

Utilitarian View on Persistent Use of Corporal Punishment in Secondary Schools in Kisii Central Sub County, Kenya

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Abstract: *The outlawing of corporal punishment (CP) in Kenya's schools in the year 2001 was a significant step towards promoting education achievement in the country. However, the implementation of the ban has not been successful in most schools due to certain challenges inherent within the Kenyan society and its education system. The utilitarian justification of the ban is still in contention among stakeholders with some pushing for its full implementation while others condone it, as evident in some areas such as Kisii Central Sub County. A critical evaluation of the continual use of CP from a utilitarian perspective such as John Stuart Mill's utilitarian theory has not been done. Thus, this study sought to critically analyze the utilitarian view on persistent use of CP in secondary schools in Kisii Central Sub County of Kenya. Survey research design was employed targeting students, class teachers and school principals. Stratified random sampling was used to obtain a sample size of 559 respondents. Questionnaires were used for data collection. The findings revealed that teachers and parents had a traditional view of CP and also felt that it was both economical and expeditious in resolving disciplinary matters. However, it was also established that the students perception of CP was that it was unnecessarily painful with no recognizable value in reforming their behaviour. These divergent views led to the conclusion that the continual use of CP did not yield the expected greatest happiness for the greatest number of individuals in the schools as espoused in Mill's utilitarian theory. The study recommends that all the education stakeholders in the area especially the parents be enlightened on the utilitarian value of school discipline as espoused in Mill's utilitarian ethics in order for them to embrace other non aversive disciplinary interventions. Also, teachers and students need to be encouraged to frequently dialogue on disciplinary matters with the view of inculcating self discipline among learners.*

Key words: *Corporal Punishment, Student Discipline, Utilitarian View*

I. Introduction

Punishment is the intentional infliction of pain or some kind of unpleasantness on the offender by someone in authority as a consequence of a breach of rules (Hornby, 2005). Middleton (2005) also observes that punishment is a social institution involving the deliberate infliction of pain or unpleasantness by someone in authority on another person for some wrong done by that person. The pain or unpleasantness resulting from punishment may be physical or psychological (KAACR, 2007). Corporal punishment (CP) falls under physical punishment just like menial work, whereas reprimand and seclusion falls under psychological form of punishment. Kiprop and Chepkilot (2010) argue that CP is a form of physical punishment characterized by the deliberate infliction of pain on persons as retribution for an offence, or for the purpose of disciplining or reforming an offender, or to deter a behavior deemed to be unacceptable. This form of punishment has been used extensively in the school system in Kenya and other parts of the world to instill some form of discipline among learners. School based corporal punishment (SBCP) involves any deliberate or intentional infliction of pain or unpleasantness by teachers to student offenders through physical means. In Kenya, the most common forms of SBCPs include: caning, whipping, slapping, kneeling and menial labour among others. These punishments are normally meted to learners for indiscipline cases such as; lateness for school, truancy, fighting, rudeness, theft, drunkenness, smoking, bullying, noise making and other errant behaviors (UNICEF, 2010).

Corporal punishment (CP) as a means of enforcing discipline among school age children still remains a point of contention across many countries, communities and cultures globally. For instance, in the Asia and Africa, CP is still widely practiced as a means of disciplining errant individuals in the domestic, judicial and educational settings (UNICEF, 2010). However, in the Western world, there has been almost a total ban on CP especially on children both at school and at home. Similarly, in most countries in the Far East, particularly, China, Japan, Taiwan and Korea, it is illegal to punish one's own child using physical means (KAACR, 2007). In Africa, some countries such as, Burkina Faso, Ethiopia, Namibia, South Africa and Kenya have also taking significant steps to abandon the practice and have put legal constraints to prohibit CP of children in the educational context on the grounds that it amounts to torture (HRW, 2008). In Kenya, CP was banned in year 2001 by the Government through Legal Gazette Notice No.56 (Republic of Kenya, 2001). This action was in response to the demands of the United Nations Convention on the Rights of the Child (UNCRC) which Kenya

ratified in 1990, a year after it had been promulgated. This ban was later given legal backing by the enactment of the Children's Act (2001). In addition, under the Kenya Constitution (2010) and the Education Act (2012), CP in all its forms is outlawed. Indeed, through these legal steps Kenya has demonstrated her commitment to safeguard the rights of children against any form of abuse, and now joins hands with many other international human rights bodies, that have taken a strong stand against CP on the ground that, it may rise to the level of torture and that it infringes upon a child's right to education (Odongo, 2004).

Corporal punishment finds its anchoring mostly in cultural, religious, traditions and other belief systems that are perceived to favour the practice (UNESCO, 2011). For example, in some countries in Africa and the Far East, most people still believe that minimal use of CP for their children is both appropriate and necessary (Kimani, Kara & Ogetange, 2012). Proponents of this view contend that CP is inevitable, and to some extent a natural accompaniment in the process of living and ultimately to the maintenance of order and discipline in society (Kubeka, 2004). In this regard, most educational institutions in these countries often get blamed by the wider society for being soft and hence a willing party to indiscipline whenever cases of students indiscipline escalate. The softness implied here is in the fact that the teachers do not impose 'sterner discipline', that is, CP to instill school discipline (Ndofirepi et al, 2012).

What is, however, lacking from the discourse on the merits and demerits of the use of CP and other alternatives in enforcing or encouraging student discipline is the utilitarian perspective of these methods. The present study sought to explore the utilitarian justification to the continual use of CP by certain stakeholders on the premise of Mill's theory of utilitarianism. Mill's theory holds that human actions and social institutions are right in proportion as they enhance happiness and wrong as they tend to produce pain (Mill, 1979). In this case, happiness means pleasant while pain means unpleasant (Nocross, 2009). The principle of utility refers to a guiding doctrine through which moral agents can approve or disapprove of every action in regard to its tendency to increase or decrease the happiness of the party whose interest is in question; be it the individual or the community (Sheng & Qinglai, 2004). In light of this principle, the object of every human action and work should be to foster happiness and reduce evil or unhappiness to those concerned (Soifer, 2009). Consequently, in the school context, teachers as well as students ought to abstain from acts that are likely to be injurious to either party and hence jeopardize the derivation of full "happiness" by all from the educational enterprise (Sheng & Qinglai, 2004). Indeed, under such circumstances meaningful learning cannot take place but on the contrary it creates apathy and withdrawal, which leads to failure to achieve one's goals in the school (MOE, 2009).

In the African context, the teachers' perceptions of CP do not contrast considerably with that of the learners. For example Gichuru (2005) and Mwai, Kimengi and Kipsoi (2014) established in their studies conducted in different parts of Kenya that most teachers still preferred use of CP to its alternatives like guidance and counseling (GC). Their contention being that certain cases warrant the use of this form of discipline as the ultimate solution. Other researchers (Gernoe & Manner, 1997; Renate and Sabine, 1995; Durajaye, 1976; Riak, 1996; Kerby, 2008) contend that the appropriateness of disciplinary methods is also determined in part by a child's perception of the legitimacy of the method. However, this perception was also tied to the child's age as indicated by Riak (1996) corporal punishment works well with young learners.

The ban of CP in Kenya, however, has continued to elicit mixed reactions from different education researchers and has since its inception remained a subject of debate for many people (Kimani et al, 2012). For instance, studies by Ngugi (2007) and Khatete and Matanda (2014) in Kenyan schools found out that while some parents, teachers and school administrators favour the use of CP on grounds that it is the ultimate solution to indiscipline in schools, others (The UN Committee on the Rights of the Child, 2007; HRW, 2007; Unicef Asian Report, 2001 & Cicognani, 2004) are strongly opposed to its use arguing that CP does not curb misbehavior but rather reinforces it and aggravates the pupils' view of adults as treacherous. According to Gitome et al. (2013), poor parenting coupled with the ban of CP in schools contributes greatly to indiscipline. As such, some educators contend that they could not have their hands tied yet they are expected to fulfill their primary obligation of moulding a responsible future adult. This being the case then, coupled with the apparent failure of alternative disciplinary interventions such as Guidance and Counseling (GC), makes some of the educators view the 'sparing of the rod' as a cause of increasing indiscipline in some schools in the country. Consequently, the imposition of CP on students by educators has apparently remained to be a regular school experience for learners especially in primary and secondary schools (Mwai et al., 2014).

Under the Kenyan Constitution (2010) and the Education Act (2012), CP in all its forms remains outlawed. Through these legal instruments, the Government has demonstrated its commitment to safeguard the rights of school children against any form of abuse, and hence a significant step towards promoting education achievement in the country. Despite the ban of CP, some schools, such as, secondary schools in Kisii Central

Sub County in Kenya continue to use it as a way of enforcing discipline among students. Whereas there have been mixed views concerning the ban and its outcome in promoting student discipline, most of the arguments have been premised on socio-cultural justification. A utilitarian view of CP is thus lacking in many of these discourses. Hence, there was need to examine CP from a utilitarian perspective.

II. Research Design And Methodology

The study adopted the survey research design which was complemented with philosophical reflections, such as, the critical, conceptual analysis and phenomenological approaches (Njoroge & Bennaars, 1986). This study was conducted in secondary schools in Kisii Central Sub-County, Kenya. The study targeted 950 students, 480 class teachers and 73 school principals in the area. A total sample size of 559 respondents was obtained using stratified random sampling. Pretested structured questionnaires were used for data collection. Reliability of the questionnaire was determined using Cronbach’s coefficient alpha to determine the consistency of the test items. The study obtained a Cronbach alpha $\alpha = 0.825$ which was way above the recommended minimum value of 0.70 thus rendering the instrument reliable for the study purposes. Data was analyzed using descriptive statistics with the aid of the Statistical Package for Social Sciences (SPSS). Critical analysis, conceptual analysis and phenomenological approach were used to interpret the data from a philosophical perspective.

III. Results And Discussions

This section presents results arising from the analysis of data collected using questionnaires.

The Extent of Persistent Use of CP in Secondary Schools

The study first sought to determine the extent to which CP was used to maintain student discipline in secondary schools in Kisii Central Sub County of Kenya. The results summarized in Tables 1 and 2 indicate that:

- Majority (75%) of the teachers knew the meaning CP and that most (93%) of them understood this practice was unlawful in all its forms. Nevertheless, 61% of them admitted to its use occasionally on individual discretion. Moreover, 57.1% of them held that they were not under pressure to use CP since both the BOM and administration (53.6%) supported its ban in their schools.
- In comparison to teachers, only 62% of students were sure about what really constituted CP and whether they were prohibited by law. However, 42% of the students indicated that CP was still in use in most schools albeit to a small extent, with (46%) of them attributing this phenomenon to parental support and lack of commitment by school BOM in upholding its ban.

Table 1: Teachers Responses on Extent of CP Use in Secondary Schools

Statement	SA Freq(%)	A Freq(%)	N Freq(%)	D Freq(%)	SD Freq(%)
Teachers clearly know that CP encompasses all forms of physical infliction of pain on learners by teachers	73(43)	54(32)	24(14)	12(7)	7(4)
All teachers in our school are aware that all forms of CP on learners are prohibited in Kenya	91(54)	66(39)	12(7)	0	0
Teachers often use corporal punishment to discipline learners in our school	16(7)	120(53.6)	40(17.9)	48(21.4)	0
Teachers are under pressure to always use corporal punishment in our school	40(17.9)	48(21.4)	8(3.6)	72(32.1)	56(25)
The board of management and the school administration supports the ban of corporal punishment in our school	40(17.9)	80(35.7)	48(21.4)	32(14.3)	24(10.7)
The ban of corporal punishment has not been implemented successfully in our school	0	96(42.9)	32(14.3)	64(28.6)	32(14.3)

Table 2: Students Responses on Extent of CP Use in Secondary Schools

Statement	SA Freq(%)	A Freq(%)	N Freq(%)	D Freq(%)	SD Freq(%)
Most common forms of indiscipline among students in our school are disruptive to learning	67(25)	99(36)	41(15)	36(13)	29(11)
Students in our school know that corporal punishment is prohibited	38(14)	66(24)	79(29)	50(18)	39(14)
Teachers are compelled by our parents to always use corporal punishment in our school	45(17)	69(25)	55(20)	57(21)	46(17)
	29(11)	48(18)	71(26)	67(25)	57(21)

Our school's administration supports the ban of corporal punishment					
Corporal punishment is used to a large extent in our school to instill discipline on learners	50(18)	52(19)	56(21)	70(26)	44(16)
Our school uses prefects to administer different forms of corporal punishment to errant students	41(15)	58(21)	49(18)	78(29)	46(17)

Perceived Utilitarian Happiness Associated with the Persistent Use of CP

The study also sought to determine the perceived utilitarian happiness associated with the persistent use of CP in secondary schools in Kisii Central Sub County of Kenya. The results presented in Tables 3 and 4 indicate that there were conflicting views among the respondents regarding the perceived utilitarian happiness associated with the persistent use of CP in their schools. Notably,

- Half (50%) of teachers held that CP was not an unnecessary infliction of pain on learners that had no value in reforming their behaviour, while 64.2% of them felt it could not be attributed indiscipline cases in schools. Moreover, 64.3% of teachers opined that CP did not interfere with the normal development of the student's physical, mental and psychological health. In addition, 53.5% of teachers thought that CP was not abusive nor did it amount to a violation of the children's basic human rights. These results are highly indicative of the teachers disposition to use CP on students to enforce discipline.
- Conversely, most (41%) of the students affirmed that CP was an unnecessary infliction pain on them, with 38% holding that its use did not contribute to long-term change in their character. Also, it can be seen that majority (54%) of students were of the opinion that CP was abusive and that its perpetual use amounted to a violation of their basic human rights. Moreover, the findings suggest that most (46%) of them were of the feeling that CP did not necessarily help them perform highly in academics, nor did it help them develop a sense of moral decision making. Nonetheless, 42% of students held that CP inculcated some level of discipline among learners with 45% of them attributing indiscipline cases in schools to its ban.
- It can also be deduced from the findings in both tables that half (50%) of teachers and 42% of students were in agreement that CP degraded the dignity and physical integrity of learners. A similar proportions also indicated that CP made the students timid and hence interfered with their free participation in learning.

Table 3: Teachers Views on Utilitarian Happiness Associated to Persistent use of CP

Statement	SA Freq(%)	A Freq(%)	N Freq(%)	D Freq(%)	SD Freq(%)
It is abusive and violates a child's basic human rights	32(14.3)	56(25)	16(7.1)	72(32.1)	48(21.4)
It causes pain without reforcing the learner's character	16(7.1)	72(32.1)	24(10.7)	104(46.4)	8(3.6)
It debases the dignity and physical integrity of learners	24(10.7)	88(39.3)	24(10.7)	72(32.1)	16(7.1)
It interferes with the normal development of the learner's physical, mental and psychological health	0	24(10.7)	56(25)	80(35.7)	64(28.6)
It makes the students timid hence interferes with their free participation in learning	24(10.7)	88(39.3)	32(14.3)	56(25)	24(10.7)
Ban of corporal punishment contributes to indiscipline cases in secondary schools to some extent	16(7.1)	48(21.4)	16(7.1)	128(57.1)	16(7.1)

Table 4: Students Views on Utilitarian Happiness Associated to Persistent use of CP

Statement	SA Freq(%)	A Freq(%)	N Freq(%)	D Freq(%)	SD Freq(%)
CP had no value on maintaining standards of discipline in schools	45(17)	63(23)	50(18)	59(22)	55(20)
CP did not promote high academic achievement of learners	57(21)	68(25)	46(17)	51(19)	50(18)
CP does little to help learners in moral decision making	61(22)	66(24)	44(16)	55(20)	46(17)
CP was not contributing to long-term behaviour change in learners	47(17)	56(21)	70(26)	59(22)	40(15)
CP is not is abusive and does not violate one's basic human rights as a learner	35(13)	44(16)	46(17)	79(29)	68(25)
CPcauses pain without reforming the learner's character.	50(18)	62(23)	60(22)	52(19)	48(18)

CP debases your dignity and physical integrity	49(18)	64(24)	57(21)	52(19)	50(18)
CP makes learners timid hence lowers their free participation in learning	47(17)	69(25)	55(20)	51(19)	50(18)
The ban of corporal punishment contributes to indiscipline cases in secondary schools to some extent	58(21)	65(24)	48(18)	54(20)	47(17)

IV. Discussions

The foregoing views of the teachers regarding the persistent use of CP in secondary schools of Kisii Central was informed by the premise that it was not an unnecessary infliction of pain on learners that had no value in reforming their behaviour. Moreover, its use could not be attributed to indiscipline cases in schools. Even among those who did not expressly sanction its continual use, there were admissions that its use was a 'necessary evil' in the absence of other disciplinary measures. However, among students, continual CP use failed to have a corresponding positive impact as expected on their academic achievement, moral decision making, long term behaviour modification and overall improvement in education in the school among other utilitarian goods. Thus, these findings indicate that the persistent use of CP only fosters externally imposed discipline, which is a lower order discipline in comparison to self discipline (Adams, 2013). The findings that most of the teachers often punished errant students through CP, while at the same time acknowledging that the BOM and administrations in their schools supported its ban, agrees with Ngugi (2007) who found out that while some education stakeholders maintained that the use of CP was the ultimate solution to indiscipline in schools, others were strongly opposed to its use arguing that it causes unnecessary pain to its recipients without curbing misbehavior. The pain or unpleasantness resulting from CP can be physical or psychological (KAACR, 2007), which its proponents believe can bring character reformation in the offenders or deter any potential misbehavior in them (Kiprop & Chepkilot 2010). This was also evident from the findings where majority of the students expressed their disapproval of CP saying it was unnecessarily abusive and had no value in reforming their behavior.

The discordance evident in the findings among both groups of respondents regarding CP point out to the lack of greatest happiness for the greatest number of individuals associated with its use in the school. Most teachers appear inclined to persistently use CP while its merit among students who are becoming more sensitized on their rights is waning. In the light of Mill's utilitarian ethics, human actions are motivated by pleasure and pain; pleasure prompts people to act, while pain switches people off from the action (Wolff, 1992). However, this does not imply that both pain and pleasure should be used in a complimentary fashion. The premise that pain leads to pleasure has always been misconstrued by the proponents of CP who often recommend the infliction of pain to instill discipline among learners. The contention has always been that inflicting pain on errant learners is a necessary evil in order to produce greater pleasure in the future, a view that UNICEF (2010) negates arguing that CP is of little or no utilitarian value in terms of character reform to its victims and deterring others from committing related offences. According to the Ministry of Education (2009), continual use of CP could be injurious to the learners and breed hostility between them and their teachers. Indeed, under such circumstances meaningful learning cannot take place but on the contrary it creates apathy and withdrawal, which leads to failure to achieve in school.

V. Conclusions

It is evident from the preceding findings and discussions that there was still persistent use of CP in secondary schools in the area despite its official ban. Mixed views emerged concerning its use among both teachers and students. Essentially, CP was perceived by most parents and teachers as a necessary punitive practice that was effective in reforming the learners' behaviour and that its 'proper' use did not harm their dignity and physical integrity. Though not all teachers used it, they justified it on the grounds that it was economical, effective and expedited the punitive processes. The contention was that not all offences warranted GC and other alternative forms of punishment which were conceived to be lengthy and more demanding. However, for the students, the use of CP was degrading and was of no value in reforming their character. This premise meant that most stakeholders in education had a narrow perception of the utilitarian good envisaged in the outlawing of SBCP and hence this partly explains why some of them favoured its perpetual use. Thus, it can be concluded on the basis of the diverging views among teachers and students that continual use of CP did not result in the greatest happiness for the greatest number of individuals as espoused in Mill's utilitarian theory.

VI. Recommendations

On the basis of the conclusions of the results of the study, the following recommendations are made:

- i. All the education stakeholders in the area especially the parents be sensitized on the philosophy behind the ban of CP so as to broaden their view of school discipline and hence encourage them to fully cooperate with the school authorities in upholding the ban.
- ii. In relation to the utilitarian happiness associated with the persistent use of CP, it is recommended that the teachers and students need to be encouraged to frequently dialogue on disciplinary matters and progressively embrace the available non aversive disciplinary interventions with the view of inculcating self discipline among learners.

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