

Learnerdiscipline: Finding Lawful Alternatives to Corporal Punishment

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ABSTRACT in most of South African schools, learner discipline is out of control as corporal punishment has been abolished and is unlawful; many educators still have perception that corporal punishment was/is the only alternative to maintain discipline in schools. Educators became victims of violent learners. They are chased with broom sticks and in extreme cases even threatened at gunpoint. Sometimes learners form vigilante groups which are very dangerous to educators and other learners. This is occurring because of the rights which learners have as stipulated in the Bill of Rights, Chapter 2 of the Constitution, Section 10 which states that everyone has inherent dignity and the right to have their dignity respected and protected, though their rights are limited in terms of Section 36 (1) (a)-(e) where it is stated that the rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including the nature of the right; the importance of the purpose of the limitation; the nature and extent of the limitation; the relation between the limitation and its purpose; and less restrictive means to achieve the purpose. In order to give emphasis on Section 10 of the Constitution, Section 10 of the South African Schools Act 84 of 1996 prohibits corporal punishment. This conceptual paper explores on learner discipline per Section 10 of the Constitution and Section 10 of South African Schools Act 84 of 1996, and gives recommendations on lawful alternative to corporal punishment.

INTRODUCTION

South African educators were used to maintain discipline through corporal punishment before the promulgation of the Constitution of the Republic of South Africa of 1996 (hereafter the Constitution) and South African Schools Act 84 of 1996 (hereafter the Schools Act). Educators were used to such punishment practices such as caning, spanking, pinching, threatening, pleading, bribing, yelling, commanding, name-calling, forced labour, and other even more humiliating actions. After the promulgation of the Constitution and the Schools Act maintenance of discipline in schools became problematic to many principals and educators. Regardless of the Constitution and Schools Act in most cases discipline maintenance remains in the discretion of individual educator or principal. The following paragraphs will discuss what discipline and corporal punishment are.

DISCIPLINE

UNESCO (2006) defines discipline as the practice of teaching or training a person to obey rules or a code of behaviour in both the short and long terms. Oosthuizen, Smit and Roos (2009) summarise characteristics of discipline as follows:

- Discipline is used to create order.
- Discipline ensures fairness.
- Discipline protects the learner,
- Discipline contributes to the spiritual development of a learner.
- Discipline is prospective.
- Discipline is directed primarily at correction, not retribution.

Vally in Khewu (2012) states that good discipline is a cornerstone in the foundation of successful schools and all learners are expected to conduct themselves in a manner conducive to learning in all places and activities. Educators are in charge of their classrooms, and can make any reasonable rule for governing their classrooms, which is acceptable to the administration. Learners are expected to respect educators at all times and follow their directions whether they are in the classroom, on the playground, in the halls, or at any school sponsored activities. Learners need to be disciplined for normal teaching to take place. Paragraph 1.3 of the *Guidelines for the consideration of governing bodies in adopting code of conduct for learners*

stipulates that Code of Conduct must reflect the constitutional democracy, human rights and transparent communication which underpin South African society.

CORPORAL PUNISHMENT

According to European Union (2014) corporal punishment is any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting (“smacking”, “slapping”, “spanking”) children, with the hand or with an implement – whip, stick, belt, shoe, and wooden spoon for example. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children’s mouths out with soap or forcing them to swallow hot spices). Corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment which are also cruel and degrading and thus incompatible with the Convention. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.

UNESCO (2006) defines punishment as follows: punishment is an action (penalty) that is imposed on a person for breaking a rule or showing improper conduct. Punishment aims to control behaviour through negative means. Two types of punishment are typically used with children: punishment involving negative verbal reprimands and disapproval; this type of punishment is also known as negative discipline and punishment involving severe physical or emotional pain, as in corporal punishment.

According to UNESCO (2006) both forms of punishment focus on the misbehaviour and may do little or nothing to help a child behave better in the future. Moreover, the child learns that the adult is superior, and the use of force, be it verbal, physical, or emotional is acceptable, especially over younger, weaker persons. This lesson can lead to incidents of bullying and violence in school, where older children dominate younger ones and force them into giving the bullies money, food, homework, or other valuable items.

Corporal punishment is any deliberate act against a child that inflicts pain or physical discomfort to punish or contain him/her. This includes, but is not limited to, spanking, slapping, pinching, paddling or hitting a child with a hand or with an object; denying or restricting a child the use of the toilet; denying meals, drink, heat and shelter, pushing or pulling a child with force, forcing

the child to do exercise. Corporal punishment can include hitting with a hand or an object such as a cane, belt, strap, shoe, or ruler. On the other hand corporal punishment may involve slapping, kicking, punching, shaking, burning, pinching or pulling hair; forcing someone to stand in a physically uncomfortable, emotionally humiliating or undignified position; denying or restricting someone's use of the toilet; denying food, fluids/drinks, heat and shelter as a form of punishment; forcing someone to do excessive exercise (Alternative to Corporal Punishment, 2009 and Education Rights Project, 2014).

Furthermore, rather than leading to a child with inner control, such punishment makes the child angry, resentful, and fearful. It also causes shame, guilt, anxiety, increased aggression, a lack of independence, and a lack of caring for others, and thus greater problems for teachers, caregivers, and other children.

According to Shaeffer(2006) for children in many countries, corporal punishment is a regular part of the school experience; it is also a form of child abuse. Corporal punishment is deliberate violence inflicted on children, and it takes place on a gigantic scale. Legal defenses for teachers who hit or beat children still exist in most countries of the world. Corporal punishment, however, has not been shown to be effective, especially in the long-term, and it can cause children shame, guilt, anxiety, aggression, a lack of independence, and a lack of caring for others, and thus greater problems for teachers, caregivers and other children.

One of the major reasons why corporal punishment persists is that teachers do not understand that it is different from "discipline." While corporal punishment seeks to stop a child from behaving in a certain way, positive discipline techniques can be used to teach a child learn new, correct behaviours without the fear of violence. Another major reason is that teachers are often not taught why children misbehave and how to discipline them positively based on those behaviours. Many times, when a child feels his or her needs are not being met, such as the need for attention, he or she misbehaves. The frustration that a child's misbehaviour causes, and a lack of skills to handle it, leads some teachers to strike out at their children and use corporal punishment or humiliating forms of emotional punishment (Shaeffer, 2006).

Corporal punishment in South Africa

Before the promulgation of Schools Act, corporal punishment was administered by educators to learners in order to maintain discipline in South African schools. In some instances corporal

punishment was administered excessively. Some learners left schools because educators used to administer corporal punishment in an unbearable manner. In terms of Section 10 of the Constitution, everyone has a right to inherent dignity and the right to have their dignity respected and protected. In terms of Section 10(1) of the Schools Act, no person may administer corporal punishment at a school to a learner. Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence, which could be imposed for assault. Therefore no one can administer corporal punishment to a learner under the law as it is declared a criminal offence.

The Department of Education Gauteng Province (1999) states that because Curriculum 2005 does not rely on the use of corporal punishment as a method of ensuring compliance, and also recognising that the use of corporal punishment is unconstitutional and illegal, it is therefore the responsibility of all schools to ensure that a culture that is congruent with the Constitution of the country is inculcated in all schools.

The prohibition of corporal punishment is not intended to encourage ill-discipline or disorder in schools. Instead, this is intended to encourage and inculcate a culture of non-violence; of resolving conflict through dialogue and discussion; of instilling a sense of responsibility; self-discipline and self-motivation amongst learners at the school. It is believed that the prohibition of corporal punishment will go some way in preparing our learners to be tomorrow's parents who will embrace the principles of non-violence, non-racialism, and democracy, and thereby give practical meaning to the progressive Constitution of the Republic of South Africa.

After the abolition of corporal punishment, teachers were expected to relate to learners in a friendly way and to establish a more relaxed atmosphere. But some teachers were afraid to encourage personal relationships with their learners, fearing that this would lead to a loss of authority in the classrooms (Mokhele, 2006).

LEARNER BEHAVIOUR

Masitsa, 2007; Parliamentary Monitoring Group (2009); and Geldenhuys and Doubell (2011) state that factors contributing to the deterioration of discipline in South African schools are ineffective teaching; undisciplined teachers; lack of support for teachers; overcrowded classrooms; poor relationships and communication between teachers and learners; and, due to the high unemployment rate in South Africa, uncertainty about employment, because once learners know

that the anticipated reward of education, such as access to a good paying job, is not available, they have little incentive to comply with school rules. Smit (20011) points out that learner disciplinary problems in South Africa include physical violence, assaults, threats, theft, graffiti, vandalism, verbal abuse, gross disobedience, disruptiveness and disrespect for authority, constant violation of the school code of conduct, truancy, criminality, gambling, gangsterism, rape, substance abuse, and even murder in and around the school.

On the other hand, Smit (2013) states that in South Africa it is not uncommon for educators at schools to be confronted by learners that assertively stand up for their human rights. Such conviction and confidence in the importance and usefulness of human rights in schools and daily life should be welcomed because it points to the establishment and growth of a democratic culture based on respect for human rights. On the other hand, it often occurs that human rights are exaggerated or misconstrued to serve an inappropriate purpose or to obtain a questionable entitlement. Learner discipline has become a serious problem in South African schools. As a result, many educators blame the risky state of poor discipline in many schools on the fact that educators no longer have an effective deterrent as a form of punishment. The majority of educators favour the reinstatement of corporal punishment in schools and many admit to the continued use of corporal punishment to instill discipline in schools.

In Wolhuter and Van Staden, Smit (2013) established that 85% of teachers are of the view that learner discipline problems make them unhappy in their work, and 79% have, because of learner discipline problems, at times considered to abandon the teaching profession.

Smit (2013) states that a study by the South African Human Rights Commission in 2008 about school-based violence confirmed many media reports and complaints from educators that violence in many South African schools has reached alarming proportions. Although serious misconduct only occurs intermittently, school-based violence in South Africa is a multidimensional phenomenon and depends on the context in which it arises. Bullying, gender-based violence, discrimination and violence, sexual violence and harassment, physical violence and psychological violence, describe some of the most prevalent forms that were identified by the Human Rights Commission.

MAINTAINING DISCIPLINE IN SCHOOLS

All teachers should want the best for their learners and should be concerned with fostering confidence in their abilities and raising their self-esteem. But when your students don't listen to you, refuse to do what you ask, defy or ignore you; it is easy to become annoyed and frustrated (UNESCO, 2006).

The main purpose of school (mainly educators) is to provide students with an educational foundation from which they can build successful independent lives. However, disruptions in the classroom cause roadblocks to student achievement. Maintaining discipline in schools is essential when creating an effective learning environment. Following is a list of ideas that can help create and maintain discipline in schools according to Kelly (2014):

- **Increase parental involvement**

Parents truly make a difference in student achievement and behavior. Schools should institute a policy where teachers are required to contact parents periodically throughout the year. Half-term or end-of-term reports are often not enough. A parent cannot help solve an issue if they do not know one exists. While calls home take time, in the end they can help provide solutions to very difficult classroom problems. This is not to say that all parental involvement will be positive or have a measurable effect on student behavior. Nonetheless, this is an area which many successful schools claim make a huge difference.

- **Create and enforce a school-wide discipline plan**

Discipline plans are a way to provide students with a consistent and fair plan of what will happen if they misbehave. While many schools have a discipline plan on the books, it is often not well known or followed by teachers and administrators. Having it posted in every classroom and in hallways is a good way to start. Effective classroom management should include the posting and use of this discipline plan. Training about implementation along with periodic reviews can also help.

- **Foster discipline in schools through leadership**

The principal and assistant principals are of major importance in fostering an academically focused school-wide environment. Their actions form the basis of the overall mood for the school. If they are consistent in supporting teachers, implementing the discipline plan, and following through on disciplinary actions, then teachers will follow their lead. On the other hand, if they are lax on discipline, this will become apparent over time and misbehavior will increase.

- **Practice effective follow through**

While posting the discipline plan is important so that all students are informed of the consequences for misbehavior, following through on the discipline plan is the key to truly fostering discipline in schools. In the classroom, if a teacher does not follow through and deal with misbehavior, it will increase. School-wide, if administrators do not follow the discipline plan and support the teachers, they could easily lose control of the situation.

- **Provide alternative education opportunities**

This item is typically something that a school district has to provide. To be able to achieve, students need to be placed in situations where they are best able to learn without distracting the wider school community. Alternative schools can help remove students from volatile situations. Even moving students to new classes which can be controlled at the school level can help in some situations. In the end, decisions need to be made for the betterment of all students involved. If one student is disrupting a class and after numerous intervention attempts has shown an unwillingness to change, then alternative means of education need to be investigated for the sake of the rest of the students in that class.

- **Build a reputation for fairness**

Hand in hand with effective leadership and school-wide consistent follow through is the belief by students that teachers and administrators are fair in their disciplinary actions. While there are sometimes extenuating circumstances that require administrators to make adjustments for individual students, overall students who misbehave should be treated similarly.

- **Implement additional effective school-wide policies**

Discipline in schools can evoke the image of administrators stopping fights before they begin or dealing with hostile students in a classroom setting. However, effective discipline begins with the implementation of school-wide housekeeping policies that all teachers must follow. For example, if a school implements a tardy policy that all teachers and administrators follow, tardies will decrease. If, instead, teachers are expected to handle this individually, some will do a better job than others and tardies will have a tendency to increase.

- **Maintain high expectations**

From administrators to guidance counselors to teachers, schools must institute high expectations for both academic achievement and behavior. These expectations must include messages of encouragement and means of support to help all children succeed. Michael Rutter researched the

effect of high expectations at school and reported his findings in the book, *Fifteen Hundred Hours*: "Schools that foster high self-esteem and that promote social and scholastic success reduce the likelihood of emotional and behavioral disturbance."

According to Salim (2014) punishment is different from discipline and impacts the learner in distinct ways. Disciplined behavior means ways of behaving that show respect and responsibility. The goal is for the learner to develop self-discipline through their own efforts rather than through the efforts of another by means of monitoring, threats, fear, and force. Punishment is external and does not promote or allow self-discipline to be achieved. Punishment generally only stops the behavior for the moment but does not have positive long-term outcomes.

- **Punishment** emphasizes what a child should not do while **Discipline** emphasizes what a child should do.
- **Punishment** is a one-time occurrence while **Discipline** is an ongoing process.
- **Punishment** insists on obedience while **Discipline** sets an example to follow.
- **Punishment** undermines independence while **Discipline** leads to self-control.
- **Punishment** is an **adult release** and about their **power**. It is also about **displaced anger**. This is when adults are angry about something but take their anger out on children while **Discipline** helps children change.
- **Punishment** makes children behave while **Discipline** accepts children's need to assert them.
- **Punishment** thinks for children while **Discipline** encourages children's ability to think for them.
- **Punishment** defeats self-esteem while **Discipline** encourages self-esteem.
- **Punishment** condemns misbehaviour while **Discipline** encourages self-disciplined behaviour (Salim, 2014).

CONCLUSION

South African society has a long history of violence and abuse of human rights. Since two important legislations which form basis of human rights in schools, the Constitution and Schools Act of 1996 were promulgated; it is not easy to make the transition to peace, tolerance and respect for human rights. Corporal punishment was abolished in order to restore tolerance, peace and respect for human rights, discipline and order in South African schools. Even though these

legislations are clear on human rights issues, violent activities are still a challenge in many schools.

RECOMMENDATIONS

In terms of paragraph 4.4.1 of the Guidelines for the Consideration of Governing Bodies in Adopting a Code of Conduct for Learners, every learner has the right not to be treated or punished in a cruel, inhuman, or degrading manner. Recommendations stated below may serve as alternative to corporal punishment in order to maintain discipline in schools:

- In order to maintain discipline in schools, Section 15(1) of the South African Constitution which states that everybody has the right to freedom of conscience, religion, thought, belief and opinion is supposed to be amended. The re-introduction of morning assembly in schools where Bible is read and hymns are sung can make impact on moral and values regeneration.
- Schools should be clustered according to police station satellites and police stations wherein each school can be assigned a certain number of policemen in order to enforce discipline in schools.
- Educator-learner mentoring: where a number of learners are grouped under a number of educators e.g. ten learners may have one educator as their mentor. That mentor may serve as a role model to the learners.
- Introduction of Social Workers to schools.
- Parents must serve as exemplary to their children and be involved in raising their children in acceptable standards, values and ethics of life in society.

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