fully satisfied that you clearly understand what this research entails and how you could be involved. Before we start with the project, I will go through this letter again should you have the need to raise any concerns or uncertainties.

What is this research all about?

The central aim of this study is therefore to establish the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa.

The intention of this research, is to establish, identify, describe and interpret the legal risks in junior sport, with reference to coaching of junior gymnastics in Namibia and South Africa. The study will present an Education Law perspective on legal risks in junior gymnastics in Namibia and South Africa. You are invited to be part of the group for this study.

What will your responsibilities be?

If you agree to participate in the research, you will be expected to;

- Allow me to use and analyse the results (anonymously)
- Either complete an open-ended questionnaire or participate in an in-depth individual interview and allow me to use the results in our study (anonymously).

How will you benefit from taking part in this research?

The indirect benefit for you will be that it will broaden your existing knowledge in the field of coaching and the law. It will also increase your knowledge base to assist you to protect yourself and ensure safety for gymnasts at your club.

Are there risks involved in your taking part in this research?

No risks are associated with participating in any of the chosen activities.

Who will have access to the results?

All the data that I collect will be known only to my two study leaders (contact details on the next page) at the University of the North West and protected by a username and password only known to the three of us.

Electronic copies of all data will be kept on my computer and hard copies of data will be locked in a safe in the office of the Primary study leader, while the research is in progress. On completion of the research the electronic data will be transferred to a DVD and stored with all hard copies in a safe at the Primary study leader's office for a period of 5 years.

If there anything else that you should know or do

- You can contact Ms. Marilize Cohen at +264 81 387 7885 to get more information.
- If you have complaints about the process you can contact the PC EduRec = (Education Research Ethics Committee) on the Potchefstroom Campus, via my study supervisor, Prof Rossouw, at 018 2994782.
- You will receive a copy of this information and consent form for your own records.

Declaration by participant

By signing below, I _____, agree to take part in a research study entitled:

*“An Education Law perspective on legal principles and risks in junior gymnastics in
Namibia and South Africa”*

I declare that:

1. I have read this information and consent form and it is written in a language with which I am fluent and comfortable.
2. I have had a chance to ask questions to both the person obtaining consent, as well as the researcher and all my questions have been adequately answered.
3. I understand that taking part in this study is **voluntary** and I have not been pressurised to take part.
4. I may choose to terminate my participation in the study at any time and will not be penalised or prejudiced in any way.
5. I may be asked to leave the research process before it has finished, if the researcher feels it is in my best interests, or if I do not follow the research procedures, as agreed to.

Signed at (*place*) _____ on (*date*) _____ 2017.

Signature of participant

Signature of witness

Signed at (*place*) _____ on (*date*) _____ 2017.

Signature of researcher

Signature of witness

Addendum N: Participant information letter and consent form – PE teachers - Namibia and South Africa



Edu-HRight Research Unit
Faculty of Education Sciences
Private Bag X6001
Potchefstroom
2520
South Africa
Tel. (018) 2994782

PARTICIPANT INFORMATION LEAFLET AND CONSENT FORM FOR **Physical Education Teachers - Consent**

TITLE OF THE RESEARCH PROJECT

An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa.

RESEARCHER

Ms. Marilize Cohen

CONTACT DETAILS

+264 61 24 5588/+264 81 387 7885
marilize.cohen@gmail.com

Dear Teacher

You are being invited to take part in this research project conducted in gymnastics clubs and schools in Namibia and the North-West province of South Africa.

Firstly, the research entails that the results obtained can be anonymously used and published.

Secondly, that you will either be part of a focus group interview, an in-depth individual interview or fill out a questionnaire of which the results will also be used and published anonymously. It is important to understand that you can still decide if you want your results to be used, and if you want to participate in this research project. You should not feel that anyone forced you to take part in the research. If you decide that you do not want to participate, you will not be affected negatively in any way whatsoever. You will also be free to withdraw from the study at any point, even if you do agree to take part.

The study and research content and procedure have been approved by the PC EduRec the = Education Research Ethics Committee on Potchefstroom Campus. (Ethics number: NWU-HS-2017-0065). This means that there is a committee at the University dedicated to ensuring that researchers act per rules and regulations for research.

If you consider participation, please take some time to read the information presented here, which will explain the details of this project. It is very important that you are fully satisfied that you clearly understand what this research entails and how you could be involved. Before we start with the project, I will go through this letter again should you have the need to raise any concerns or uncertainties.

What is this research all about?

The central aim of this study is therefore to establish the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa.

The intention of this research, is to establish, identify, describe and interpret the legal risks in junior sport, with reference to coaching of junior gymnastics in Namibia and South Africa. The study will present an Education Law perspective on legal risks in junior gymnastics in Namibia and South Africa. You are invited to be part of the group for this study.

What will your responsibilities be?

If you agree to participate in the research, you will be expected to;

- Allow me to use and analyse the results (anonymously)
- Either complete an open-ended questionnaire or participate in an in-depth individual interview and allow me to use the results in our study (anonymously).

How will you benefit from taking part in this research?

The indirect benefit for you will be that it will broaden your existing knowledge in the field of education/coaching and contribute to a better way of teaching/coaching. It will also increase your knowledge base to assist you to protect yourself and ensure safety for learners not only in the classroom but all outdoor and co-curricular activities.

Are there risks involved in your taking part in this research?

No risks are associated with participating in any of the chosen activities.

Who will have access to the results?

All the data that I collect will be known only to my two study leaders (contact details on the next page) at the University of the North West and protected by a username and password only known to the three of us.

Electronic copies of all data will be kept on my computer and hard copies of data will be locked in a safe in the office of the Primary study leader, while the research is in progress. On completion of the research the electronic data will be transferred to a DVD and stored with all hard copies in a safe at the Primary study leader's office for a period of 5 years.

If there anything else that you should know or do

- You can contact Ms. Marilize Cohen at +264 81 387 7885 to get more information.
- If you have complaints about the process you can contact the PC EduRec = (Education Research Ethics Committee) on the Potchefstroom Campus, via my study supervisor, Prof Rossouw, at 018 2994782.
- You will receive a copy of this information and consent form for your own records.

Declaration by participant

By signing below, I _____, agree to take part in a research study entitled:

*“An Education Law perspective on legal principles and risks in junior gymnastics in
Namibia and South Africa”*

I declare that:

1. I have read this information and consent form and it is written in a language with which I am fluent and comfortable.
2. I have had a chance to ask questions to both the person obtaining consent, as well as the researcher and all my questions have been adequately answered.
3. I understand that taking part in this study is **voluntary** and I have not been pressurised to take part.
4. I may choose to terminate my participation in the study at any time and will not be penalised or prejudiced in any way.
5. I may be asked to leave the research process before it has finished, if the researcher feels it is in my best interests, or if I do not follow the research procedures, as agreed to.

Signed at (*place*) _____ on (*date*) _____ 2017.

Signature of participant

Signature of witness

Signed at (*place*) _____ on (*date*) _____ 2017.

Signature of researcher

Signature of witness

Addendum O: Participant information letter and consent form – Parents



NORTH-WEST UNIVERSITY
YUNIBESITHI YA BOKONE-BOPHIRIMA
NOORDWES-UNIVERSITEIT
POTCHEFSTROOM CAMPUS

Edu-HRight Research Unit
Faculty of Education Sciences
Private Bag X6001
Potchefstroom
2520
South Africa
Tel. (018) 2994782

PARTICIPANT INFORMATION LEAFLET AND CONSENT FORM FOR **Parents - Consent**

TITLE OF THE RESEARCH PROJECT

An Education Law perspective on legal principles and risks in junior gymnastics in Namibia and South Africa.

RESEARCHER

Ms. Marilize Cohen

CONTACT DETAILS

+264 61 24 5588/+264 81 387 7885
marilize.cohen@gmail.com

Dear Parent

You are being invited to take part in this research project conducted in gymnastics clubs and schools in Namibia and the North-West province of South Africa.

Firstly, the research entails that the results obtained can be anonymously used and published.

Secondly, that you will either be part of an in-depth individual interview or fill out a questionnaire of which the results will also be used and published anonymously. It is important to understand that you can still decide if you want your results to be used, and if you want to participate in this research project. You should not feel that anyone forced you to take part in the research. If you decide that you do not want to participate, you will not be affected negatively in any way whatsoever. You will also be free to withdraw from the study at any point, even if you do agree to take part.

The study and research content and procedure have been approved by the PC EduRec the = Education Research Ethics Committee on Potchefstroom Campus. (Ethics number: NWU-HS-2017-0065). This means that there is a committee at the University dedicated to ensuring that researchers act per rules and regulations for research.

If you consider participation, please take some time to read the information presented here, which will explain the details of this project. It is very important that you are fully satisfied that you clearly understand what this research entails and how you could be involved. Before we start with the project, I will go through this letter again should you have the need to raise any concerns or uncertainties.

What is this research all about?

The central aim of this study is to establish the nature and implications of legal principles regarding coaching of junior gymnastics in the context of Namibia and South Africa.

The intention of this research, is to establish, identify, describe and interpret the legal risks in junior sport, with reference to coaching of junior gymnastics in Namibia and South Africa. The study will present an Education Law perspective on legal risks in junior gymnastics in Namibia and South Africa. You are hereby formally invited to be part of the group for this study.

What will your responsibilities be?

If you agree to participate in the research, you will be expected to:

- Allow me to use and analyse the results (anonymously)
- Either complete an open-ended questionnaire or participate in an in-depth individual interview and allow me to use the results in our study (anonymously).

How will you benefit from taking part in this research?

The indirect benefit for you will be that it will broaden your existing knowledge in the field of education/coaching and contribute to a better way of understanding and broaden knowledge on topics you might not think about everyday but which is very relevant to your child and to you as a parent.

Are there risks involved in your taking part in this research?

No risks are associated with participating in any of the chosen activities.

Who will have access to the results?

All the data that I collect will be known only to my two study leaders (contact details on the next page) at the University of the North West and protected by a username and password only known to the three of us.

Electronic copies of all data will be kept on my computer and hard copies of data will be locked in a safe in the office of the Primary study leader, while the research is in progress. On completion of the research the electronic data will be transferred to a DVD and stored with all hard copies in a safe at the Primary study leader's office for a period of 5 years.

If there anything else that you should know or do

- You can contact Ms. Marilize Cohen at +264 81 387 7885 to get more information.
- If you have complaints about the process you can contact the PC EduRec = (Education Research Ethics Committee) on the Potchefstroom Campus, via my study supervisor, Prof Rossouw, at 018 2994782.
- You will receive a copy of this information and consent form for your own records.

Declaration by participant

By signing below, I _____, agree to take part in a research study entitled:

*“An Education Law perspective on legal principles and risks in junior gymnastics in
Namibia and South Africa”*

I declare that:

1. I have read this information and consent form and it is written in a language with which I am fluent and comfortable.
2. I have had a chance to ask questions to both the person obtaining consent, as well as the researcher and all my questions have been adequately answered.
3. I understand that taking part in this study is **voluntary** and I have not been pressurised to take part.
4. I may choose to terminate my participation in the study at any time and will not be penalised or prejudiced in any way.
5. I may be asked to leave the research process before it has finished, if the researcher feels it is in my best interests, or if I do not follow the research procedures, as agreed to.

Signed at (place) _____ on (date) _____ 2017.

Signature of participant

Signature of witness

Signed at (place) _____ on (date) _____ 2017.

Signature of researcher

Signature of witness

Addendum P: Interview Schedule (Example – In-depth interview held with Coaches)

INTERVIEW SCHEDULE – COACHES [N/SC __]

1 Background information

- 1.1 Does anyone in the club have a First Aid qualification? (If, yes, please indicate how many?)
- 1.2 Number of children in a typical session/group
- 1.3 Number of age of gymnasts in a typical session/group
- 1.4 Qualifications of coaches
- 1.5 Years' experience of coaches

2 Constitution – Namibia and South Africa

In the constitution, it states that "The development and protection of the child is of paramount importance"

- 2.1 In the field of your work what does this mean to you?
- 2.2 Explain what you understand from the term discrimination.
- 2.3 How do you teach gymnasts about discrimination?
- 2.4 What measures are in place to avoid discrimination at this club?
- 2.5 What measures are in place to guide them on what to do and what not to do in terms of discrimination?

Children's rights and Education - Whenever decisions are being taken which may have an impact on children, the best interests of the child must be considered at all stages.

- 2.6 To what measure do you show that you respect children's views?
- 2.7 How do you involve gymnasts in decision-making processes as per their age and maturity?
- 2.8 What is your vision regarding pressure?
- 2.9 Can you name a few examples where you have experienced or witnessed pressure in the club?
- 2.10 Have you ever heard comments from children in the club that might translate to the possibility that they are under pressure or stress? Please name a few examples?

3 Labour

- 3.1 Are you aware of any labour laws/Acts? If yes, please list them below: (It does not need to be the correct name)
- 3.2 How do you see the responsibility towards a child in your care?
- 3.3 Do you see yourself in the place of the parent?
- 3.4 If a child should get injured during the time in your care. To what measure do you think you could be held liable?
- 3.5 When do you think, you could be held liable if a child gets injured? Name a few examples.
- 3.6 When do you think, you could not be held liable if a child gets injured? Name a few examples.

4 Work environment – Club

- 4.1 Could you describe one of your typical days at the club?
- 4.2 What do you find most challenging?
- 4.3 What do you find most enjoyable?
- 4.4 How do you find the support or respect from parents and learners towards you?

5 Risks

- 5.1 Sport in general has a lot of risks – Can you list a couple of risks? Think in the sense of Physical but also emotional wellbeing of the child.
- 5.2 What do you think could be the short- and long-term effect of these risks?
- 5.3 When you give instructions to learners, do they always do what you say?
- 5.4 What do you do if they do not listen to what you say?

6 Injuries

- 6.1 Please list typical movements or activities covered during a typical day/session/lesson (Lower levels & Higher levels).
- 6.2 What will you do if a child hurts him/herself while in your care?
- 6.3 Which safety measures do you adhere to?
- 6.4 Which safety measures do you convey to the children?
- 6.5 Are they aware why certain measures are in place?
- 6.6 How do you explain to children why you tell them to do certain things in a certain way?
- 6.7 Please give any other comments which you want to bring under my attention.

Thank the participant for taking part and sharing information with me.

Addendum Q: Group Interviews (Example – Interview Schedule – PE teachers)

GROUP INTERVIEW – TEACHERS [N/ST __]

Note: If printed out then include lines to fill out. if sent via mail then remove lines and send only questions so that participants can easily type in the answers.

1 Background information

- 1.1 Does anyone in the school have a first Aid qualification? _____
- 1.2 If, yes, please indicate how many _____
- 1.3 Number of children in a typical classroom _____
- 1.4 Qualifications of teachers _____
- 1.5 How many teachers give PE in the school? _____
- 1.6 Please list all subjects that you are involved in _____

2 Constitution – Namibia and South Africa

In the constitution, it states that "The development and protection of the child is of paramount importance"

- 2.1 In the field of your work what does this mean to you? (Development & Protection (safety))
- 2.2 Explain what you understand from the term discrimination.
- 2.3 How do you teach learners about discrimination?
- 2.4 What measures are in place to avoid discrimination at this school?
- 2.5 What measures are in place to guide learners on what to do and what not to do in terms of discrimination?

Children's rights and Education - Whenever decisions are being taken which may have an impact on children, the best interests of the child must be considered at all stages.

- 2.6 To what measure do you show that you respect learners' views?
- 2.7 How do you involve learners in decision-making processes as per their age and maturity?
- 2.8 What is your vision regarding pressure?
- 2.9 Can you name a few examples where you have experienced or witnessed pressure in the club?
- 2.10 Have you ever heard comments from learners that might translate to the possibility that they are under pressure or stress? Please name a few examples?

3 Labour

- 3.1 Are you aware of any labour laws/acts? If yes, please list them below: (It does not need to be the correct name).
- 3.2 How do you see the responsibility towards a child in your care?
- 3.3 Do you see yourself in the place of the parent?
- 3.4 If a child should get injured during the time in your care. To what measure do you think you could be held liable?

- 3.5 When do you think, you could be held liable if a child gets injured? Name a few examples.
- 3.6 When do you think, you could not be held liable if a child gets injured? Name a few examples.

4 Work environment – School

- 4.1 Could you describe one of your typical days in the classroom?
- 4.2 What do you find most challenging?
- 4.3 What do you find most enjoyable?
- 4.4 How do you find the support or respect from parents and learners towards you?

5 Risks

- 5.1 Sport in general has a lot of risks – Can you list a couple of risks? Think in the sense of Physical but also emotional wellbeing of the child.
- 5.2 What do you think could be the short- and long-term effect of these risks?
- 5.3 When you give instructions to learners, do they always do what you say?
- 5.4 What do you do if they do not listen to what you say?

6 Injuries

- 6.1 Please list typical movements or activities covered during a typical PE lesson.
- 6.2 What will you do if a child hurts him/herself while in your care?
- 6.3 Which safety measures do you adhere to?
- 6.4 Which safety measures do you convey to the learners?
- 6.5 Are they aware why certain measures are in place?
- 6.6 How do you explain to children why you tell them to do certain things in a certain way?
- 6.7 Please give any other comments which you want to bring under my attention.

Thank you for taking part and sharing this valuable information with me. It is greatly appreciated.

Addendum R: Open-ended questionnaires (Example – Questionnaire given to Parents)

OPEN-ENDED QUESTIONNAIRES – PARENTS [N/SP __]

Note: If printed out then include lines to fill out. if sent via mail then remove lines and send only questions so that participants can easily type in the answers.

1 Background information

- 1.1 Does anyone in the club have a First Aid qualification? _____
- 1.2 If, yes, please indicate how many _____
- 1.3 Number of children in a typical club _____
- 1.4 Qualifications of coaches _____

2 Constitution – Namibia and South Africa

In the constitution, it states that "The development and protection of the child is of paramount importance"

- 2.1 What does this mean to you as a parent?

Development:

Protection (safety):

- 2.2 Explain what you understand from the term discrimination.

- 2.3 How do you teach your child about discrimination at home?

2.4 What measures are in place to avoid discrimination at this club?

Children's rights and Education - Whenever decisions are being taken which may have an impact on children, the best interests of the child must be considered at all stages.

2.5 To what measure do you show that you respect your child's views?

2.6 How do you involve him/her in decision-making processes at home?

2.7 What is your vision regarding pressure?

2.8 Can you name a few examples where you have experienced or witnessed pressure from your child?

2.9 Have you ever heard comments from learners that might translate to the possibility that they are under pressure or stress? Please name a few examples?

3 Labour

3.1 Are you aware of any labour laws/acts? If yes, please list them below: (It does not need to be the correct name)

3.2 How do you see the responsibility of the coach towards your child?

3.3 If a child should get injured during the time at the club. To what measure do you think the coach could be held liable?

3.4 When do you think a coach could be held liable if your child gets injured? Name a few examples.

3.5 When do you think, a coach could not be held liable if your child gets injured? Name a few examples.

4 Risks

4.1 *Sport in general has a lot of risks – Can you list a couple of risks? Think in the sense of Physical but also emotional wellbeing of your child.*

4.2 *What do you think could be the short- and long-term effect of these risks?*

4.3 *When you give instructions to your children at home, do they always do what you say?*

4.4 *What do you do if they do not listen to what you say?*

5 Injuries

5.1 *What do you expect to happen should your child get hurt during a gymnastic session?*

5.2 *Which safety measures are in place at the club?*

5.3 *How do you explain to your children why you tell them to do certain things in a certain way?*

5.4 *Please give any other comments which you want to bring under my attention.*

Thank you for taking part and sharing this valuable information with me. It is greatly appreciated.

Addendum S: Code of Conduct for researchers (for NWU researchers)

CODE OF CONDUCT FOR RESEARCHERS

This code of conduct is applicable to all NWU researchers.

As a researcher of the North-West University (NWU), I subscribe to the rules of the NWU Institutional Research Ethics Regulatory Committee (IRERC), all applicable policies of the NWU as well as all national and international laws and regulations applicable to my field of study. Furthermore, I commit myself to abide by the ethical principles and responsibilities as set out in the Singapore statement on Research Integrity (22 September 2010), in any and all research endeavours that I undertake as a researcher of the NWU.

The four major principles of research integrity to which I will adhere and that will guide my research are:

- Honesty in all aspects of research
- Accountability in the conduct of research
- Professional courtesy and fairness in working with others
- Good stewardship of research on behalf of others

Consequently I will also adhere to the following ethical responsibilities:

1. I will take responsibility for the originality and trustworthiness of my research.
2. I will stay abreast of and adhere to all institutional, national, and international laws, regulations, and policies applicable and related to my research.
3. I will at all times employ appropriate research methods, base my conclusions on critical analysis of the evidence and report my findings and interpretations fully and objectively.
4. I will keep clear and accurate records of all research that I have conducted in a manner that will allow verification and replication of my work by others, if applicable.
5. I will, where applicable, share my data and findings openly and promptly, in line with external funding rules. This will be done as soon as possible after I have had an opportunity to establish priority and ownership claims.
6. I will take responsibility for my own contributions to publications, funding applications, reports and other representations of my research. I will also and only include authors who meet valid authorship criteria.
7. I will acknowledge the names and roles of those who made significant contributions to my research in publications, including writers, funders, sponsors, and others, but do not meet authorship criteria.
8. In my peer reviews, I will provide fair, prompt and rigorous evaluations and I will respect confidentiality when I review others' work.
9. I will disclose all conflicts of interest (financial and other) that could compromise the trustworthiness of my work in research proposals, publications, public communications, and in review activities.
10. When I publically address a community in the spirit of academic freedom, I will in all stages base my professional comments on research findings (if applicable) and my expertise. I will distinguish between professional comments and opinions based on personal views.
11. Should any irresponsible research practices and/or research misconduct become known to me or brought under my attention, I will report such irresponsible research activities to the appropriate authorities.
12. I will respond to irresponsible research practices or conduct, by taking prompt actions as set out in the procedures of the university. I will also protect those who report misconduct in good faith, to the best of my abilities.
13. I will endeavour to create and sustain an environment that encourage research integrity through education of students, research teams and peers, as well as abide by policies, and reasonable standards for advancement.
14. I will at all times weigh societal benefits against the risks inherent in my work.

Name: Marilize Cohen

Signature:



Date: 1 Feb 2017