# Education Law Book: Chapter 1

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## *The need for an Understanding of Education Law Principles by School Principals*

## Introduction

> We live in a dangerous time for teachers. The American mentality of 'If it moves, sue it' has been imported along with fast food and videos. Australia is now the second most litigious country in the world. Allowing for population differences, it now ranks behind only the United States. Teachers, principals and schools are now legal targets in a way that was unthinkable two decades ago (Tronc, 1996, p. 3).

Dr Keith Tronc, one of the prominent pioneers in this relatively new area of education law research, presaged us some two decades ago about this growing phenomenon in Australia. Tronc also warns us about bush-lawyer parents who like to, often erroneously, claim their rights against a teacher or school because their child is not receiving the treatment that they are seeking (Tronc, 1996; Tronc & Sleigh, 1989). He also expresses concern about bush-lawyer children who stand up in classrooms and confidently state to the teacher in authority what they think they can and cannot do or say. The prevalence of this behaviour is, according to Tronc, on the increase (Tronc, 1996).

There is no doubt that there is more discussion about legal matters in schools now than there was twenty years ago. It is our contention that more teachers and principals in schools are increasingly aware that their everyday activities and decisions can be the subject of a legal claim or action being brought against them by a disgruntled student and/or parent. Birch and Richter (1990, as cited in Teh, 2014) observed a significant increase in cases reaching Australian courts. Our experience in engaging in conversations within a community of practice strongly suggests that many teachers are not aware of the legal protection that is afforded to them in carrying out their duties in the course of their

employment. Furthermore, there are many in the teaching profession who are worried about possible legal redress being sought against them when, in fact, the law is on their side. This is not only in legal defences available to them, or in legal principles that place the liability on their employer, but moreover in the manner that judges in our Australian courts usually side with teachers and school authorities who are acting in the course of their undertakings with the best interests of the children in their care in mind (Tronc & Sleigh, 1989).

It is from this premise that the authors suggest that school principals should have a sound working knowledge of the legal issues and principles that affect their daily operations as the leader in charge of managing their school community. Principals and teachers now work in increasingly uncertain and challenging environments involving complex legislative frameworks (Trimble, Cranston & Allen, 2012). As the roles and responsibilities of principals and teachers change to meet new demands and capabilities, especially for dealing with safety and security issues, so too does the need for a sound knowledge of emerging legal issues in schools such as the impact of court orders, competing parental rights, and issues around children with disabilities; information confidentiality, records and the internet; accident and incident risk management. The legal matters that can be raised are multi-faceted and complex. These can vary from more simple cases of negligence to more complicated disputes of disability discrimination. They are numerous, costly, exhausting and potentially damaging to the reputation of the school irrespective of whether or not the plaintiff (aggrieved person) is successful.

It is becoming essential for educators to adapt, and acquire new knowledge and skills relating to child protection and aspects of criminal law, to the school management environment. Educators are being required to gain confidence and expertise in identifying possible legal problems before and as they arise based on their knowledge of various statutory, contractual and common law duties, especially the duty to take reasonable care, which underpin the educational process. They are being challenged on a daily basis to critically examine and evaluate the legal rights and obligations of various stakeholders, including students and parents, educators and administrators associated with the role of management within schools.

Consequently, there is a need for school staff, and in particular school principals, to have an appropriate level of legal literacy (Stewart and Knott, 2002; Teh, 2009). Stewart and Knott (2002) suggest that many principals have an inadequate level of knowledge and legal understanding because principals manage complex organisations and while they are usually time poor, they make decisions on the run and sometimes, due to competing interests, without the due care and diligence that is required. A survey of 253 public school principals in Western Australia found that the dichotomy created by decentralisation, in combination with increased external accountability, creates a perturbing dilemma for school principals who have the dual task of being instructional leaders and managers (Trimmer, 2011). As instructional leaders principals have to ensure that students attain achievement standards. Simultaneously they must lead and manage the school, including compliance with requirements imposed through legislation and policy, for both educational and business aspects of management.

## Education law principles

These requirements on educators to be knowledgeable of legal issues are not confined to Australia. Many books, journal articles, specific publications, websites and even annual conferences are being focused on education law globally. Publications by Butler and Matthews (2007); Jackson and Varnham (2007); Ramsey and Shorten (1996); Stewart and Knott (2002); Tronc (1996); Tronc and Sleigh (1989) are being used by both educational and legal practitioners to respond to legal questions related to school law. In addition, there are journals on education and the law published in Australia, the United Kingdom, Canada, and Europe that specialise in educational law matters in their various jurisdictions (e.g. Australia and New Zealand Education Law Association (ANZELA) journal; Hopkins, 2008; Knott, 2010; Mawdsley & Cumming, 2008; Weegen, 2013), and other professional publications that provide advice to school principals on their legal responsibilities in relation to managing their educational community.

However, the predominant focus with these publications is that they espouse the position of legal findings based on either common law or from legislation. That is, they explain the law or legal principles that schools and other educational

authorities need to follow to be legally compliant, and in doing so, avoid having an actionable matter brought against them. However, they do not address the question of the legal knowledge required by principals and other school leaders to be able to effectively fulfil their roles. Nor do they comment on the impact of having (or of not having) such legal literacy on their capacity or effectiveness as school leaders. This book aims to address this gap by providing an examination of legal and policy perspectives in an approach aimed at developing awareness and understanding for readers of the impact of legislative frameworks in the context of school based education and educational systems internationally. The book is organised around three main themes which are used as the organising framework for the chapters in each section. The first section of the book focuses on examination and evaluation of the legal rights and obligations of various stakeholders, including students and parents, educators and administrators and the issues and impacts experienced by educational leaders in making decisions that are legally compliant and in the educational interest of students in their care. Trimble and Cranston (in chapter 2) examine the external and internal legal environments of schools within which principals practice in Tasmania, Australia, the legal areas they deal with, current legal preparation and development arrangements, principals' legal knowledge and consciousness, and the legal support frameworks available to them.

As academics working in postgraduate education we are receiving increasing requests from education systems, regulatory bodies, school principals and teacher leaders for courses to assist educators to have an understanding of legislation to be able to have an understanding of the personal context of their students' lives; meet the regulatory obligations concerning the health and safety of the students in their care; be fully aware of the correct procedures to report suspected incidents of child abuse; and know who to contact regarding the emotional health and well-being of their students.

## Developing trends

When education law was beginning to be spoken about amongst legal professionals and academics, (much earlier than when school administrators and teachers were considering such issues) the focus lay solely on the risk of physical injury to students. This meant that if students were injured in the

playground while on a lunch break, or if they suffered an injury, for example while involved in a science experiment, they could then seek legal advice asking if they could sue the careless teacher for negligence. There are innumerable examples of where this has occurred and paved the way for what some researchers call the "Suing Mentality" (Nolan & Spencer, 1997) that we have today.

In such cases, and, indeed, many more, judicial decisions have clarified the legal position in relation to this notion of a duty of care being owed to school students. This included and helped to define, inter alia: legal liability in and out of the classroom, before and after school, what level, or *standard* of care is owed, and what constituted a breach of the duty of care. The duty of care principle has continued and will undoubtedly continue to be shaped by legal cases involving students who suffer both physical and emotional injury in a variety of ways that are brought before the courts of this land and no doubt internationally as well.

Touching students to stop physical fights and also in the use of discipline became part of the education law dialogue in the 1980s (Williams, 1995). The issue of discrimination followed and became part of the education law vernacular as students and their parents became increasingly aware of their rights under both federal and state law that provides protection for students being discriminated against on a number of grounds in education. For example, failing to enrol certain students due to gender or failing to allow students of a certain gender to participate in activities such as sports predominately played by the other gender (Salidu, 1994). Seemann (in chapter 10) considers the parameters placed on religious schools by relevant discrimination and other laws, and some of the issues that arise in seeking to balance all these competing expectations.

Workplace health and safety laws (Forlin, 1995) were closely followed by defamation laws in the educational context (Walker, 1995). Wider employment law issues relating to schools and teachers employed in those schools were then debated and trialled in various jurisdictions (Edwards, 1996). Students' rights was the next topic to be introduced into the legal framework concerning schools (Knott, 2010; Rayner, 1996). Criminal law matters have possibly always been a matter for schools and the law, particularly when schools have

had to consider how to manage miscreant pupils. Having sound behaviour management policies and techniques has been imperative in the effective administration of educational communities (Stewart & Cope, 1996).

The changes to family law and how custody of, and access to, children in the mid 1980's (and later changes in 2006) then became an important issue for schools in handling the legal arrangements of children when parents became separated (Christie & Christie, 2008; Conte-Mills, 2010; Davies, 1997). This has and probably will remain a fixture on the education law landscape as divorce rates continue to rise. Acrimonious breakups and the legal arguing over children will continue, and often involve, unfortunately, and sometimes, unnecessarily, the child(ren)'s school.

Discrimination moved to include age discrimination, creating novel grounds for such actions, where students started to accuse schools of unfair and unjust dealings when asking students who turned 18 years of age to leave educational facilities; or refusing to allow brighter students to advance year levels in order to be taught the unfamiliar and as such, only allowing such students to follow their chronological age development in school years (Lindsay, 1997). Along with this area came the introduction of mandatory reporting and the early legal provisions concerning child protection (Best, 2001; Farrell, 2001; Matthews, Walsh, Butler, & Farrell, 2006; Murray, 1997). Bryce (in Chapter 5) provides an overview of legal issues encountered by school leaders in relation to mandatory reporting obligations. The complexities encountered by schools can pose conflicting moral and ethical issues for principals in protecting children in their care from abuse and neglect.

The next major topic introduced in education law was the whole area of bullying. This later metamorphosed into cyber bullying, using electronic devices and social media to exact hurtful messages to others (Bolton, 2002; Campbell, Butler, & Kift, 2008; Farrell, 1998; Healy, 1998; Knott, 1998; Slee, 1998; Winram, 2008).

In the latter part of last century, another two areas in regulating the affairs of schools developed. One of these is the notion of 'non-delegable duties' where schools and educational authorities are not legally permitted to absolve themselves in law of their liability to take care of students by placing all

responsibility onto another authority such as a camp site or local council. The other area which needs highlighting here is the principle of 'vicarious liability' where the school employer is held liable at law and therefore has to pay for the damages and injuries suffered by the student(s) caused by the actions of its agents, in this case, namely the teachers (Tronc, 1999).

Throughout all this time, further developments to the duty of care owed by teachers to students were being made. The definition of actual foreseeable risks of harm (Williams, 2002) was being framed in the students' favour, while a clearer understanding of what level of care owed to students in a playground fight was being clarified (Hamilton & Smith, 2002). Varnham (in Chapter 4) discusses how responsibilities of school authorities under duty of care may now extend beyond physical harm to include expectations around mental and emotional harm arising from bullying, cyberbullying and sexual abuse. The implications of risk and responsibility for school leaders and potential liability is emerging as an area where initiatives around restorative practice may have value in assisting schools to reduce threats of harm to students.

Privacy, both in government and non-government schools, became an issue and was something on the radar of most school principals and educational authorities. This came at the time when new legislation was introduced protecting the privacy of individuals. It also coincided with disability discrimination actions where students with disabilities attempted to keep their special needs private (Simmonds, 2005).

One of the more recent issues raised in the law involving schools lies in the area of consumer protection legislation where, in particular, independent or private schools have a duty not to mislead students and their paying parents in the provision of educational services to young people (Squelch & Goldacre, 2009). As can be gathered from the developing trends over the years in education law, this discipline has developed significantly, moving from straight forward duty of care claims (which will always be a significant part of the school law backdrop) to include more vexing and complicated areas of the law. Stewart and McCann (1995, as cited in Teh, 2014, p. 398) observed that education law issues "were not just limited to physical safety of students, but there were increasing legislation as well as common law and equity issues associated with children's rights". Teh and Russo (in Chapter 3) also question

whether cases of educational negligence or malpractice could be brought if students fail to meet expected educational outcomes. They suggest that the setting of professional standards for teaching may have implications for interpretation of duty of care. We will undoubtedly see further nascent problems which will became part of school law where would-be litigants decide to sue to gain redress from school authorities for alleged harms.

The work of educators takes place within national legislative structures, including the constitution, legislation and rulings and common law arising from them. These enactments have had significant impact on corporate governance of public sector agencies including schools (Bauer & Bogotch, 2006; Collier & Roberts, 2001; Allison, 1983). Wirtz, Cribb and Barber (2005, p.335) found that public sector policy makers, "felt accountable to provide decisions which are politically and legally defensible" and "which could be defended in public, including in court". Similarly, the influence of legislative structures as a determinant in decision-making in the school environment has become an increasing concern for school principals (Trimmer, 2003 & 2011). The move towards standards and accountability has influenced the governance of schools and the move towards distributed models of leadership has increased the complexity of responsibilities and expectations of school leadership (Bauer & Bogotch, 2006). Starr (2008, as cited in Wirtz, Cribb & Barber, 2005, p.335) indicates that consideration of risk in schools "has risen dramatically in stakes and prominence" and that the increase in litigation, insurance and compensation claims have resulted in education systems and principals needing to respond by "identifying, managing and delegating responsibility for risk". Increased knowledge of legal issues and the application of the law has become essential to avoid decision-making where "procedural safeguards are being valued more than the content of the decision" (Wirtz, Cribb & Barber, 2005, p.335). The focus on avoiding legal liability however may lead to decisions that do not align with professional ethics. Jenlink and Jenlink (in Chapter 6) examine the ethical implications of decision-making that needs to take account of law, policy and also the potential for breaches ethics. The implications are significant if principals are not aware of and sensitive to the impact on ethical behaviour. It is also a concern where educators are deterred from pursuing innovative educative strategies due to potential litigation risks.

Disability discrimination became part of the education law argot at the beginning

of this century with the development of respective legislation in the Disability Discrimination Act (DDA) (Australian government, 1992) and the interpretation of same in case law before the courts (Dempsey, 2003; Dickson, 2003; Dickson, 2004; Dickson, 2006; Hamilton, 2002; Johnson, 2002; Keeffe, 2003; Lindsay & Keeffe-Martin, 2002; Stafford, 2004; Stewart, 2003; Varnham, 2002). The introduction of inclusive education policy has required school leaders to adapt to ensure that they and their teaching staff are able to meet the needs of all children attending their school. Webster (in Chapter 11) reviews the difficulties school leaders have faced in dealing with the demands of this legislation and conflicting priorities that arise in the context of high-stakes accountability. Whilst, there are regulatory requirements in some Australian states for all teachers to be familiar with the DDA, particularly with the Disability Standards for Education (2005), and be able to apply this on a daily basis in their classroom, schools and systems are sometimes only giving the illusion of compliance with the legislation. The Disability Standards for Education attempt to clarify expectations and legal obligations under the DDA. All teachers in Australia are being encouraged to complete an on-line module about the Disability Standards for Education (Kilham, 2014) to further enhance their understanding.

Section two of this book focuses on inclusive schooling and the impacts of the DDA and DSE on inclusion and participation of students with disabilities in Australia, and on areas of the application or non-application of antidiscrimination legislation for students with disabilities both in Australia and the USA. These areas include accountability in assessment, the impact of problem behaviour on court decisions and the negative impact of a lack of case law in the Australian legal system.

## Principals' understanding of education law

Birch (1990, as cited in Stewart, 1996) presaged that although there was a paucity of education law matters before the courts here in Australia, there are sufficient to suggest that school law in and of itself is an established area of interest for both legal and educational professionals. Moreover, Mr Justice Dowsett of the Queensland Supreme Court (1994, as cited in Stewart, 1996, p. 114) cautioned that "there is likely to be more consumer litigation in the

education field and that this would reflect growing community demands for greater accountability in the professions generally." Stewart (1996) also adds that in particular novitiate principals are grossly inadequately prepared for the administrative and management responsibilities that this high level position requires. Their understanding of the law as it applies to the education setting is unacceptably scarce (Stewart, 1996).

A comparative study (Teh, 2009) of the types of legal issues that principals, in both Singapore and Australia, had encountered as part of their principalship found that not only were they wide ranging, but that a level of legal literacy amongst principals is needed to avoid multifarious legal scenarios. Similarly, Stewart's (1998) quantitative study of state school principals' level of understanding of school law found a generally low level of knowledge held by Queensland state school principals.

## Education practitioners' fear of legal consequences

The authors have heard both teachers and principals say on many occasions that they would not participate in an activity such as a school camp or sporting event because of the fear of being sued (Trimmer, 2003 & 2011). This has become a commonly held view of members of the teaching profession with educators expressing professional concerns about being a party of a legal dispute and therefore declining to be involved in or allow school events that they believe would be educationally beneficial to students. In a review of Australian curriculum (Wilson, 2014), teachers reported that they are avoiding school excursions and field trips, notwithstanding their imperative educational value and importance, because of the threat of being sued. Fear of legal liability and litigation risks are high and consequently these important co-curricular activities are being shunned, even by more experienced practitioners (Wilson, 2014). In this review, the federal Education Minister stated that educational standards could "be at risk if kids are bound to their desks" (Wilson, 2014, p. 12). The released report went on to remark that "state and federal governments needed to provide better training and professional support so teachers would feel comfortable exposing pupils to important out-of-classroom lessons" (Wilson, 2014, p. 12). The Australian Education Union president stated "For some subject areas, excursions and field trips are vital in getting a better understanding of the content being covered… But we are living in an increasingly litigious society and

schools bear the brunt of that litigiousness" (Wilson, 2014, p. 12). Ford (2004, p. 1) puts it this way:

> A balancing act is involved: schools must strike some balance between meticulous supervision of children every moment of the time when they are under their care, and the very desirable object of encouraging the sturdy independence of children as they grow up. Nevertheless, there are cases which suggest that the courts are less likely to find negligence where the activity is intended to develop independence.

There are a number of cases where judges have had to decide on whether the law should side with the education provider doing its job or should protect an injured student who allegedly falls foul of schools not protecting them whilst under their care (Ford, 2004).

## The need for some legal literacy by principals

An essential premise for this book is the need for school principals and administrators to have a basic understanding of how the law standardises the everyday activities of schools. This is sometimes referred to as having legal literacy.

Nolan and Spencer (1997), Stewart and Knott (2002) and Teh (2009) all believe that teachers and school leaders should have some basic legal knowledge and understanding as it relates to their roles in schools. Unfortunately, it has been our experience that in practice this is simply not the case, and those in the profession that do sprout some legalise from time to time often do so speciously. This view has been supported by Pell (1994, as cited in Stewart, 1996, p. 122) when he stated that "not only do most educators have a lack of knowledge of school law but what knowledge they do have is often distorted, inaccurate or based on misinformation. Such knowledge Pell maintains not only affects one's understanding of the law but also can be the basis for poor decision-making." This difficult maze of regulations and rules and how it may be navigated by school leaders in making decisions is discussed by Padró and Green (in Chapter 7). This chapter outlines an approach that administrators can apply in their school context to make decisions on legal and policy matters that are regulatory compliant. In Chapter 8 Padró and Green use Total Quality Management (TQM)

as a lens to explore the impact of administrative law schemes and strategic decision making in education.

Accountability, risk assessment and compliance are increasingly a priority for educational organisations and governments. Rochford (in chapter 9) considers the relationship between law and 'quasi law' such as codes of practice and professional standards for teachers. Stewart and Knott (2002) suggest that having an understanding of education law is only one highly specialised area that principals and school leaders are being held more and more accountable for. It is mooted therefore that principals and teachers in schools should have a deeper working understanding of how the law protects and regulates their everyday work activities to help prevent legal matters being brought against them. Rossow (1990) advises (as cited in Stewart, 1996, p. 111) that principals should have enough legal understanding to "know initially what questions to ask when confronted with a potential problem". Similarly, Haller and Strike (1986) suggest (as cited in Stewart, 1996, p. 111) that school administrators "need a basic sense of what kinds of problems and situations generate litigation and what kinds of actions are more likely to generate legal difficulties". Sungaila (1988, as cite d in Stewart, 1996, p. 111) summarises this imperative:

> … there are two things educators need to know about the law. The first is that he or she should have an appreciation of the law as one of our most precious social institutions. The second is that he or she should have an understanding of that law which infringes on professional educational practice sufficient to recognise whether a problem which has arisen is one about which professional legal advice should be sought or not.

Having a basic understanding of the legal matters that potentially come before a principal is not only prudent but also helpful in dispelling possible legal cases early before they gain momentum. Principals can then field off potential cases by saying the right things or garnering the relevant materials early on to suggest to would-be parent litigants that their case will not be a one sided matter. Nolan and Spencer (1997, p. 14) put it this way by stating that principals and "teachers should be aware of situations and activities where negligence would be difficult to disprove and order their personal behaviour and supervisory role accordingly."

Leschied, Dickinson and Lewis (2000, as cited in Teh, 2014) have argued that the explosion of information technology, changes in domestic living patterns and related values, the fact that children are at risk of physical and sexual abuse and the escalation in youth crime collectively combine and result in an increased reliance on laws and the courts; all of which have an impact on the role of teachers and principals, and the school system. According to research conducted in the United States, Teh (2014) reports that teachers perceive themselves to be legally illiterate. Another survey indicated that over 75 percent of American school teachers (Teh, 2014) had no exposure to school law courses at all and over 50 percent were either wrong or unsure about questions relating to teachers' rights and responsibilities. Yet another study performed in the United States suggested that 85 percent of secondary school principals said that they would change their behaviour if they knew more about the rights and responsibilities of teachers and students associated with education law (Teh, 2014). Teh (2014) puts forward a similar position in Canada where principals surveyed achieved less than half of the correct responses when tested.

In Australia, the situation is much the same. Teh (2014) considers some research conducted here in 1996, 2006 and 2012. All studies revealed many areas of law which principals had to deal with but lack sufficient knowledge or understanding to deal with them. A prominent recent case *Oyston v St Patrick's College (2013)*, as cited in Teh (2014) is apposite in this discussion as it was noted from the judges who sat on the New South Wales Court of Appeal that many schools in Australia have policies and practices in written form largely as a consequence of mandates from education cases or legislation. When these are complied with, they may well provide a strong defence against legal claims. Conversely, they noted that where schools have written policies but do not take steps to follow them, the defence against a legal claim will be significantly weakened. They went on to say:

> What was required of the College was not a system of impractical perfection. Rather, what was required was the practical implementation of its own system, to bring ongoing bullying to an end and to monitor the victim to ensure such behaviour did not continue. That, it failed to do (Teh, 2014, p. 405).

The example of *Oyston* illustrates the need for teachers and school leaders to keep abreast of development, not only of legislation, but also of the decisions arrived at by our courts.

It is expected that principals have an understanding of, and be experts in, all matters pertaining to schools. "Such expectations, along with a growing movement towards increased accountability in the professions generally, provide compelling reasons for principals to be more highly literate in school law than currently appears to be the case" (Stewart, 1996, p. 112).

Stewart (1996, p. 115) goes on to plead:

> While there has been a noted increase in both judicial decisions and statute law that may impact on school leadership and management, there has not been a commensurate level of research in Australia to determine schools' actual involvement with legal matters. As a consequence there has been a dearth of information concerning principals' need for, and extent of, knowledge of the law that affects the principalship.

## Research Findings

In a recent research study (Butlin, 2014) involving a number of Australian principals and their level of legal literacy, the authors found that whilst the principals see it as an important issue to be familiar with, they do not possess a confident level of legal understanding when it comes to managing their school environment. This discovery reflects the literature referred to above. The evidence was demonstrated through responses to survey questions about common legal situations confronting schools where the majority of principals scored lower than 35 per cent of the responses correctly. During interviews held with the principal participants, this low level of legal literacy was explored in more detail with most of them shocked to discover their level was so low. They thought that they had a more correct and developed understanding of their legal duty than in fact they actually did have. This has been highlighted above in an earlier section of this chapter and is (sadly) probably reflective of most principals in this country and possibly even principals internationally.

This led on conveniently to the next major question under review considering whether or not school principals should, in fact, have a level of legal understanding as it relates to running their school. When asked about the concept of having an acceptable understanding of school law matters to minimise litigious activity and to help manage risk, all principals interviewed acknowledged that some understanding, even at a limited level, was indeed imperative (Butlin, 2014).

The agreement of principals interviewed of the importance for the school leader to have some degree of familiarity with school law aligns with Nolan and Spencer (1997) and Stewart and Knott (2002) who argue that all school principals should have some degree of legal literacy to better lead and function in this demanding role. One participant proposed that whilst legal matters are not the main focus of the role, nor should they be, suggesting that they are not 'top of mind as a principal', and only tend to enter your thinking when an issue raises its ugly, litigious head.

When challenged with the question about how much knowledge principals need to effectively lead their schools, the respondents offered different levels of legal understanding. One respondent stated the principal is less of a teacher and more of a CEO and hence has to know a sufficient amount to adequately protect his/her school from the legal arrows that are fired towards it. Another participant alluded to the fact that as principal, you need to know as much as you can so as to avoid legal traps in the school. Another indicated that a law degree is probably not required, but total ignorance is putting the organisation at huge risk. She surmised that you need to have some idea of the law governing schools and importantly need to understand the basic principles and intention of those laws.

As indicated by one respondent: for the profession at large to be successful, principals will need a heightened awareness of legal matters as they relate to the school setting. This concept, coupled with the notions of protection of both students and the school, in addition to the philosophical view that we are becoming more litigious as a society all mean that tomorrow's school leaders will need to become more legally literate in order to maintain a safe and well managed educational environment.

## The International Context

More broadly, education authorities in jurisdictions internationally are required to establish guidelines for their school educators in increasingly complex societies. For example, in 2015 Europe experienced the highest movement of displaced people across multiple borders since the end of World War II (WWII). The vast migration of refugees and their acceptance in new communities is compounded by the underlying current of fear generated by terrorist attacks such as the Paris shootings and bombings of 13 November, 2015. The third and final section of this book considers what the response of educators internationally might be in the face of the conflicting challenges posed globally. The principal international legislation for working with children and young people is the United Nations Convention on the Rights of the Child (UNCRC) which provides the base from which each signatory nation can build a response. The convention clearly sets out our responsibilities in regards to the children trapped in adult created circumstances. All young people under the age of 18 are considered to come under the protection of the convention – unless a specific country has set the age of majority earlier. Articles 28 and 29 of the UNCRC have particular significance for education authorities and educators. Both articles could provide a global education foundation of rights, responsibilities and core curriculum. A knowledge and understanding of the UNCRC provisions becomes essential for educators if they are to meet the global challenge of educating the world's children. Principals and teachers in Australia and internationally need to adopt and adapt the UNCRC provisions to meet the needs of all children in their care, whether permanent resident, citizen or refugee seeking shelter.

Section three of this book focuses on these international legislative frameworks including educators' knowledge and understanding of their obligations under the UNCRC, and also awareness of how their national and local policies both support and contravene the domestic and international legislation. Chapters in this section explore issues surrounding the development of citizenship, the rights and education of the children of native peoples and of refugees, and legislation internationally that is impacting on the safety, care and education of young people.

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