Enforcing Discipline in Kenyan Schools while Respecting and Upholding Children's Rights

Justus M Mutia*

Abstract

This article critically examines the enforcement of discipline in Kenyan schools, emphasizing the need to uphold the role of discipline without violating students' rights. The study is organized into five key segments to provide a comprehensive analysis.

The first segment serves as the introduction, where the concept and definition of discipline in the school environment are articulated. It explores the importance of discipline as a foundational element that promotes a conducive learning atmosphere and moral development among students.

The second segment situates the discussion within the international legal framework, focusing on the grounding of children's rights. It reviews relevant international conventions and treaties, such as the United Nations Convention on the Rights of the Child (CRC), that establish the fundamental rights of children and provide guidance on how discipline should be administered in educational settings without breaching these rights.

The third segment analyzes the provisions related to school discipline within Kenyan law. This section scrutinizes national legal instruments, including the Children's Act, the Basic Education Act, and relevant constitutional provisions, highlighting their approaches to balancing discipline. The fourth segment examines the institutional and procedural framework for enforcing discipline in Kenyan schools. It considers the roles of various stakeholders, teachers, school administrators, parents, and legal bodies, in implementing disciplinary measures. This section also discusses the mechanisms in place

* LLM (University of Nairobi), LLB (Moi), PGD (KSL), Advocate, Commissioner of Oaths & Notary Public, Managing Proprietor for Mutia J. M & Associates Advocates and Lecturer at Daystar University School of Law. This paper was presented to Deputy Principals of Secondary Schools for Machakos County at a Workshop organized by Machakos County Kenya Secondary Schools Heads Association held at Mombasa Continental Hotel (26-29 May 2022) on 26 May 2022.

* LLM (UoN), PGD in Law (KSL), LLB (Moi), Advocate of the High Court of Kenya, Commissioner for Oaths, Notary Public, MKIM, and Lecturer Daystar University School of Law.

to ensure that discipline is administered fairly and in accordance with legal standards for enforcement while protecting students' legal and human rights.

In the final part, the article concludes by advocating for guidance and counselling as the most effective method of enforcing discipline. It argues that such an approach not only upholds discipline but also respects and safeguards the rights of students as enshrined in both national and international law. The article highlights that guidance and counselling foster behavioural correction through support and understanding rather than punitive measures, making it a vital tool for discipline enforcement in Kenyan schools.

1. Introduction

Discipline has been defined as a process of facilitating the development of children's knowledge and understanding, thereby optimising their development and strengthening their evolving capacities to actualise their rights.[1] In the *Black's Law Dictionary,*[2] it is defined in four dimensions as follows:

(i) Punishment intended to correct or instruct; especially, a sanction or penalty imposed after an official finding of misconduct, such as punishment or penalties (often termed "sanctions") imposed by a disciplinary agency on an attorney who has breached a rule of professional ethics;

(ii) Method of training people to control their behaviour and obey rules;

(iii) Control gained by enforcing compliance or an order; and

(iv) The ability to control one's behaviour so that one does what is expected or necessary.

In this paper, discipline in schools is understood as the process of ensuring students comply with established school rules, which is critical for creating a conducive learning environment. In this context, the responsibility for maintaining discipline within the school premises primarily rests with the teaching staff. However, the enforcement of discipline must always be exercised with due regard to the rights of children, which are safeguarded under both

1 Joan E. Durrant & Ashley Stewart-Tufescu, "What is "Discipline" in the Age of Children's Rights?" in The International Journal of the Childrens Rights (2017) 25, 359 < https://www.researchgate.net/profile/Joan-Durrant/publication/319043854_What_is_Discipline_in_the_Age_of_Children's_Rights/links/59dc1b21a6fdcc1ec89fae53/What-is-Discipline-in-the-Age-of-Childrens-Rights.pdf > accessed on(25 May 2024).

2 Bryan A. Garner (Editor in Chief), *Black's Law Dictionary* (10th Edn, Thomson Reuters, St. Paul, MN 2014) 562.

international and municipal law. These rights mandate that any disciplinary measures must uphold the child's dignity and avoid any form of cruel, inhuman, or degrading treatment. Thus, school discipline is to be administered in a manner that respects the best interests of the child while ensuring order and compliance with school regulations. This legal framework imposes a dual obligation on teachers to enforce discipline effectively yet lawfully, balancing the need for order with children's rights protection. The part that follows proceeds to discuss children's rights both under international and regional law.

2. Rights of Children under the International and Regional Law

A child has been defined as every human being below the age of 18 years.[3] Under international law, the main instrument is the 1989 Convention on the Rights of the Child[4] and the African Charter on the Rights and Welfare of the Child .[5] The Convention on the Rights of the Child builds on the 1948 Universal Declaration of Human Rights[6] and International Conventions on Human Rights.[7]

The Universal Declaration of Human Rights provides that 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'.[8] The term "no one" explicitly includes children, ensuring that all individuals, regardless of age, are protected from torture as well as cruel, inhuman, or degrading treatment or punishment. This inclusive language affirms that children are entitled to the same protections under the law as adults, shielding them from any form of corporal punishment. The Children Act, 2022 further reinforces this by clearly prohibiting any person from subjecting a child to corporal punishment or any other form of cruel treatment. This

3 See article 1 of the Convention on the Rights of the Child and section 2 of the Children Act, No. 8 of 2001.

4 Available at <http://www.kenyalaw.org/treaties/treaties/872> accessed on 24 May 2022. The Convention was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 entry into force 2 September 1990. Kenya signed it on 26 January 1990.

5 Available at <http://www.kenyalaw.org/treaties/treaties/14> accessed on(24 May 2024). The Charter was adopted by African Union in July 1990 at Addis Ababa, Ethiopia, and it came into force on 29 November 1999. Kenya acceded to it on 25 July .2000.

6 Adopted vide United Nations General Assembly Resolution 217(III); U.N. Doc A/810 at 71 (1948).

7 This refers to the 1966 International Covenant on Civil and Political Rights (ICCPR); 999 UNTS 171 and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), 993 UNTS 3.

8 See article 5 of the Declaration.

legal framework aligns with Kenya's constitutional provisions and international human rights obligations, emphasizing that children's dignity and protection are paramount and non-negotiable in all settings, including schools and homes. Therefore, the protection from such treatment is universal and applies equally to children. Then the Convention on the Rights of the Child provides that 'States parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention'[9]. It further imposes an obligation on all States Parties to ensure no child is subjected to torture or other cruel, inhuman or degrading treatment or punishment.[10]

The African Charter on the Rights and the Welfare of the Child spotlights that, 'States Parties…shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of a parent, legal guardian or school authority or any other person who has the care of the child'[11]. The responsibilities of the Child are also elaborately enumerated as follows:

(*a*) to work for the cohesion of the family, to respect his parents, superiors and elders at all times and to assist them in case of need;

(*b*) to serve his national community by placing his physical and intellectual abilities at its service;

(*c*) to preserve and strengthen social and national solidarity;

(*d*) to preserve and strengthen African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and to contribute to the moral well-being of society;

(*e*) to preserve and strengthen the independence and the integrity of his country;

(*f*) to contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African Unity.[12]

From the foregoing discussions, it is evident that international legal instruments impose a clear obligation on all actors involved in child care and education to ensure that the rights of the child are never infringed upon under the guise of

9 See article 28(2) of the Convention.

10 See article 37(a) of the Convention.

11 See article 16 of the Charter.

12 See article 31 of the Charter.

enforcing discipline. Specifically, the African Charter on the Rights and Welfare of the Child explicitly identifies parents, legal guardians, school authorities, and any other persons responsible for a child's care as potential perpetrators of rights violations.[13] Consequently, both parents and teachers are legally and ethically mandated to uphold the dignity of every child, refraining from any actions that could compromise their fundamental rights and freedoms. This duty requires a conscious effort to adopt disciplinary methods that respect the child's inherent dignity and safeguard their well-being. Upholding these standards is essential not only to comply with national and international legal frameworks but also to foster a nurturing and rights-respecting environment conducive to the child's development and learning. It emphasizes that[14] protecting children's rights is a shared responsibility critical to their overall welfare.

3. Rights of Children Under the Kenyan Law

The rights of children enshrined in international law are domesticated and enforced by member states through their municipal legal frameworks. In Kenya, the Constitution of Kenya, 2010, serves as the foundational legal instrument recognizing children's rights. Article 53 of the Constitution explicitly affirms that every child has the right to essential protections and entitlements, including a name and nationality from birth, free and compulsory basic education, and basic nutrition, shelter, and health care. Furthermore, children are to be shielded from abuse, neglect, harmful cultural practices, and all forms of violence, including inhuman treatment and hazardous or exploitative labour. Parental care and protection, involving the equal responsibility of both mother and father, also feature prominently, irrespective of the parents' marital status. The Constitution further guarantees that children should not be detained except as a last resort and under conditions considering their age and sex. Importantly, the best interest of the child remains a primary consideration in every matter concerning them.[15] Article 53, therefore, anchors children's rights in Kenya's constitutional order, ensuring their comprehensive protection and well-being.

13 See note 11 above.

14 See Concluding recommendations by The African Committee Of Experts on the Rights and Welfare of The Child (ACREWC), On The Kenya 1 St Periodic Report On The Status Of Implementation Of The African Charter On The Rights and Welfare Of The Child https://www.acerwc.africa/sites/default/files/2022-06/kenya_Concluding_Observation_final.pdf >accessed on (24 May 2024).

15 Available at <http://kenyalaw.org/kl/index.php?id=398> accessed on(24 May 2024).

The Constitution of Kenya, 2010 emphasizes that in every matter concerning a child, the child's best interests shall be the paramount consideration.[16]

The Children Act, No. 29 of 2022, serves as the principal statute guiding the implementation and protection of children's rights in Kenya.[17] This Act repealed the Children Act, No. 8 of 2001, incorporating provisions that give effect to the principles enshrined in international instruments such as the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.[18] The subsequent sections of this article will detail the rights of the child as provided under the Children Act, 2022, explore how discipline can be enforced among students without infringing on their rights, examine the legal and institutional structures supporting discipline enforcement, and highlight alternative disciplinary measures to corporal punishment, which has been prohibited by law. This ensures that disciplinary approaches in schools are aligned with the protection and promotion of children's rights, fostering an environment conducive to their holistic development and well-being.

3.1 Rights of the Child under the Children Act, 2022

The rights of a child under Part II of the Children Act, No. 29 of 2022, are comprehensive and they include the following host of rights:[19]

(i) Inherent right to life.
(ii) Right not to be discriminated against.
(iii) Right to parental care.
(iv) Right to education.
(v) Right to religious education.
(vi) Right to health care.
(vii) Protection from child labour and harm in conflict.
(viii) Right to name and nationality.
(ix) Right of a disabled child to be treated with dignity.
(x) Protection from abuse - physical and psychological.
(xi) Protection from harmful cultural rites.
(xii) Protection from sexual exploitation.

16 See article 53(2) of the Constitution of Kenya, 2010.

17 Act No. 29 of 2022. Available at <No. 29 of 2022 (kenyalaw.org)> accessed on (24 May 2024).

18 Act No. 8 of 2001. Available at <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%208%20of%202001> Accessed on (24 May 2024).

19 See sections 6-28 of Act No. 29 of 2022.

(xiii) Protection from drugs.

(xiv) Entitlement to leisure and recreation.

(xv) Protection from torture and deprivation of liberty.

(xvi) Right to privacy.

Section 30 imposes duties and responsibilities of the child which include:

(*a*) work for the cohesion of the family;

(*b*) respect his parents, superiors and elders at all times and assist them in case of need provided that the child's best interest shall remain paramount;

(*c*) serve his national community by placing his physical and intellectual abilities at its service;

(*d*) preserve and strengthen social and national solidarity;

(*e*) preserve and strengthen the positive cultural values of his community in his relations with other members of that community;

(*f*) attend school unless prevented by factors beyond their ability;

(*g*) not discriminate against other children on account of ethnicity, race, disability, gender, social status or other grounds;

(*h*) protect the environment;

(*i*) not abuse or harm other children; and

(*j*) not destroy any property.

The foregoing responsibilities of a child underline the expectation that children uphold a certain standard of discipline. This naturally raises the question of how discipline can be enforced without violating a child's rights. The answer lies in adopting disciplinary methods that align with legal protections and respect for the child's dignity. The Children Act, 2022 and related laws strictly prohibit corporal punishment and any form of cruel or degrading treatment.[20] Instead, they emphasize positive discipline, guidance, and counselling as effective alternatives. Schools must implement clear disciplinary policies that promote self-discipline and ensure fairness and consistency in enforcement. Such policies should protect the child's welfare, encourage responsibility, and uphold their rights while maintaining order. Balancing discipline and rights is essential in fostering a supportive educational environment where children learn respect, accountability, and personal development within the boundaries of the law and human rights standards.

20 Children Act, 2022: Kenya confirms constitutional prohibition of corporal punishment of children https://endcorporalpunishment.org/kenya-children-act-confirms-prohibition/ Accessed (24 May 2024)

4. Upholding the Rights of the child while enforcing Discipline

The implementation of the right to education in Kenya is governed by the Basic Education Act, 2013.[21] Section 28 of the Act emphasizes the child's right to free and compulsory basic education. Significantly, once a child is enrolled in school, they are placed under the care of teachers who are responsible for regulating their discipline while at school. Importantly, section 36 of the Act expressly prohibits physical punishment and mental harassment of students. This legal prohibition ensures that enforcement of discipline respects the child's dignity and protection from cruel, inhuman, or degrading treatment. By placing the child temporarily outside parental control and under teacher supervision, the law mandates that disciplinary measures administered by teachers must comply with these protective standards, fostering a safe and supportive learning environment. The Act goes further to state that, 'a person who contravenes this provision is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment not exceeding six months or both.[22] Further, regulation 9(1) in The Teachers Service Commission (Code of Conduct and Ethics for Teachers) Regulations, 2015 provides that a teacher is entrusted with a duty, among other things, to ensure a child is protected from corporal punishment. Section 25(3)(*c*) of the Children Act further articulates that,[23] 'any person who tortures a child or applies any other cruel and inhuman or degrading treatment, including corporal punishment, commits an offence and shall, on conviction, be liable to the offence under the Prevention of Torture Act (No. 12 of 2017).

The critical emphasis of these provisions means that any disciplinary measures implemented must exclude physical punishment, often known as corporal punishment, and psychological torture. Engaging in corporal punishment exposes a teacher to disciplinary action from their employers.

Under the criminal justice system, a teacher may face charges of common assault[24] under section 250 of the Penal Code, Chapter 63, or assault causing actual bodily harm under section 251.[25] In severe cases, if a student dies as a

21 Available at <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2014%20of%20 2013> accessed on (24 May 2024).

22 See section 36(2) of the Basic Education Act.

23 See note 16, above.

24 Section 250 of the Penal Code, Chapter 63 Laws of Kenya.

25 Section 251 of the Penal Code, Chapter 63 Laws of Kenya.

result of physical punishment, the teacher can be charged with murder. These charges underscore the legal risks teachers face when engaging in corporal punishment, highlighting the strict prohibition against such practices in Kenyan schools. The law enforces accountability to protect students from abuse while ensuring that disciplinary measures conform to human rights standards and legal requirements. For example, in *Republic v Eugine Odhiambo Alexander Amollo* [2017],[26] an administrator of a school was charged with murder after the accused had hit the pupil with his hand and kicked him down. The following day, he was taken to the hospital, and subsequently, he died.

The court upheld criminal liability, recognizing that excessive corporal punishment causing harm or death amounts to criminal conduct warranting prosecution and punishment and potential criminal prosecution. Although the charge of murder was not proved, the accused was found guilty and convicted of manslaughter. In *the case of Mwai v Teachers Service Commission,*[27] the teacher was dismissed following a disciplinary hearing on allegations of administering corporal punishment to students. The evidence and investigation found the teacher had violated the prohibition of corporal punishment under section 36(1) of the Teachers Service Commission Act and the Basic Education Act, which strictly forbid corporal punishment in learning institutions. The court upheld the dismissal on disciplinary grounds, noting that corporal punishment is not permitted for any reason in schools and that the decision to terminate employment was rational and based on evidence presented before the disciplinary committee.

When enforcing discipline, it is essential to prioritize the best interests of the child above all else. Disciplinary actions must be carried out within the boundaries of the law to prevent exposing the teacher to criminal liability or disciplinary sanctions. Discipline should be administered in a manner that respects the child's dignity and legal protections, avoiding corporal punishment or any form of cruel, inhuman, or degrading treatment as prohibited by the Constitution of Kenya, the Basic Education Act, and the Children Act 2022. This approach ensures that discipline supports the child's well-being and development while upholding lawful standards and safeguarding educators from unlawful conduct consequences.

26 Kisumu High Court Criminal Case No.43 of 2014[2017]eKLR, available at < http://kenyalaw.org/caselaw/cases/view/142895/ > accessed on (24 May 2024).

27 [2023]eKLR.

The Code of Conduct and Ethics for Teachers, 2015 (Legal Notice No. 162 of 7 August 2015)[28] obligates teachers to uphold the Constitution and perform their duties in accordance with the law. Teachers are reminded that learners, though vulnerable and seemingly defenseless, are highly protected under the law. Consequently, teachers have a solemn responsibility to ensure they do not violate legal provisions in the course of their duties. The Code emphasizes integrity, professionalism, and the duty of care towards children, including protection from abuse, neglect, and unlawful punishment, underscoring that teachers must act with honesty, impartiality, and respect towards learners at all times.

In order to uphold discipline in schools, it is essential to establish clear guidelines on what students should do and must avoid. While at school, which serves as the child's second family, emphasis must be placed not only on the child's rights but also on the responsibilities that accompany those rights. The enjoyment of rights is possible only in an environment where students respect the rights of others. Thus, when enforcing discipline, two fundamental questions arise as follows: whether there is a clear structure for the enforcement of discipline in the school, and lastly, whether there are other alternative and effective ways of enforcing discipline.

4.1 Structure for Enforcement of Discipline in the School

In order to address any kind of indiscipline, there needs to be a structure in place which is followed. This can lead to avoiding cases of knee-jerk reactions to situations. Kiprop and Chepkilot,[29] for example, have proposed an integrated disciplinary strategy model. In that model, one of the strategies that they propose is the establishment of an effective disciplinary policy. The Basic Education Act provides that one of the functions of a school's Board of Management is to determine cases of pupils' discipline and make reports to the County Education Board.[30] Consequently, a disciplinary policy is envisaged under regulation 10 of the Education (School Discipline) Regulations, 1972, which provides:

28 Legal Notice No.162 of 7 August 2015,file:///C:/Users/User/Downloads/The%20Teachers%20Service%20Commission%20(Code%20of%20Conduct%20and%20Ethics%20for%20Teachers)%20Regulations.pdf> accessed on (24 May 2024).

29 Kiprop, C. J & Chepkilot, R. K, Managing Discipline in Kenya Schools: An Integrated Disciplinary Strategy Model in International Journal of Current Research (2011) Vol 3 issue 11, pp 277-285. Available at <http://www.journalcra.com> accessed on (24 May 2024).

30 See section 59(f) of the Act.

> The Board of Governors of a school may make administrative rules appertaining to the discipline of pupils and may prescribe appropriate punishment other than corporal punishment for breach of, or non-adherence to, such rules.

It has been emphasized that the starting point of balancing between the rights of the child and discipline is having a disciplinary policy in the school.[31] This is because different cases of indiscipline are likely to attract different measures of approach in disciplining. For example, children are supposed to be protected from sexual exploitation and drugs. How do you address the questions of sexual relations between students and cases of students bringing drugs to school? The dilemma when a child who has a right to education interferes with the right of the other child. Whose right becomes superior? Is it the right of the victim or the aggressor?

A disciplinary policy helps to classify issues that attract disciplinary action, identify sanctions, and determine who administers them. It makes it possible to allocate responsibilities within the structures within the school, i.e. teachers, principal, and Board of Management at the apex. It also helps to identify the issues that may require the involvement of authorities outside the school. For example, schools are not equipped with the necessary capacity to investigate issues of drug peddling within the schools. This may call for the involvement of investigative agencies outside the school.

The disciplinary policy should address the unique circumstances of each school. Thus, Kiprop and Chepkilot suggest that it should:

(i) Meet individual schools' needs.
(ii) Be developed with input from teachers, learners, and parents.
(iii) Promote positive discipline, self-discipline.
(iv) Exemplary conduct.
(v) Be reasonable and clearly understood.
(vi) Communicate clear, consistent rules with high expectations.
(vii) Have clear, consistent consequences.
(viii) Distinguish between categories of offences.
(ix) Be fair and consistently enforced.
(x) Protect the safety of all learners.
(xi) Foster a positive school climate.
(xii) Preserve the dignity of all.

31 See note 27 above.

(xiii) Be open to revision as and when the need arises.[32]

Once the policy is in place, the actors have guidance to follow and the students can be held to account easily. Of course, there will always be those, even after having a clear policy in place, will be still unmanageable. That should be addressed by the policy being clear on how to ease them out.

4.2 Assessing whether there are other alternative effective ways of enforcing discipline

He who withholds his rod hates his son, but he who loves him disciplines him diligently.[33]

Foolishness is bound in the heart of a child; The rod of discipline will remove it far from him.[34]

Some people have found it hard to marry the foregoing position with the legal position. Most of the time, the rod has been given the literal meaning. Under the literal meaning it has been taken away from the teachers, but has it been taken away from the parents?

Under the law, parents still have the right to punish their children, but not to the extreme level. For instance, in *Republic v. Njini,*[35] the accused was charged with an offence of murder after his son collapsed and died as he was beating him with a stick. The son had run away from school and the accused had traced him at the nearby town. He took him home and started administering discipline using a stick. The charge was reduced to manslaughter, to which the accused pleaded guilty. During the sentencing, the advocate representing the accused submitted that it was a case of disciplining which had gone wrong with the death not being foreseeable. The judge was persuaded and sentenced the accused to serve probation for a period of 2 years.

It, therefore, appears that in the current legal structure, the literal meaning of the foregoing position may apply to parents but not to teachers within the school environment. Within the school environment, we go to what we call the 'golden rule of interpretation' and ask ourselves whether there can be a symbolic rod.

32 *Ibid*.

33 Proverbs 13:24, New American Standard Bible.

34 Proverbs 22:15, New American Standard Bible.

35 Machakos High Court Criminal Case No. 48 of 2009 (Unreported).

A research carried out by Ekombe [36] concludes that, among other means of enforcing discipline, guidance and counselling remains the most effective. Although the study was done in 2010, limited to secondary schools within Kamukunji Division of Nairobi Province, that finding may have traction in many schools today. Kiprop and Chepkilot also identify institutionalization of guidance and counselling departments in schools as one of the strategies in integrated disciplinary strategy model.[37]

In their article on research conducted on the role of guidance and counselling in enhancing discipline in secondary schools in Koibatek District, Salgong, Ngumi and Chege concluded that there was enough proof that lack of guidance and counselling contributed to lack of discipline in schools.[38] They recommended use of small-group counselling approach to ensure successful use of guidance and counselling in schools.[39]

Therefore, guidance and counselling remains the most effective tool of addressing cases of indiscipline in our schools. Taking into account that most of the time the students in secondary school are still discovering themselves, the emphasis should shift to students not just claiming they have rights but also responsibilities to discharge. They have responsibilities to themselves, their parents, fellow students, teachers, and the community in general.

Where guidance and counselling fails the other alternative modes of punishment may be applied. This can involve withdrawing certain privileges, requiring the student to perform a certain task, suspension, or expulsion, among others. However, when it comes to expulsion, the decision has to be ratified by the Cabinet Secretary for Education.

5. Conclusion

Children's rights are firmly established both under international and municipal law, yet these rights can only be meaningfully enjoyed in an environment where the child is properly disciplined. Discipline is essential to guide

36 Ekombe, N R (2010), A Research Project Submitted to the School of Education in Partial Fulfilment of the Requirements for the Degree of Masters in Education.

37 *Supra* note 15.

38 Victor Kikemboi Salgong et al, "The Role of Guidance and Counselling in Enhancing Student Discipline in Secondary Schools in Koibatek District" in Journal of Education and Practice (2016) Vol 7. No.13, pp 142-151 available at http://unilibrary.zetech.ac.ke:8000/xmlui/bitstream/handle/zetech/126/The%20Role%20of%20Guidance%20and%20Counseling%20in%20Enhancing%20Student.pdf?sequence=1 accessed on (24 May 2024).

39 *Ibid*.

children in understanding not only their rights but also their responsibilities. When indiscipline occurs, various actors such as parents, teachers, and school administrators must intervene to remind the child of their duties. Emphasizing children's rights without equally teaching them about their responsibilities leads to an imbalanced approach, which ultimately undermines students' development and well-being.

Discipline enforcement, however, must always be carried out within the framework of the law. Schools should have clear, well-articulated policies that outline acceptable disciplinary measures and emphasize guidance and counselling as primary tools for correcting behavior. These policies help ensure that disciplinary actions support the child's growth and respect their dignity.

Traditional corporal punishment, such as the literal use of a rod, increasingly exposes teachers to criminal liability and disciplinary proceedings by employers. As such, innovative and lawful disciplinary methods need to be developed or strengthened. These alternatives should prioritize the best interests of the child, fostering a safe and supportive learning environment.

Ultimately, discipline in schools must balance upholding children's rights with instilling a sense of responsibility, applying measures that are lawful, transparent, and aimed at benefiting the child's overall development. This approach protects both the child's welfare and the teacher's professional integrity