

# Analysis of the Philosophical Underpinnings of School Discipline Policies and Practices in Kenya

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DOI: <https://doi.org/10.36348/jaep.2025.v09i10.003>

| Received: 24.08.2025 | Accepted: 13.10.2025 | Published: 16.10.2025

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## Abstract

Indiscipline among learners is a persistent educational problem in schools in the world. In Kenya, the persistence of indiscipline among learners in schools calls into question school discipline policies, practices and their theoretical underpinnings. This study sought to analyze the suitability of the philosophical frameworks that underpin school discipline policies and practices in Kenya through the lens of care ethics theory developed by Nel Noddings. The study adopted a desktop research design employing the analytic, critical and prescriptive philosophical methods. Being a library based inquiry, data collection and analysis entailed analyzing school discipline policy documents, guideline and practices in the country. The analysis revealed that the policies and practices are largely anchored on deontological and human rights-based ethical frameworks with traces of restorative justice ethics that are not harmoniously blended in both policy and practice. The study recommends the adoption of a care-centered ethical framework for school discipline in the context of the current CBE in the country.

**Keywords:** Care-based ethics, pedagogical care, pedagogical care discipline, school discipline.

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## INTRODUCTION

Student unrest and indiscipline is one of the major concerns about schools in many countries across the world. This problem is well documented in countries such as the United States of America, Britain, South Africa, Uganda and Kenya (U.S. Department for Education, 2024; Von Vollenhoven, 2022; Padayachee & Gcelu, 2022). In the Kenyan context, indiscipline ranks as a major challenge facing schools. Some of the most frequent school discipline issues in Kenya are bullying in both primary and secondary schools, arson cases such as learners burning dormitories, vandalism and destruction of school property, and drug and substance abuse, absenteeism and truancy (Abuya, Maina, & Ogola, 2020; Waiswa, Mutungi, Mugizi & Ludigo, 2024; National Crime Research Centre. 2017; Wanjugu, 2024).

The Government of Kenya has been responding to these discipline challenges by constituting task forces and committees to investigate and make recommendations for policy and practice. The typical procedure has been to identify the causes of discipline problems among learners in schools and recommend

ways of solving them. Some of these task forces and committees whose recommendations are the basis of the current discipline policies and practices include: *The Report of the Task Force on Student Discipline and Unrest in Secondary Schools* of 2001; *Report on the Inquiry into the Wave of Students' Unrest in Secondary Schools in Kenya in Term II of 2018*; and *The National Assembly Education Committee Reports* (2018–2022). Despite these efforts, cases of students' unrest and indiscipline continue to wreck schools in Kenya (Wanjugu, 2024; Waiswa, Mutungi, Mugizi & Ludigo, 2024). The persistence of school discipline problems despite all these efforts to address the issues calls for a paradigm shift in the way the problem is addressed.

A review of literature related to this study reveals that for school discipline to be effective, it should be anchored on appropriate moral and ethical foundations (Gilligan, 1987; Lickona, 2004; Goodman, 2006; Noddings 2017). This view is based on the assumption that school discipline is a moral construct, hence, can be best understood and addressed within the framework of moral theories. Moral theories of school discipline are foundational principles that guide how schools manage learners' behavior, resolve conflicts, and

cultivate a positive learning atmosphere. These principles draw from various ethical theories and moral philosophies that shape the justification and practice of discipline in educational settings. The import of this is that effective discipline policies and measures should be deduced from sound philosophical frameworks.

However, some of the studies undertaken within the Kenyan context reveal that the country lacks an explicit philosophical framework for school discipline. For example, a study by Ominde, K'Odhiambo, & Gunga (2021) which dwelt on primary schools, concluded that value-based education and discipline practices could not be effective due to, among other reasons, the lack of a well-articulated philosophy of education. Their conclusions were based on analysis of the primary school curriculum. Another study carried out by Werunga & Khisa (2022) also found that school disciplinary measures such as punishment were not grounded in theoretical foundations. They proposed the adoption of Kantian duty or deontological ethics as a suitable theoretical foundation for school discipline in the country. However, this study treats a deontological school discipline model in a critical manner. This study, therefore, sought to analyze education policy documents on school discipline in Kenya in order to ascertain the ethical frameworks upon which the policies and practices are grounded using a care-based ethical lens.

## METHODOLOGY

The study adopted a desktop or secondary research design. A desktop design is a method of collecting information or data by analyzing existing information from previously conducted studies, reports, and other documented sources. This design is normally used when the questions of a study can be answered adequately with existing information (Blaikie & Priest, 2019; O'Leary, 2017). The specific philosophical methods the study employed were the analytic, critical and prescriptive methods. Being a library-based study, data required were collected by evaluating school discipline ethical frameworks and analyzing school discipline policy documents and guideline in Kenya. The five key legal and policy documents analyzed were *The Constitution of Kenya (2010)*, *The Children's Act (2022)*, *The Basic Education Act (2013)*, *The Basic education regulations of 2015* and *The Basic Education Curriculum Framework (2019)*. The prescriptive method was used to make recommendations regarding school discipline policy, practice and teacher education.

### Key Findings of the documentary analysis

A close and careful analysis of the school discipline policy documents, guidelines and practices reveals that they are, to a large extent, anchored on deontological ethical framework and to some extent on human rights ethics. A deontological ethical framework for school discipline requires learners to follow established rules and regulations, and to respect authority figures. The framework allows the use of sanctions as a

way of ensuring that rules are followed (Goodman, 2006). Analysis of the discipline policy documents, regulations and practices reveals that they are grounded in deontological framework in two ways: First, school discipline is conceptualized as acting in accordance with rules, and second, school discipline is understood as punishment and sanctions.

### Conceptualization of school discipline as acting in accordance with rules and regulations

The deontological concept of school discipline as rule-following is evident in *The Basic Education Act (2013)*, *The Basic Education Regulations (2015)* as well as *The Children's Act (2022)*. For instance, Article 30 of *The Children's Act (2022)* gives weight to this deontological view of discipline by outlining the duties and responsibilities of a child such as to respect their parents, superiors and elders, and not vandalize any property. This concept of school discipline is contemplated in Article 35(3) of the Act which empowers the cabinet secretary for education to make regulations for schools regarding discipline of students. This is actualized in *The Basic Education Regulations (2015)*. The Regulations provide specific guidelines for managing and administering education in Kenya. These regulations stipulate procedures for student discipline and require schools to develop codes of conduct that reflect values of respect and responsibility (Republic of Kenya, 2015).

Article 32 of the Regulations contextualizes the deontological framework by defining an indisciplined student thus: 'A learner shall be deemed to be individually indisciplined if involved in...' acts such as 'physical fights, bullying of other learners, stealing, cheating in examinations and drug trafficking or substance abuse.' Article 33 characterizes acts such as the destruction of school property as 'mass indiscipline.' The acts of 'indiscipline' listed in the two articles are usually included in individual school codes of conduct which implies that 'indiscipline', as contemplated in the Regulations, consists in violation of school rules; it is rule violation. Stated in the positive, a disciplined student is one who acts in accordance with school rules. In other words, the policy formulators conceive school discipline through a deontological lens as rule-following.

Article 30 of the Regulations mandates schools to formulate rules to guide students' behavior: 'Every institution of basic education shall develop school rules which shall be subjected to public participation and which shall not be inconsistent with the Act, or any other relevant written law' (Republic of Kenya, 2015). In compliance with this regulation, schools in Kenya formulate codes of conduct for learners commonly referred to as school rules and regulations. The codes of conduct are a means of defining acceptable behaviors and the consequences for misbehavior. The rules usually include those listed in Article 32 and 33 of *The Basic Education Regulations (2015)*. Learners are expected to

follow the rules to the letter. The rules can be categorized as academic and non-academic rules. Academic rules and regulations include examination rules, time management rules and classroom rules. Non-academic rules regulate learners' conduct such as boarding life and good grooming. Generally, the rules cover most aspects of school life such as school attendance and punctuality, respect for teachers and nonteaching staff, prohibition of cheating in examinations, vandalism, or theft, dress code, prohibition of substance abuse and behavior in and outside the school compound. The emphasis in these codes is on compliance with rules which is a deontological approach to discipline.

### Conceptualization of school discipline as punishment and sanctions

The deontological conception of discipline as punishment perverts all education policies, guidelines and regulations. Analysis of the documents reveals that the school discipline policymakers view punishing as actually 'disciplining' a student, which is a deontological orientation. The discipline regulations recommend the use of punishment as a means of making students follow school rules. The Third Schedule of *The Basic Education Act (2013)*, states that one of the functions of Parents Association (PA) is to assist school managers in the 'disciplining of pupils.' In this context, 'disciplining of pupils' means punishing them when they break school rules. This conception of discipline is also implied in *The Children's Act (2022)*. The Act defines 'corporal punishment as 'the use of physical force applied on a child by the use of any means, including a cane or other object, with the intention of inflicting pain or discomfort for the purpose of corrective discipline or punishment.' Implicit in the definition is the position that acceptable forms of punishment can be used 'for the purpose of corrective discipline.'

It is not surprising that the notion of 'punishing as disciplining' also obtains at school level. Article 35(3) of *The Basic Education Act (2013)* empowers the Cabinet Secretary for education to make regulations to prescribe expulsion or the discipline of a delinquent pupil as a last resort. This was operationalized in *The Basic Education Regulations (2015)* which, as already noted, mandates individual schools to develop rules and regulations to govern students' behavior. Violations of these rules and regulations may lead to disciplinary action conceived in terms of punishment, such as suspension or expulsion, depending on the severity of the offense. In most cases, schools indicate the form of punishment each rule violation attracts. This explains why recent studies confirm that many schools still use corporal forms of punishment despite the official prohibition in 2001 (Wanyama & Wanyama, 2021; Werunga & Khisa, 2022). Such schools or teachers conceive discipline as punishment.

### Traces of a human rights-based and restorative justice ethical bases for discipline in the policies

Other than the deontological underpinnings of school discipline, a close analysis of school discipline policy documents and guidelines reveals that they are also influenced by human rights advocacy. A human rights-based approach is a conceptual framework that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. The legal basis for a human rights-based approach to school discipline is *The Constitution of Kenya (2010)*. The entrenchment of children's rights in the Constitution was informed by international protocols. For instance, Kenya is a signatory to the United Nations Convention on the Rights of the Child (UNCRC) which requires member states to respect and protect the rights and freedoms of children within their jurisdictions.

The presence of elements of a human rights ethics approach to school discipline are quite evident in the legal and education policy documents in the country. These documents position education as a realm where human rights and responsibilities coexist in a delicate balance. Chapter Four of the Constitution of Kenya chapter enumerates the rights and fundamental freedoms of Kenyans as human beings. Article 53 dwells on the rights of children. For instance, Article 53(1) (d) states that a child has a right 'to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labor.' Article 53(2) makes it clear that 'A child's best interests are of paramount importance in every matter concerning the child.' However, this provision has a limitation in Article 25(2) which, on deontological basis, allows the infliction of punishment for an offence committed by a child under any law provided such punishment is humane and preserve the child's dignity, and is commensurate with the evolving capacity of the child.

In alignment with international standards set forth in the United Nations Convention on the Rights of the Child (UNCRC), *The Children's Act (2022)* amplifies the rights of children in a home, a children's day care center, nursery, school, rehabilitation school, charitable children's institution, borstal institution, children's court, healthcare institution or other establishment. The Act emphasizes that all disciplinary actions must prioritize the child's welfare, preferring rehabilitation to punishment. Article 25(1) states: 'Every child has the right to freedom from torture and cruel, inhuman or degrading treatment or punishment as provided under Article 25 (a) of the Constitution.' This provision has a limitation in Article 25(2) which allows the infliction of punishment for an offence committed by a child under any law provided such punishment is humane and preserve the child's dignity, and is commensurate with the evolving capacity of the child. Again, this provision is deontological and as we have

noted balancing deontological and rights-based approach to discipline is not easy for schools in disciplinary situations.

*The Basic Education Act, 2013*, elaborates on children's rights within the Kenyan educational context. It provides for the establishment of school management committees responsible for formulating disciplinary policies that respect students' rights. This Act emphasizes non-discriminatory practices and outlines guidelines for addressing disciplinary issues, thus attempting to harmonize educational discipline with broader human rights principles. It provides that students adhere to school rules and outlines procedures for dealing with infractions, including suspension and expulsion (Republic of Kenya, 2013). For instance, the Act prohibits against corporeal punishment and mental harassment to the child. This aligns with the global move toward protecting children from physical harm and promoting positive disciplinary measures. The use of corporeal punishment in schools was initially banned in 2001 following the enactment of *The Children's Act (2001)* which has since been replaced by that of 2022. The ban has been upheld in Article 36(1) of *The Basic Education Act (2013)*: 'No pupil shall be subjected to torture and cruel, inhuman or degrading treatment or punishment, in any manner, whether physical or psychological.' It should be noted that though the policies prohibit the use of physical forms of punishment in schools, other forms of punishment are allowed provided they are administered humanely.

Considerations of children rights have also informed the emphasis on corrective measures like guidance and counseling, mentorship, peer mediation, spiritual nourishment and parental involvement. Article 65(1) of *The Basic Education Regulations (2015)* requires all basic education institutions to provide 'guidance services to all learners, distinct from counseling services; counselling services as an essential corrective measure; and spiritual development services focusing on moral values and character formation of the learners.'

### **Critique of Kenyan school discipline frameworks from care ethics perspective**

When viewed through the lens of care ethics, the adoption of the three-school discipline ethical frameworks, deontological and human rights-based, in both policy and practice presents some challenges. First, it is not easy for schools to navigate between deontological and rights-based approaches in actual disciplinary situations. It is little wonder that many schools still rely on forms of punishment that are not in conformity with a rights-based approach. For instance, studies done in recent years confirm that many schools still cane learners despite the official prohibition of corporal punishment in 2001 vide the Children's Act, 2001 (Wang'ang'a & Ndurumo, 2022; Wanyama & Wanyama, 2021; Werunga & Khisa, 2022; Mweru,

2024). Many schools also still use other forms of punishment which violate the rights of learners such as kicking, pinching, slapping, and kneeling down for long (Mweru, 2024; Abuya, Maina, & and Ogola (2020)). This confirms Goodman (2006) whose study though located in American states found that the moral component in discipline policies was badly muddled.

Second, school discipline that is entrenched in a deontological framework that emphasizes rule-following and punishment for infractions may be effective in maintaining order but fail to promote lasting self-regulating behavior that is vital for students' moral development. Indeed, by design, punitive approach tends to focus on controlling behavior rather than engaging with students to understand their needs and support their moral growth. The goal of order is to create an environment that is conducive to learning by preventing immediate discipline issues. Overall, the discipline policies and guidelines do not provide a clear moral justification for disciplinary practices that goes beyond the need to create order or to maintain a conducive learning environment in schools. There is no explicit reference to care, empathy, or relational dynamics in the provisions on discipline.

Third, too much emphasis on rule following and punishment undermines the relational aspects of education, which are characteristic of a caring approach to discipline. An ethic of care seeks to develop caring relationships between teachers and learners and views these relationships as essential to moral growth. In contrast, Kenyan school discipline policies and guidelines still emphasize maintaining authority and compliance with school rules and regulations, with little emphasis on relational practices. They position teachers as enforcers of school rules, rather than as caring mentors who guide learners in their moral and emotional development. Recent studies reveal that there is poor student-teacher relations in many schools across the country (National Crime Research Centre. 2017; Nandeki, Chumba, & Kiprop; 2017). The inadequacy of relational considerations in the school discipline policies and guidelines limits the potential for discipline to be used as a tool for fostering empathy and care. Instead of promoting mutual understanding and respect, punitive measures often distance learners from their teachers and school administrators leading to resentment. This creates a school environment where learners feel oppressed and alienated.

Last, though the discipline policy documents have provisions for restorative practices, such as, mentorship, peer mediation and spiritual development services (Ministry of Education, 2015), the focus is usually on managing learners' behavior through punishment and sanctions, rather than on understanding the root causes of indiscipline. Studies on this aspect indicate a poor implementation of restorative practices in many schools across the country (Departmental

Committee on Education and Research. 2019; National Crime Research Centre. 2017; Nandeke, Chumba, & Kiprop, 2017).

Care ethics calls for a profound understanding of each student's unique circumstances and needs, advocating for practices that nurture relationships and support students' overall development (Noddings, 1992). Kenyan policies and guidelines, by contrast, recommend deontological ways of managing behavior through the application of sanctions, rather than on understanding the underlying causes of misbehavior or engaging students in restorative practices.

### **Integrating pedagogical care discipline into CBE in Kenya**

This study submits that Kenya can address the challenges associated with the adoption of deontological and human rights school discipline ethical frameworks in the country by embracing a pedagogical care framework. Pedagogical care refers to the intentional and ethical practices educators adopt to support the holistic development of learners. As articulated by Nel Noddings, a proponent of care ethics, this approach underscores the importance of caring relationships in the educational process (Noddings, 1984). In this approach, teaching and discipline involve empathy, mutual respect, authentic dialogue, affirmation, and transformative action and a deep concern for the holistic development of the child (Noddings, 2017). In this framework, discipline is not merely a tool for enforcing rules but rather a holistic practice aimed at fostering learner's well-being and overall development. The approach creates an educational environment where learners feel valued, respected, and supported.

Pedagogical care discipline is a caring approach to school discipline. It integrates the principles of pedagogical care into approaches to discipline in educational settings. Some of the leading proponents of pedagogical care discipline are Zehr (2015), Freire (2005), Noddings (2013), Gay (2018), Motta & Bennett (2018) and Meyer & Evans (2012). These theorists emphasize creating nurturing environments where discipline is not about control but about guiding learners toward self-regulation, responsibility, and active engagement in their own learning process. For example, Meyer & Evans (2012) propose restorative discipline as a research proven and field-tested effective model that can be an alternative to reliance on punishment. By positioning discipline as part of the process of education, schools can help learners to grow morally.

Pedagogical care discipline aligns well with the broader goals of Competency-Based Education (CBE) as articulated in the *Basic Education Curriculum* (BECF) of 2019. The curriculum roots for a child-centered education that guarantees the 'holistic growth and development' of every learner. (KICD, 2019, p. 11). It envisions responsible ethical school graduates who 'do

the right thing because it is the right thing to do' (p. 15). The BECF anticipates a care-based approach by stating that 'teachers are role models for learners, caring for and inspiring every child to achieve his or her potential' (Ibid.).

Regarding school discipline policies and guidelines, the study found that they are grounded in deontological and human rights ethical frameworks but the blending of the two approaches in the policies and practices is not harmonious. This is in agreement with Ominde, K'Odhiambo, & Gunga (2021) observation that Kenya lacks a well-articulated philosophy of education. *The Departmental Committee on Education and Research (2019)* also noted the inadequacy of the policy provisions on school discipline and recommended a review of the *Basic Education Act* of 2013 and the Ministry of Education's guidelines of 2015. Therefore, this study proposes that the Government of Kenya through the Ministry of education should adopt a care-based philosophical framework for school discipline. Accordingly, the provisions on school discipline in policy documents such as the *Basic Education Act* of 2013 and the Ministry of Education's guidelines, such as the *Basic Education Regulations* of 2015 should be reviewed within a care-based theoretical framework. The framework should guide school discipline policy formulation and practice in the country. The adoption of a care-based discipline framework aligns well with the vision of the basic education curriculum to help every learner to become 'an engaged, empowered and ethical citizen' (KICD, 2019, p. 11). It is also in line with one of the BECF's pillars which is to ground the curriculum in theoretical foundations.

Regarding school discipline practices, the study proposes the integration of pedagogical care based on the four components of character formation suggested by Noddings: modeling, dialogue, practice, and confirmation in disciplinary practices in Kenyan schools. The integration of pedagogical care discipline in Kenyan schools can potentially improve the levels of discipline among learners thereby greatly minimize the persistent problem of unrest and indiscipline in schools. By emphasizing relationships, understanding the root causes of misbehavior, and using restorative justice practices, schools can create environments that are not only safe for learning but also promote the holistic development.

Last, effective practice of discipline in a care-based ethical framework requires corresponding orientation of teachers. Hence, this study recommends that teacher education and continuous teacher professional development programs in the country, should have a pedagogical care discipline component focusing on care-based approaches to school discipline. This proposal is based on the assumption that pedagogical care discipline requires a shift in mindset for teachers from deontological to care-based. The purpose of such training would be to enable teachers acquire care-

based pedagogical knowledge and skills and most importantly embrace pedagogical care discipline. The professional development programs can focus on restorative practices, emotional regulation, empathic listening, conflict mediation, and how to foster caring relationships. Mounting of teacher professional development programs on care-based pedagogy is in line with the expectations of the BECF which requires teachers to be ‘highly knowledgeable, reflective professionals that have additional enhanced skills and confidence in a range of modern pedagogical tools’ (KICD, 2019, p. 11).

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