

## Learner Discipline: Finding Lawful Alternatives to Corporal Punishment (Learner Discipline)

T. S. Mashau\*, H. N. Mutshaeni and L. R. Kone

*University of Venda, South Africa*  
*\*E-mail: takalani.mashau@univen.ac.za*

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**ABSTRACT** In most South African schools, learner discipline is out of control as corporal punishment has been abolished and is unlawful. Many educators still hold the perception that corporal punishment was/is the only alternative to maintain discipline in schools. Educators have become victims of violent learners. They are chased with broomsticks and in extreme cases, even threatened at gunpoint. Sometimes learners form vigilante groups are very dangerous for educators and other learners. This happens due to the rights which learners have, as stipulated in the Bill of Rights, Chapter 2, Section 10 of the Constitution, which states that everyone has inherent dignity and the right to have their dignity respected and protected. These rights are limited in terms of Section 36 (1) (a)-(e) where it is stated that the rights may be limited. Such limitation is 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, and taking into account all relevant factors. These factors include 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 emphasize on Section 10 of the Constitution, Section 10 of the South African Schools Act 84 of 1996 prohibits corporal punishment. This conceptual paper explores learner discipline as per Section 10 of the Constitution and Section 10 of South African Schools Act 84 of 1996, and gives recommendations on lawful alternatives 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 labor, and other even more humiliating actions. After the promulgation of the Constitution and the Schools Act, maintenance of discipline in schools became problematic for 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 pertaining to teaching or training a person to submit to rules or a code of behavior in both short and long terms. Oosthuizen et al. (2009)

summarize characteristics of discipline as follows: discipline creates order, discipline guarantees fairness, discipline safeguards the learner, discipline subscribes to the spiritual development of a learner, discipline can be prospective, and discipline is directed primarily at improvement, not vengeance.

Vally in Khewu (2012) states that successful schools depend on good discipline and serve as a cornerstone in the foundation of their success. All learners are expected to conduct themselves in a manner conducive to learning in all places and activities. When there is discipline in school, educators are in charge of their classrooms and make reasonable rules for controlling their classrooms, which is satisfactory to the administration. Learners are required to respect their educators at all times and follow their directions and instructions whether they are in the classroom, on the playground, in the halls, or at any school sponsored activities. For normal teaching to take place, learners need to be disciplined. Paragraph 1.3 of the *Guidelines for the consideration of governing bodies in adopting code of conduct for learners* stipulates that Code of Conduct should reflect the constitutional democracy, human rights and transparent communication, which underpin the South African society.

### CORPORAL PUNISHMENT

According to the European Union (2014), corporal punishment is any punishment in which physical force is used and anticipated to cause some degree of hurt or discomfort, however light. Most punishment involves hitting (“smacking”, “slapping”, “spanking”) children with the hand or with an implement like a whip, stick, belt, shoe, and wooden spoon, for example. In addition, 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, humiliating. In addition, there are other non-physical forms of punishment which are also cruel and humiliating and thus unsuited with the convention. These include 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 showing improper conduct or breaking a rule. Punishment is aimed at controlling behavior through negative means. There are two types of punishment, which are typically used on children, namely, punishment which involves negative verbal rebukes and disapproval, it 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 misbehavior and may do little or nothing to help a child behave better in the future. In addition, 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 might 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.

As indicated above, corporal punishment is any act against a child that inflicts pain or physical discomfort to punish or contain him/her. It 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 forcefully, forcing the child to do exercise. Corporal punishment can include hitting by hand or an object such as a cane, belt, strap, shoe or ruler (Alternative to Corporal Punishment 2009; Education Rights Project 2014).

Furthermore, rather than leading a child towards inner control, such punishment makes the child angry, resentful and fearful. It also causes shame, guilt, anxiety, increased aggression, lack of independence, 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, and 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 defence for teachers who hit or beat children still exist in most countries around the world. However, corporal punishment has not been shown to be effective, especially in the long-term. This is because it can cause children shame, guilt, anxiety, aggression, lack of independence, and 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 new and correct behaviors 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 behaviors. 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 misbehavior causes, and 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 the Schools Act, corporal punishment was administered by educators on learners in order to maintain discipline in South African schools. In some instances, corporal punishment was administered exces-

sively. 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 in-born 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.

In support of the Constitution and South African Schools Act, the Department of Education Gauteng Province (1999) states that Curriculum 2005 did not rely on the use of corporal punishment as a method of ensuring compliance, and also recognized that the use of corporal punishment is unconstitutional and illegal. It gave the responsibility to all schools to ensure that a culture that is corresponding 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. Prohibition of corporal punishment is intended to encourage and inculcate a culture of non-violence, of resolving conflict through dialogue and discussion, of instilling a sense of responsibility and instilling self-discipline and self-motivation amongst learners at the school. There is a belief that the prohibition of corporal punishment will continue to go some way in preparing South African learners so that they become 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.

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

### **LEARNER BEHAVIOR**

Masitsa (2007), Parliamentary Monitoring Group (2009), and Geldenhuys and Doubell (2011) state that factors which contribute to the

deterioration of discipline in schools in South African include, ineffective teaching, disobedient teachers, lack of support for teachers, overcrowded classrooms, poor relationships and communication between teachers and learners, and high unemployment rate in South Africa, which makes 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 (2011) 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 common 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. In most cases, human rights by learners are exaggerated or misconstrued to serve an inappropriate purpose or to obtain a questionable entitlement. In South African schools, learner discipline has become a serious problem, with learner discipline posing a challenge. 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.

Wolhuter et al. (2013) established that eighty-five percent of teachers are of the view that learner discipline problems make them unhappy in their work, and seventy-nine percent have, at times, considered abandoning their teaching profession.

Smit (2013) states that a study by the South African Human Rights Commission in 2008 on school-based violence confirmed media reports and complaints from educators that violence in many South African schools has reached alarming proportions. Although serious misconduct

only occurs sporadically, school-based violence in South Africa is a multidimensional phenomenon and depends on the context in which it arises. There is violence instigated through bullying, gender-based, discrimination, sexual harassment, physical and psychological abuse.

### **MAINTAINING DISCIPLINE IN SCHOOLS**

It is assumed that all teachers want the best for their learners and are concerned with fostering confidence in their abilities and raising their self-esteem. However, when students do not listen to their teachers, refuse to do what they are asked and defy or ignore them, it is easy for teachers to become annoyed and frustrated (UNESCO 2006).

The main purpose of the school (mainly by educators) is to provide students with an educational foundation from which they can build their own 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 have a responsibility to make a difference in student achievement and behavior. Schools are supposed to 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, and parents cannot solve issues if they are not aware of their existence. While to make a call home might take time, eventually, this 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, parental involvement is an area which many successful schools claim makes a huge difference.

#### **Create and Enforce a School-wide Discipline Plan**

Having the discipline plan posted in every classroom and in hallways is a good way to start as all learners would be aware of how they should

behave in school. This is the way to provide students with a consistent and fair plan of what will happen if they misbehave. Even effective classroom management should be included in the discipline plan. Schools might have a discipline plan on the books, but it is often difficult to implement it. Training on implementation, along with periodic reviews, can also be of assistance.

#### **Foster Discipline in Schools through Leadership**

The School Management Team (SMT) is of major importance in fostering an academically focused school-wide environment. Their behavior forms the basis of the overall attitude 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 careless on discipline, this will become apparent over time and misbehavior will increase.

#### **Practice Effective Follow Through**

It is necessary to post the discipline plan as 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 ill discipline. School-wide, if non-teaching staff members do not follow the discipline plan to support their teachers, they could easily lose control of the situation.

#### **Provide Alternative Education Opportunities**

This item is typically something that the provincial education departments should provide. To achieve discipline, students require places or situations where they are best able to learn without distracting the wider school community. Alternative schools can help remove students from instable 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 wherein after numerous intervention attempts he/she shows unwillingness

to change, then there should be alternative means of investigating the challenge for the sake of the rest of the students in that class.

### **Build a Reputation for Fairness**

It is necessary for the school leadership to be consistent in handling misbehavior cases. If learners believe that school leadership is consistent and fair in dealing with disciplinary issues, school leadership will be respected. While there are sometimes mitigating circumstances that require administrators to make adjustments for individual students, overall, students who misbehave should be treated similarly and consistently.

### **Implement Additional Effective School-wide Policies**

Discipline in schools can arouse 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 and administrators must follow. To give an example, if a school implements a tardy policy that all teachers and administrators follow, tardies will decrease. On the other hand, if teachers are expected to handle this issue individually, some will do a better job than others, and tardies will have a tendency to increase.

### **Maintain High Expectations**

From school administrators to teachers, schools must establish high expectations for both academic achievement and behavior. The expectations need to include messages of encouragement and means of support to help all learners for them to succeed.

## **DISCUSSION**

In most cases, teachers in schools confuse discipline with punishment. Discipline and punishment are two different things as Salim (2014) explains. Punishment is different from discipline and impacts the learner in different ways. Discipline refers to a way of behavior that shows respect and responsibility. The goal of discipline is for the learner to develop self-discipline

through their own efforts (intrinsically) rather than through the efforts of another (extrinsically) by means of monitoring, threats, fear and force. Punishment comes from outside by someone, and it does not promote or allow self-discipline to be achieved, therefore, punishment generally stops the behavior for the moment but does not have positive long-term outcomes. Salim (2014) goes further to differentiate discipline from punishment as follows. Punishment emphasizes what a child, in this regard, a learner should not do, while discipline emphasizes what a child should do. Punishment occurs once, while discipline is a process, which is ongoing, punishment insists on submission while discipline sets an example to follow, punishment undermines independence while discipline leads to self-control, punishment is an adult proclamation and is 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 themselves, punishment thinks for children while discipline encourages the children's ability to think for themselves, punishment defeats self-esteem while discipline encourages self-esteem, and lastly, punishment condemns misbehavior while discipline encourages self-disciplined behavior (Salim 2014).

## **CONCLUSION**

The 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 now 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 incidences 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, ev-

ery learner has the right not to be treated or punished in a cruel, inhuman, or degrading manner. Recommendations stated below may serve as alternatives 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, should be amended. The re-introduction of morning assembly in schools where the Bible is read and hymns are sung can make an impact on moral and value-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 should be introduced where a number of learners are grouped under a number of educators. For example, ten learners may have one educator as their mentor. That mentor may serve as a role model to the learners.
- ♦ There should be introduction of social workers in schools.
- ♦ Parents must serve as exemplaries to their children and be involved in raising their children in acceptable standards, values and ethics of life in society.

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