DISCIPLINING STUDENTS through restorative justice
An alternative approach to corporal punishment

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The use of corporal punishment is rampant in the schools. Literature has shown that the negative effects of corporal punishment as pathway of correcting indiscipline far much outweigh the positive effects it has on behaviour modification. Corporal punishment has pernicious effects on students’ psychological function. Students subjected to punishment learn under fear and are very anxious. A learning environment characterized by fear and anxiety does not yield desired learning outcomes. If corporal punishment leads to maladaptive behaviours, then an alternative approach must be found. Some psychologists have suggested the use of restorative justice.

Key words: Restorative justice, corporal punishment, behaviour modification

INTRODUCTION

Incidences of student indiscipline in the schools have increased rapidly. Common cases of indiscipline or maladaptive behaviour include among other things petty thefts, threats, bullying, and scolding. Schools on the other hand have employed various forms of punishment such as exclusion from lessons, and the more serious one, corporal punishment. The Stanford Encyclopedia of Philosophy defines punishment as the authorized imposition of deprivations—of freedom or privacy or other goods to which the person otherwise has a right, or the imposition of special burdens—because the person has been found guilty of some criminal violation, typically involving harm to the innocent (Bedau, 2010).

Punishment is constituted by imposing some burden or by some of deprivation or by wit holding some benefits (Mangen, 2012). Punishment is imposed on persons who are believed to have acted wrongly. So punishment should not be meted on those who are presumed to be innocent because that will be interpreted as unjust. In a school situation teachers usually apply punishment on innocent students and that is perceived by students as grossly unjust. Such erroneous application of punishment on innocent students tends to breed animosity between the teacher and the victim student.

Punishment serves particular purposes or fulfills certain aims. Some punishments fundamentally serve a rehabilitative function while others are meant to act as a deterrent to prospective offenders. Theories have emerged in mitigation of punishment in the schools. The Desert theory explains that a person should be burdened for his wrongful behaviour because he deserves to be; the worse the wrong the more control he had over it, the harsher a penalty is deserved and hence should be imposed (White, 1994). This theory advocates for punishment as a means for the perpetrator to pay back for the wrong doing.

Another in favour of punishment is the Expressive theory. Theory claims that punishment should be to treat the offender as responsible for his behaviour to affirm the value of his victim, or to disavour wrongful actions (White, 1994). The theory holds that the worse the offense and the more responsible the offender is for it, the stronger the expression of disapproval must be and hence the harsher the punishment should be (White, 1994).

The retribution theory claims that punishment involves a paying back by the offender for his offence. Kant’s retributive theory of punishment emphasizes that criminals must pay for their crimes (Mangen, 2012). The
theory is primarily concerned with restitution but is not concerned with the victim’s feelings and the perpetrator’s views. It is not concerned with the offender-victim’s future relationship.

Some advocates for punishment believe that it acts as a deterrent for potential offenders. The Deterrence theory or utilitarian theory argues that punishment deters the offender and potential other offenders from committing similar crimes in future (Mangena, 2012). In a school situation the theories implies that if student Z commits a crime, the punishment meted should deter student X from committing similar crime. The theory does not bring the offender and the victim to pour out their feelings and determine whether justice has been achieved. It leaves the offender and victim relationship being antagonistic.

Corporal punishment refers to intentional application of physical pain as a method of behaviour change (Straus, Mauradian, 1998). It includes a variety of methods such as hitting, slapping,-spanking, punching, kicking, pinching, shaking, shoving, choking, use of objects such as wooden paddles, belts, sticks, pin, painful body postures and use of excessive drills or prevention of urine or stool elimination.

For punishment to be applied the following conditions had to be met;
1. It must be painful and unpleasant.
2. It must be an offense against legal rules.
3. It must be for actual offender.
4. It must be intentionally administered.
5. It must be administered by an authority.

Application of corporal punishment is still quite rampant even though most governments have banned it. Current studies show that physical punishment or corporal punishment is more common in kindergarten through eighth grade (versus high schools, in rural schools (versus urban) in boys (versus girls) (Geshoff, 2007).

Evidence abound which show that corporal is an ineffective method of discipline and has major deleterious effects on the physical and mental health of those on whom it is inflicted (Straus, and Mauradian, 1998: Hyman, 1996). Advocates against the use of corporal punishment in schools generally contend that it is an ineffective form of correcting child misbehaviour (Gershoff, 2007). Also medical findings show that corporal punishment may cause severe muscle injury, extensive hematomas, whiplash damage, life threatening fat hemorrhage, and others including death (Center for Effective Discipline, 2008). Campaigners of Corporal punishments often cite the old testament book of Proverbs chapter 13: “Those who spare the rod hate their children”, but those who love them are diligent to discipline them. This tends to guide those parents who support spanking. No wonder that in the USA, corporal punishment retains a huge wellspring of national support. A study done in 2005 by Survey USA showed that 72% of the American parents believe ‘it is ok to spank a child’. There have been unsubstantiated statements that corporal punishment enhances moral character. There is however no substantial evidence that physical punishment indeed facilitates the development of moral character, increase student respect for teachers or other authority figures in general or offer greater security for the teacher (Gershoff, 2007; Hayman, MacDowell and Rains, 1977). Additionally there no data demonstrating that students subjected to corporal punishment in schools develop enhanced social or self-control skills (Hayman, 1996; Greydanus et al. 2003).

Effects of corporal punishment on school academic success
Heyman et al., 1977; Hayman, 1996; Greydanus, 2003, persistently asserts that approximately one half of students who are subjected to severe punishment develop an illness called Educationally Induced Post-Traumatic Stress Disorder (EIPSD). This mental imbalance is induced by significant stress. The victims experience difficulty sleeping, fatigue, feelings of sadness, worthlessness, suicidal thoughts, anxiety episodes, increased anger, out bursts of aggression, deteriorating peer relations, difficulty with concentration, lowered school achievement, antisocial behaviour, intense dislike of authority, somatic complaints, school avoidance, school drop-out and negative high risk adolescent behaviour (Dudnnoski, Inaba and Gerkewics, 1983).

Research has also shown that punished students become more rebellious and are more likely to demonstrate vindictive behaviour, seeking retribution against school official officials and others in society (9). This has led some researchers to claim that the more corporal punishment is used in schools, the higher is the rate of student violence and homicide (Straus, 1996). Punishment engenders a visceral disrespect for the school authority. Corporal punishment is associated with children’s aggression and other antisocial behaviours towards peers, siblings and adults (Gershoff, 2002). Corporal punishment legitimizes violence for children in interpersonal relationships because they tend to internalize the social relations they experience (Vygotsky, 1978). The Social Learning theory (Bandura, 1969), claims that physical punishment enables children to learn aggressive behaviour through modeling. Gershoff’s (2002) meta-analysis reviewed 27 studies in childhood and four in adulthood looking at the relationships between physical punishments was associated with child aggressive behaviour. The study showed a consistent link between the use of corporal punishment and
delinquent and antisocial behaviour.

**Cognitive effects**
The Socio-cultural perspective on development suggests that children's cognitive development emerges out of social interactions (Smith, 2005). Social relationships and collaborative learning between peers and relationship between children and teachers influence children's learning and motivation to learn. Verbal methods of discipline (explanations and reasoning) provide the child with more cognitive stimulation than the use of corporal punishment (Straus, 2001). Frequent use of punishment making less use of inductive methods of discipline (explanation and reasoning) may result in poorer cognitive outcomes. A number of studies have shown a strong association between harsh discipline and poorer academic achievement (Straus, 2001; Straus and Paschall, 2003). A study by Arcus (2001) revealed there were significantly more fatal school shootings in states that permit corporal punishment in schools than those that do not.

Corporal punishment impacts negatively on the learning environment. It constructs an environment of education that can be described as unproductive, mollifying and punitive. It is argued that corporal punishment destroys children's confidence and security; even those children who witness this type of abuse are robbed of their learning potential (Lynnette, 2001; Greydanus, 2003; Mallot et al., 2000). Learners who are subjected to corporal punishment develop magnified guilt feelings, and various anxiety symptoms. This can have baneful results in the psychosocial and educational development of these children (Lynnette, 2001 and Greydanus, 2003) resulting in learners getting lies and not more learning. In such aversive learning environments open communication which is so vital in education is rendered ineffective.

Corporal punishment encourages children to be violent through vicarious learning as see their teachers using it. A misperception is assumed that violence is acceptable especially against the weak, defenseless and subordinate.

Corporal punishment is a redundant approach to discipline that can change behaviour momentarily but is useless in the long run.

**Mental health**
Geoff (2002a) reviewed 12 studies on physical punishment and mental health. Researcher have revealed that victims of corporal punishment often develop deteriorating peer relationships, difficulty with concentrating, lowered school achievement, antisocial behaviour, intense dislike of authority, somatic complaints, a tendency for school avoidance and school drop-out and other evidence of negative high risk adolescent behaviour (Greydanus et al., 2001).

It is from the realization that corporal punishment has fewer benefits than previously held that many nations such as Britain, Kenya, Sweden, South Africa, have banned the use corporal punishment in the schools. The UN Convention on Right of The Child protects children from all forms of physical or mental violence. The Convention on Rights of the Child ratified by all states except the USA and Somalia puts an obligation on governments to take the appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence while in the care of parents, legal guardian or any other person who has the care of the child (article 19(1)). The Convention suggests that no child shall be subjected to torture or other cruel, human or degrading treatment or punishment (article 37(a)). This Convention can be interpreted to mean outright prohibition of corporal punishment.

It is clear that education must be provided in a way that respects the inherent dignity of the child and enables the child to express his or her views freely in accordance with article 12(1) and to participate in school life. The Convention further requires schools to be child-friendly in the fullest sense of the term and that they be consistent in all respect with the dignity of the child. Finally the use of corporal punishment does not respect the inherent dignity of the child nor the strict limits on school discipline.

Various organizations have voiced against the use of corporal punishment in schools. The African Charter on the Rights and Welfare of the Child requires states to ensure that discipline by parents and at school respects the child's human dignity (articles 16 and 17). Also the Organization of the Islamic Conference (OIC) confirmed the obligation of member states to prohibit all corporal punishment and other cruel or degrading forms of punishment or treatment of children in all situations including within schools and within the family.

Some may argue that they apply corporal punishment in order to discipline the learner. A clear distinction must be made between punishment and discipline. Physical punishment is the use of force to cause pain for the purpose of correction or control (Straus and Stewart, 1999). Punishment is abusive. We have already argued that punishment steals away the learner's rights. That is not discipline. Discipline is the guidance of children's moral, emotional and physical development, enabling children to take responsibility for them when they are older (Holden, 2002). It entails teaching the moral boundaries of what is acceptable and what is not in society. Generally, there are two types of discipline: positive and negative discipline. Positive discipline
involves teaching the child to understand acceptable behaviour. Negative focuses on doing what you are told in order to avoid something unpleasant (Smith, 2005).

From the foregoing it is evident that corporal punishment is an ineffective, dangerous and unacceptable method of discipline. Nonviolent disciplinary measures should be utilized in the school system (Gershoff et al., 2007; Poole et al. 1991). Some educationists are appealing for restorative justice as an alternative way of correcting misdemeanors by students.

Marshall (2003) defines restorative justice as a process whereby all the parties with a stake in a particular offense come together to deal with the aftermath of the offense and its implications for the future. It is a deliberative process of face to face negotiation and resolution of a criminal offence. It is fundamentally a collective enterprise to restore justice in a setting. In schools restorative justice refers to the need to restore good relations when there has been conflict or harm thus developing a school ethos that reduces the possibilities of conflict arising (McChisckey et al., 2008).

It is claimed that if restorative justice can improve school environment, enhances learning and encourage young people to become more responsible and empathetic if employed in the schools system.

The concept restorative justice

Restorative justice is closely linked to The African Philosophy of Ubuntu and the traditional justice system which was mainly concerned with reconciliation and correcting what went wrong (Skelton and Batley, 2006). Restorative justice is therefore a philosophical framework rather than a specific program (Hinesa and Bazemorib, 2003). Restorative justice is fundamentally concerned with the need to repair harm caused to the victim, school and community. It brings together the offender, victim and school in a problem solving situation.

Restorative justice is an approach to justice that focuses on repairing the harm caused by the crime while holding the offender responsible for his/her actions, by providing an opportunity for the parties directly affected by crime (victim) school and offender to identify and address their needs in the aftermath of the crime (Cormiere, 2002) and seek resolution that affords healing, reparation and integration and prevents future harm. Restorative justice promotes community reintegration of the offender, rather than exclusion resulting from punitive punishment.

Restorative justice is a collaborative decision-making process that includes victims, offenders, and others seeking to hold offenders accountable by having them (a) accept and acknowledge responsibility for their offences, (b) to the best of their ability repair the harm they caused to victims and communities, and (c) work to reduce the risk of re-offence by building positive social ties to the community (Karp, 2013).

Victim-offender-mediation

The victim offender mediation (VOM) is emotionally loaded. This requires the offender to deal with their own emotions of the victim and emotions of the support group (Abrahams et al., 2006).

In Restorative justice the offender should participate actively in the restorative process. He/she should speak about the circumstances surrounding the crime, the effect that the crime has had on them and take responsibility for their actions. The offender then apologizes and show remorse in an attempt to repair the damage caused materially and symbolically (Doolin, 2007).

Restorative justice requires the offender to take responsibility and show remorse and prevents the offender from re-offending. The process also empowers the victim by giving them a voice and to assist them in coping with the crime. The offender should have moral-cognitive maturity to know that what they did was wrong and that it affected the victim (Presser, 1999). In the mediation the offender feels guilt, shame nervousness, anxiety, remorse, relief, closure and satisfaction.

CONCLUSION

Effectiveness of restorative justice

A study of restorative justice in some American Schools by Karp (2001) has shown that restorative justice is very effective in controlling learners’ maladaptive behaviours. The study showed that Seward Montessori Elementary School witnessed a 27% reduction in the number of suspensions and expulsions during the year of introducing restorative justice. At Lincoln Centre Elementary School violent behaviour decreased by more than half and reported violence dropped from 7 to 2 per day. The study further reported dramatic reduction of major disciplinary actions at Princeton High School and South St Paul High School.

A study of 1480 secondary students whose average age was 12 years by Wong and Lo (2010) revealed that bullying behaviour in the intervention group dropped significantly. The intervention group’s self-esteem rose considerably over the period. In the control group bullying behaviour increased considerably. The results suggest that the fully implemented restorative justice program had positive effects on combating bullying behaviour.

Schools that use restorative justice seek to reintegrate the offender into the school community by educating them about the effect of their actions. We argue that teachers use the traditional punishment because they are less knowledgeable about restorative justice. Introducing restorative practices in schools is not straightforward. It requires considerable forethought and prior planning,
negotiation and deliberation. Restorative justice requires that schools do not own or completely control the process, but have to learn to be responsive to families and local voluntary community groups who are, potentially, important sources of additional support for schools in addressing student behaviour that is seen as problematic.

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1. Restorative Justice Conferences. This model focuses on the facilitated dialogue between offender and harmed parties. After a discussion of the harm, the parties (rather than the hearing officer or board) decide what steps the offender can take to repair the harm. Trained facilitators guide the dialogue.

2. Dare as a form of Restorative Justice. These are similar to RJ conferences, but borrow practices from indigenous traditions, especially the Shona African traditional way of restoring justice. But they are conducted like a RJ conference or circle. Harmed parties are invited, but are not needed for the board to proceed. While RJ boards retain the ability to have private deliberations and make their own determinations about sanctions, these practices are avoided to increase the active participation of offenders and harmed parties.

3. Restorative Justice Administrative Hearings. Because most campuses rely on one-on-one administrative hearings to manage their caseloads, many have incorporated restorative practices into their hearings. Typically, this would include an emphasis on identifying what harm was caused by the offense and how the student can repair it. It can also include inviting harmed parties to participate in the hearing, essentially transforming the hearing into a RJ conference.

REFERENCES

Bible, Proverbs chapter 13. King James Version

Center for Effective Discipline: Discipline at School (NCACPS: US; Corporal Punishment and Paddling Statistics by State and Race


