



When school discipline meets children's rights: A systematic literature review of tensions and conflicts in the international literature

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ABSTRACT

In complex spaces such as schools, it is easy to see how children's enjoyment of their rights may create rights conflicts where individual rights are claimed in a setting that is inherently collective. This presents tensions and oftentimes discord in decision-making in schools which are rarely debated as human rights concerns. This, perhaps, is because the 'right to education' is often understood as a right of access under article 28 of the Convention on the Rights of the Child (CRC), but not the features of a quality education enshrined in article 29 CRC. These features are most visible in an examination of school discipline policies which mediates the relationship between the State's human rights obligations, duty bearing teachers, and students as rights-holders. This article presents the findings of a systematic literature review of 13 articles employing empirical, conceptual and doctrinal methodologies published between 2000–2024 which examine the human rights tensions and conflicts that arise from school discipline practice. The findings suggest that tensions and conflicts emerge between children's education rights and school systems of rewards and sanctions, due process, and an absence of criteria for identifying, understanding and resolving human rights conflicts. I conclude by identifying several areas that require further empirical research.

Introduction

The right to education is unique: it is the only right that is compulsory for children and it is a multiplier of rights – one that enhances and enables other rights when realised, and jeopardises them when violated (Tomasevski, 2006; UN, 1999). The CRC is unique in dedicating not one but two articles to education: article 28 focuses on rights of access, equal opportunity, and introduces a new obligation on the administration of school discipline; article 29 sets out ambitious goals for education. The interaction of these education articles with the other rights in the CRC produces several rights dilemmas in contexts as dynamic as a school where human rights, duty bearers and rights-holders are not always at ease with one another which produces human rights tensions and conflicts.¹ This article adds to scholarship on education rights by examining and synthesising extant literature on these conflicts and tensions regarding school discipline specifically.

There is an abundant literature on school discipline ranging from critical analysis of behaviour management systems, including rewards and sanctions systems (Armstrong, 2018; Deakin & Kupchik, 2016;

Payne, 2015), school exclusion (Ferguson, 2021; McCluskey et al., 2024; McCluskey et al., 2019) and its relationship to disability (Slee, 2019; Honkasilta et al., 2016; Graham, 2008). It is not the intention of this article to rehearse the burgeoning literature on school discipline *per se*, but to examine how discipline is presented and understood from a rights-based perspective because whilst some attention has been paid to behaviour in schools from a rights-based approach (Urinboyev et al., 2016; Durrant et al., 2017), there is scant empirical research that advances a rights-based approach to school discipline policies, despite the state obligation under article 28(2) CRC to:

...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'.

The first contact most children have with the state is their experience of school, notwithstanding that schools were not established as rights respecting institutions, and educational systems, structures and practices are not grounded in a commitment to children's rights (Quennerstedt, 2015; Jerome & Starkey, 2021). The school

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¹ There is no consensus on the distinction between these terms in the literature to date and they are therefore used interchangeably in this article.

environment, and the processes and interactions that apply in this environment, are governed by school discipline policies which regulate and provide the basis upon which children interact with both teachers and peers. In this article, I report the findings of a study commissioned by [funder] to examine the extent to which school discipline policies in Ireland uphold Autistic students' education rights, and what kinds of tensions and rights-conflicts emerge in disciplinary practice. Employing a systematic literature review methodology, the findings suggest that a lack of data hinders a comprehensive review of these rights tensions and conflicts and how they might be distinguished, highlighting gaps and opportunities for future research.

Education rights and conflicts

Article 28(2) enshrines state parties' obligations to ensure school discipline conforms to the human rights standards laid out in the rest of the CRC, which means that this obligation cannot be effectively understood or examined without reference to the other rights in the CRC. When it comes to school discipline policies and the decision making associated with these policies, several CRC rights are particularly salient: the right to school discipline administered in accordance with children's dignity under article 28 CRC (detailed above); the aims of education under article 29 CRC; the best interests principle under article 3 CRC; and the right to be heard under article 12 CRC.

Article 29 CRC presents visionary aims of education agreed by States to the Convention. It is, therefore, the closest to an international consensus on the aims of education, but one that requires a reorientation or adjustment of the education which is currently on offer (Lundy & Tobin, 2019). In departure from the collective, quantitative focus of many metrics used for education, article 29 conveys the matching qualitative dimension which centres the experiences of children. The aims of education under article 29 promote, support and protect the core value of dignity and human rights central to the CRC (UN, 2001, §1, 22):

1. States Parties agree that the education of the child shall be directed to:
 - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
 - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - (e) The development of respect for the natural environment.

According to the Committee on the Rights of the Child (CoRC), the education to which each child is entitled is one that strengthens their enjoyment of the full range of human rights and promotes a culture which is infused by human rights values (UN, 2001, §2); values which are embedded in discipline policies and their implementation. School environments, based on these policies, should reflect the spirit of understanding, tolerance, peace, equality and friendship, and schools that do not address bullying or other violent and exclusionary practices do not meet the requirements of article 29 (UN, 2001, §19). Education therefore goes far beyond a scholastic meaning to include the development of skills and other capacities to deal with challenges of modern life such as the ability to resolve conflicts peacefully and develop healthy social relationships and responsibilities (UN, 2001, §9). The CoRC

clearly directs that the meaning of education under article 29 must 'embrace the broad range of lived experiences and learning which enables children to develop their personalities' (UN, 2001, §2).

Article 29 CRC's high level of abstraction presents challenges for its implementation; challenges which are as diverse as the educational contexts to which article 29 applies. This perhaps explains why article 29 CRC has not been operationally defined in school communities (Lundy & Tobin, 2019; Verhellen, 1993). Article 29 CRC emphasises the need for education to be child-centred, child-friendly and empowering, and the CoRC highlights the need for educational processes to be based on the principles enunciated in the aims of education (UN, 2001, §2): development, respect, peace, tolerance, equality and friendship. This means that States have an obligation to ensure that school policies, and how children are treated in schools, are informed by and consistent with these values (Lundy & Tobin, 2019). Other rights in the CRC are crucial here if the aims of education are to permeate decision-making. For example, the best interests of the child under article 3(1) CRC should be the basis upon which decisions should be made regarding children (UN, 2006, para. 29):

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

This is important because education policies – including discipline policies – are usually written by adults, and 'if the interests of children are not highlighted, they tend to be overlooked' (UN, 2013, para. 37). Under the best interests principle, 'actions' include all decisions, and the term 'concerning' includes decisions that directly or indirectly affect children (UN, 2013, para. 19). The principle obliges States Parties to ensure that best interests are integrated and consistently applied in every action taken by a public institution, including schools, and a requirement that decision-makers demonstrate how the child's best interests have been a primary consideration by explaining how best interests have been examined, assessed and weighed (UN, 2013, para. 14, 26). Decision makers should explain what they have considered to be in the child's best interests, what criteria it is based on, and how the child's best interests have been weighed against other considerations, be they policy issues or individual cases (UN, 2013, para. 6). When it comes to rights conflicts, the CoRC explicitly states that the best interests principle is to be applied to resolve these conflicts on a case-by-case basis (UN, 2013, para. 33, 39).

The CoRC is clear that there are inextricable links between a child's best interests and respect for the child's right to express their views freely under article 12 CRC. Indeed, the CoRC emphasises that best interests cannot be applied unless children's right to be heard has been upheld (UN, 2013, para. 43). Article 12 CRC provides that:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 12 CRC is about children's participation in decision-making processes (Lundy, 2007). Article 12(1) enshrines children's right to express their views on matters (i.e. decisions) that affect them, whilst article 12(2) obliges state parties to seek children's views in administrative proceedings affecting the child; key due process rights regarding decision-making procedures. These procedures must also uphold children's education rights, and due process rights, 'without discrimination of any kind' under article 2 CRC.

Lundy and Brown (2020) highlight that there is a need to focus on the relational processes and procedures through which rights are negotiated and realised. This requires debate about what processes are important from a rights perspective and what to do when the rights children in schools are entitled to produce tensions and conflicts with other children and other rights. If schools are children's first experience of the state and an early location for the exercise and experience of their rights, then discipline policies should uphold children's rights. Yet, there is something about the enclosed environment of schools and classrooms, and the enforced association of its members, that can exacerbate rights conflicts or give rise to human rights tensions (Lundy & O'Lynn, 2019). School discipline in particular, I argue, serves as a key site for examining rights tensions and conflicts because it is inherently relational. Despite the role of the human rights lexicon in understanding these conflicts and tensions and framing them as human rights issues, however, there is a tendency in education to view relational conflict in general, and human rights conflict in particular, as a 'failure' of the human rights framework. In contrast, there is no better test of human rights than what they have to say about rights in conflict and discussing how to resolve these conflicts deepens human rights scholarship (Griffin, 2008). Griffin emphasises that the way to resolve conflicts of human rights should not be an addendum to human rights thought; it should occupy centre stage which, to date regarding school discipline and human rights, it has not.

Waldron (1989) argues that when we say 'rights conflict', what we mean is that the obligations or duties² implied by certain combinations of rights are not compatible. For example, if both A and B's rights claims place respective duties on C, but C's performance of the duty towards A is not possible if C performs the duty towards B, then we can say that A and B have rights which conflict (Waldron, 1989). The conflict arises from the fact that C can and ought to uphold the duty to A together with the fact that C can and ought to uphold the duty to B. Rights conflicts fall into two categories: intra-right conflicts (conflicts between different instances of the same right) and inter-right conflicts (conflicts between particular instances of different rights) (Waldron, 1989). Intra-right conflicts might be demonstrated by the demands made by school children, who all have the right to education (access) on scarce resources. If we focus on a single type of duty generated by this right – the duty to provide education – then a maximising approach might be in order whereby education can be provided to as many children as possible. However, this assumes that children are a homogenous group and that their access to education is a level playing field; it does not account for the human rights of children with disabilities, nor the experiences of marginalised children based on race, gender or socioeconomic background, for example, which might pose inter-right conflicts.

Inter-right conflicts arise when the performance of a duty generated by one right turns out to be incompatible with the performance of a duty generated by a different right. So, for example, the rights of children to exercise their right to peaceful assembly whilst in school might conflict with the rights of other children to access education. In these types of conflict, it is difficult to assess how they should be resolved because the idea that all rights have parity is implausible. Indeed, it might be tempting to think that rights correspond to neat, single duties, not what Waldron (1989) refers to as 'waves of duties'. What this multiplicity of duties means is that whilst a school may decide to prioritise the right to education in this instance, it does not mean that every duty associated with this right takes precedence over every duty associated with the right to peaceful assembly. It is also important to recognise that rights conflicts do not often fit neatly and discreetly into these categories. For example, a young woman who makes a complaint of sexual assault by a peer has the right to protection from violence and her peer has the right to due process (inter-right conflict); both have the right to access to education simultaneously (intra-right conflict). Indeed, both intra- and inter-right conflicts may fold into one another.

Waldron (1989) argues that the trade-off between one right and another need not involve the sacrifice of one of the rights, but a decision not to do what is required by a particular duty associated with the right. It is unlikely that in any given case, all the obligations generated by the rights in question will be incompatible. Whilst we may trade off one duty generated by A's right against one duty generated by B's, we may be perfectly well able to fulfil other duties owed to A regarding that right (Waldron, 1989). This is a nuance that is missing so far from debates about children's rights, together with an understanding of where the conflict is based. Trading off one duty does not mean that the right, and corresponding duty, disappears; it is the residual source of other duties and obligations (Waldron, 1989). Waldron's suggestion for handling rights conflicts requires an assessment of 'weight' whereby a duty bearer establishes the rights at stake and assesses the relative importance of each of the conflicting duties that correspond with these rights and how they may affect the rights claim they protect. A balancing act entails promoting what is assessed as being important; considerations that will be explored in the findings and discussion.

Methodology

The study upon which this article is based was commissioned by AsIAm (Ireland's Autism Charity) to examine and assess the extent to which discipline policies in Irish schools are compliant with Autistic students' rights. Data were collected through: i) a policy analysis to assess the extent to which discipline policies in Irish schools were compliant with international human rights; and ii) a systematic literature review to locate this policy analysis within existing international research on rights-based analyses of school discipline and to explore what kinds of tensions and rights-conflicts emerged in this scholarship. Notably, when search terms for Autism were included in initial searches, no relevant results were returned, highlighting that the rights tensions and conflicts around disability is a significant area for development (see Hanna (2025)). The search terms were consequently widened to school experiences more generally to identify relevant literature that might provide a synthesis of extant rights-based analyses of school discipline policies. This article reports the findings of the systematic literature review; findings from the policy analysis are reported elsewhere (Hanna, 2025).

Searching and screening

Literature searches on school discipline and children's rights were carried out on three databases: British Education Index (BEI) and Educational Resource Information Centre (ERIC) for the education field specifically, and SCOPUS for more interdisciplinary, including legal, literature. Searches of peer-reviewed article titles and abstracts were carried out incorporating behaviour, human rights and the school context, using the Boolean operator 'AND'. Search terms were carefully selected based on the research question and using well-established terms in the field of education and children's rights with Boolean operator 'OR'. Double quotation marks were employed to ensure a focused search and very broad terms such as 'rights' and 'education' were omitted because they were too vague and returned too many irrelevant results. Similarly, the terms 'tension' and 'conflict' were omitted from search terms because they were too narrow and prescriptive. These search terms can be viewed in [Table 1](#) below.

The search results were screened using the following inclusion and exclusion criteria, set out in [Table 2](#) below. Initial searches indicated that the earliest relevant literature was dated after the year 2000 which is highlighted in the inclusion criteria date range. Searches were carried out on three databases owing to funder time constraints. Several articles that were excluded from the review related to school discipline but did not have a substantive children's rights lens; others were excluded because children's rights and/or discipline policies were supplementary to the article and not the main focus.

² The terms obligations and duties are used interchangeably in this article.

Table 1
Search terms.

Behaviour		Rights		School
"School rules" OR "School discipline" OR "Behaviour management" OR "Discipline" OR "Student behaviour"	AND	"Children's rights" OR "Convention on the Rights of the Child" OR "Participation rights" OR "Education rights" OR "Student rights"	AND	School OR Classroom

Table 2
Inclusion and exclusion criteria.

Inclusion Criteria	Exclusion Criteria
Articles published between 2000 and 2024	Articles published before 2000
Articles published in English	Articles published in a language other than English
Articles published in peer-reviewed journals	Articles published in non-peer reviewed journals or grey literature
Articles that apply a children's human rights lens	Articles that omit a children's human rights lens
Articles that apply to education of young people under 19 years of age	Articles that apply to higher education or other adult education
Articles that examine school discipline as the focus of the article	Articles that focus on corporal punishment or examine school discipline as a supplement

Data analysis

Searches returned 55 results which were imported into EndNote reference management software. Once duplicates were removed (7), 48 articles were subject to an initial screening of abstracts using the inclusion and exclusion criteria. This abstract screening stage excluded 23 articles, leaving 25 articles sought for retrieval. One article could not be accessed, and 13 articles were included based on the title and abstract, leaving 11 articles subject to further screening by scanning the entire article. This stage excluded all 11 of the articles, leaving 13 articles in total for analysis. A PRISMA diagram can be viewed in Fig. 1 below and included articles are indicated in the reference list with an asterisk. As the study was time constrained and carried out by a sole investigator, the author was the sole rater of articles selected for review. Of the 11 articles excluded after further screening, seven were excluded because they omitted a children's human rights lens, and four were excluded because school discipline was a supplement or addendum in the article.

Studies were analysed using thematic analysis (Braun & Clark, 2006) and coded inductively by hand. Whilst coding was inductive, in practice, it was difficult to take a completely grounded approach to coding considering my positionality as a children's rights academic, and as part of a wider project which took an explicitly children's rights-based methodology. As the project examined the extent to which discipline policies were compliant with children's rights, coding reflected the respective education and human rights lexicons. For example, codes included a combination of education terminology such as 'rewards', 'sanctions', 'choice' and 'behaviour' and rights terminology such as 'participation', 'responsibility', and 'due process'. Tensions and rights conflicts were selected from this coding and thematised under i) how behaviour is understood as a human rights matter; and ii) how these tensions and conflicts frequently revealed themselves in school discipline administration and procedures.

Findings

Understanding discipline in terms of rights

It is interesting to note that the tensions and conflicts identified in the findings did not appear across the data, but from a selection of articles in the sample. This might be explained by the finding that education is often narrowed to a singular 'right to' access education, which fails to represent the scope and remit of education rights as a whole and reduces a complex weave of multiple education rights to a singular issue of 'access' (Gillett-Swan & Lundy, 2022; Reyneke, 2016). A summary of the tensions and conflicts identified across the sample can be viewed in Table 3 below.

The findings suggest a tension between children's rights and how educators tend to conceive of discipline dichotomously as 'acceptable' or 'unacceptable' behaviour using a one-size-fits-all approach (Drew, 2019; Thornberg, 2009). Perhaps unsurprisingly, this binary understanding of behaviour extended to use of 'rewards and sanctions' as the governing architecture for behaviour, despite student perception of this system as unfair (Perry-Hazan & Lambrozo, 2018; Osler, 2000). Drew (2019) highlights that rewards and sanctions systems responsabilise students to make choices so they can enjoy everyday privileges or rewards distributed by adults. When deployed in this way, the idea of 'choice' in behaviour tends to frame transgressions as individual failure to conform, and the idea of a 'responsible' student stems directly from students' understanding of adversarial systems of rewards and privileges (Drew, 2019). Yet, some school rules are imposed through norms that are often not articulated explicitly, and where students who do not comply with the idealised 'good' student are sometimes tacitly ignored to convey the message that 'acceptable' behaviour is synonymous with compliance (Thornberg, 2009; Drew, 2019). Establishing compliance may manifest in giving students a 'choice' between two pre-set options, with the clear implication that one is 'right' and one is 'wrong' to correspond with 'acceptable' and 'unacceptable' behaviour. It is interesting to note that in Osler's (2000) study, systems of rewards and sanctions did nothing to make students feel good about school, despite the intention to promote good classroom relationships. Students viewed these relationships as superficial, perhaps because many students have a weak attachment to the regulatory nature of school (Osler, 2000; Preiss et al., 2016).

A further tension is highlighted in the literature between 'choice' and 'responsibility'. In schools, responsibility for making and enforcing rules is left, for the most part, exclusively to the adults and behaviour interventions centre teacher control of student behaviour rather than fostering the development of students' evolving capacities as responsible citizens (Power & Scott, 2014; Osler, 2000). Taking an authoritarian or coercive approach to student behaviour is likely to be counterproductive when it comes to developing children's responsibility because it prioritises conformity to existing disciplinary structures of school and classrooms at the expense of young people's right to be heard (Power & Scott, 2014). This discourse presents discipline in a way that pathologises students who do not 'conform' and responsabilises young people for their inability to conform to the social norms of the 'good' student in the classroom. Perhaps more importantly, by meting out these sanctions and consequences in a 'one-size-fits-all' approach, any disability that may influence conduct or responses in any situation are shrouded in discourses of 'acceptable' and 'unacceptable' behaviour, despite the fact that the instances of students being 'in trouble' are the exact opportunities where educational inequalities can be made visible and where dissenting voices are necessary for inequalities to be examined (Drew, 2019). Issuing sanctions, as well as not being effective, does not encourage students to become independent, make informed or responsible choices in the long term (Geldenhuys & Doubell, 2011; Power & Scott, 2014). Under this authoritarian approach, teachers can take 'unacceptable' behaviour as a personal affront to their authority (Thornberg, 2009; Power & Scott, 2014) when instances of conflict

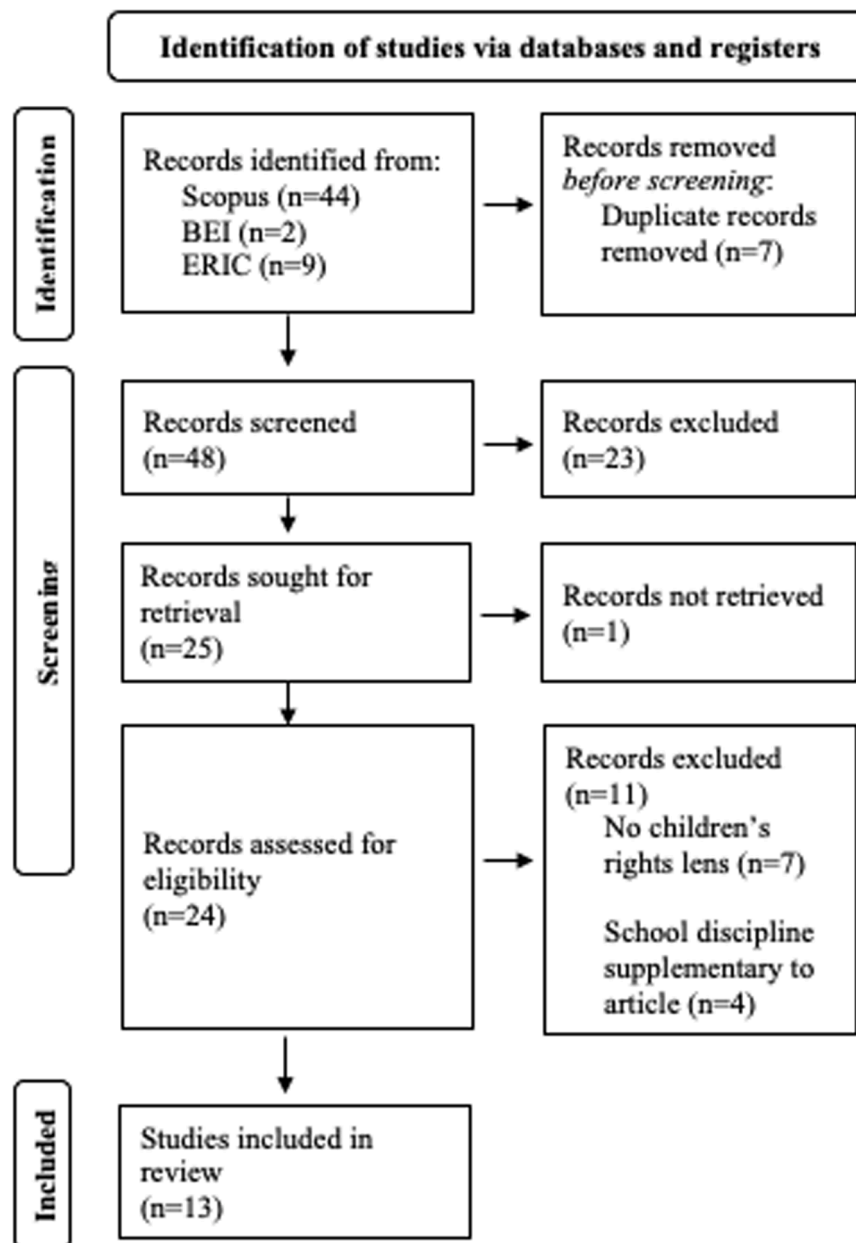


Fig. 1. Preferred Reporting Items for Systematic Review and Meta-Analysis (PRISMA) Diagram.

arise.

Schools commonly require students to sign the discipline policy to indicate a 'contractual' obligation to rules that they have frequently had no say in devising; students often cannot exercise their right to be heard because they 'signed' the rules once upon a time and refusal to comply leads to escalation procedures (Power & Taylor, 2024; Drew, 2019). Whilst such an approach may uphold the right to education in the short term, the emphasis on rules established and monitored by adults, together with systems of rewards and sanctions, does not recognise children and young people as competent, or as rights-holders, and may infringe on other rights (Osler, 2000; Zak-Doron & Perry-Hazan, 2023b); rights that require further identification and examination.

Administrative procedures

Due process permeated the data, perhaps because it strikes at the heart of 'fairness' which arose repeatedly. Schools should be in no doubt that fair decision-making is extremely complex and that due process is

an onerous and challenging right (Perry-Hazan & Lambrozo, 2018). In schools, due process is required where school discipline is based on these punitive approaches (Perry-Hazan & Lambrozo, 2018). In the reviewed literature, students frequently expressed discontent with inconsistent and unfair enforcement of discipline policy which was enforced only when it was convenient; more so than discontent with the rules themselves (Preiss et al., 2016; Perry-Hazan & Lambrozo, 2018). Indeed, the literature indicated that compliance with processes hinges on perceptions of procedures, not merely outcomes, and young people are more willing to 'buy-in' to discipline policies when they believe that processes for handling disputes are fair and motives of decision-makers are trustworthy (Preiss et al., 2016; Arum & Preiss, 2009; Perry-Hazan & Lambrozo, 2018). This is particularly salient given that students on the margins are less likely to experience rules as fair and where students perceive greater fairness and clarity of rules, disorder is less likely (Preiss et al., 2016). Consistency, fairness and proportionality were cited as being important to young people (Geldenhuis & Doubell, 2011; Preiss et al., 2016; Arum & Preiss, 2009). Yet, student understanding of what

Table 3
Summary of tensions and conflicts identified across included studies.

Study	Country/ Regional Context	Methodology	Key focus on discipline	Identified rights-based tensions and conflicts
1 Arum, R. and Preiss, D. (2009)	USA	Doctrinal case law analysis: 11 US Supreme Court cases 1967–2009	To discern contours of the legal climate in schools by analysing court cases on school discipline in the USA	Due process Fairness
2 Drew, C. (2019)	England, UK	Empirical: Semi-structured interviews with 15 teachers	To explore how 'student choice' is used in classrooms as a way of reinforcing adult-child power relations	Binary conceptualisation of discipline Responsibility v. choice Right to be heard v. compliance Responsibility Fairness Due process Right to be heard
3 Geldenhuys, J. and Doubell, H. (2011)	South Africa	Empirical mixed methods: questionnaire ($n = 40$ learners aged 14–17), literature review and observations	Learner voice on their involvement in school discipline	Responsibility Fairness Due process Right to be heard
4 Gillett-Swan, J. and Lundy, L. (2022)	International	Conceptual	Identify the challenges faced by schools in resolving rights conflicts, and advance a human rights-informed approach	Access v. quality Right to be heard Best interests
5 Osler, A. (2000)	England, UK	Empirical: mixed methods questionnaire ($n = 158$ learners aged 10–15)	Pupils' perceptions of behaviour policies and practices and their views on how effective discipline can be achieved.	Rewards and sanctions Fairness
6 Perry-Hazan, L. and Lambrozo, N. (2018)	Israel	Empirical: semi-structured interviews ($n = 12$) and focus groups ($n = 18$) with 70 learners aged 7–10	Explore how children in lower primary school perceive due process in school disciplinary procedures	Non-discrimination v. best interests Due process Rewards and sanctions Fairness Right to be heard Best interests
7 Power, S. and Taylor, C. (2024)	Wales, UK	Empirical: policy analysis of 40 Welsh policy documents	Explore discourse around school exclusion in Wales	Right to be heard v. compliance Best interests
8 Power, F. C. and Scott, S. E. (2014)	USA	Conceptual	Advance a child rights approach to promoting children's experiences of governance by giving them opportunities to make and enforce school rules and policies	Responsibility v. choice Due process Right to be heard
9 Preiss, D. R., Arum, R., Edelman, L. B., Morrill, C. and Tyson, K. (2016)	USA	Empirical: student surveys ($n = 5490$) and in-depth interviews with students ($n = 86$), teachers ($n = 36$) and administrators ($n = 9$)	To examine students' perceptions of their legal rights when faced with disciplinary sanctions and how these perceptions impact their views of school discipline	Rewards and sanctions Due process Fairness
10 Reyneke, M. (2016)	South Africa	Doctrinal	To highlight that SA legislation pertaining to school discipline are not child-centred and infringe best interests of the child concept	Access v. quality Best interests
11 Thornberg, R. (2009)	Sweden	Empirical: observations, teacher interviews ($n = 13$) and group learner interviews ($n = 141$)	Examine teacher strategies for upholding school rules and analyse to what extent these strategies implement children's participation in rulemaking	Binary conceptualisation of discipline Due process Right to be heard Right to be heard
12 Zak-Doron, I. and Perry-Hazan, L. (2023a)	Israel	Empirical: documentary analysis, semi-structured interviews with learners aged 8–19 ($n = 37$), teachers ($n = 16$), parents ($n = 13$) and school principals ($n = 2$)	Explore disciplinary procedures in democratic schools that operate participatory disciplinary committees	Right to be heard Right to be heard
13 Zak-Doron, I. and Perry-Hazan, P. (2023b)	Israel	Empirical: documentary analysis, semi-structured interviews ($n = 16$) and focus groups ($n = 21$) with learners aged 8–19; semi-structured interviews with teachers ($n = 16$) and school principals ($n = 2$)	Explore how participatory disciplinary systems in democratic schools reflect models of collective participation rights	Inter-right conflicts Individual v. collective Privacy v. safety

their due process rights were varied and vague, and where unable to articulate their due process rights, they frequently invoked systems of reward and sanctions instead (Preiss et al., 2016).

Whilst students are rarely asked to deliberate how to administer disciplinary processes fairly, they have a right to due process akin to adults (Geldenhuys & Doubell, 2011; Preiss et al., 2016; Power & Scott, 2014; Thornberg, 2009; Perry-Hazan & Lambrozo, 2018). Indeed, implementing children's right to have their views given due weight shows respect for the dignity of children and young people in conformity with the CRC (Power & Scott, 2014; Thornberg, 2009). Yet, the literature indicated young people's experiences of teachers making rules without the opportunity for discussion, with most students agreeing that

they should be more involved in policymaking on discipline (Geldenhuys & Doubell, 2011; Perry-Hazan & Lambrozo, 2018). Making rules without consultation with children and young people typifies an authoritarian approach to school rules also highlighted in Thornberg's (2009) study and a sense of unfairness where attempts to express their views are met with escalating sanctions; punishment for actions that are actually an exercise of their human rights (Preiss et al., 2016). Indeed, Geldenhuys and Doubell (2011) found that teachers perceived students voicing their views about discipline as an indication of disrespect which perhaps partially accounts for what the literature highlighted as a tendency to 'jump' to outcomes without a robust investigation and without consulting students (Perry-Hazan & Lambrozo, 2018; Preiss et al., 2016;

Osler, 2000).

Gillett-Swan and Lundy (2022) remind us that children's right to be heard – a key due process right – is often overlooked in school policies and decision-making. Indeed, in some cases, children's 'voice' is used to empower only some children and to exclude those who present undesired behaviour (Zak-Doron & Perry-Hazan, 2023a). This echoes arguments by Drew (2019) that participation in devising rules can be redirected to authoritarian purposes which discriminate against minority students, and suggests that in day-to-day school life, rights are dependent on behaviour. Participatory practices might be exploited by adults to justify punitive systems using structures, policies and processes that have been determined by adults, without being subject to children's views (Zak-Doron & Perry-Hazan, 2023a; Drew, 2019). Indeed, copying and pasting structures and systems from the adult world and using 'co-creation' of rules as a vehicle for these rules is likely to obscure the necessity of adjustments that might more fully realise children's participation rights (Zak-Doron & Perry-Hazan, 2023a; Drew, 2019), and indeed their rights more generally.

Where there are inter- and intra- rights conflicts between students, including children's views provides a more refined understanding of how children think about or respond to rights tensions and conflicts (Gillett-Swan & Lundy, 2022). Participation rights encompass both individual and collective children's right to express their views, and to have these views given due weight (Zak-Doron & Perry-Hazan, 2023a, 2023b). As with rights tensions and conflicts between the 'many' and the 'few' (Gillett-Swan & Lundy, 2022), there are also tensions between individual and collective rights, and between participation rights and other rights such as privacy and safety (Zak-Doron & Perry-Hazan, 2023b). Whilst there is some evidence of using rights language and 'balancing' to justify responses to rights tensions and conflicts, the discussion is often partial and ad hoc because it considers a small set of rights or rights-holders, and there is no attempt at reconciliation or compromise (Gillett-Swan & Lundy, 2022). The 'balance' therefore has a habit of tipping towards the rights of other children and adults and away from the rights and best interests of the individual child (Gillett-Swan & Lundy, 2022), which uses utilitarianism to resolve the conflict and does not implement human rights processes. Ultimately, the reviewed literature underlines a distinct lack of systematic processes for resolving tensions between the rights of the individual and the rights of the majority, which denies children the accountability that is the foundation of human rights (Gillett-Swan & Lundy, 2022).

In response to this lack of systematic processes, Gillett-Swan and Lundy (2022) offer a 3Cs model for resolving rights conflicts in school: classifying; compromising or choosing; and continuing. Classifying which rights are at stake requires identifying all the individual rights at stake for all stakeholders in any given classroom situation; a complex undertaking that is often overlooked or omitted. Identifying these rights also requires consulting with rights-holders, including children, whose perspectives are frequently omitted from education debates. Where rights conflicts arise, a decision must be taken regarding whether and how the rights in question may be realised, or if they must be restricted. Gillett-Swan and Lundy (2022) present this choice as 'compromise' or 'choose'. Where the decision is to compromise, there must be an attempt at reconciliation between the rights at stake whereby one or other party experiences a limitation on the full enjoyment of the right(s) in question. Where the human rights in question are incompatible, or upholding the same rights of different stakeholders requires the violation of the same human right of another, a process that balances the rights in question is required to 'choose' which rights will prevail; the legal test of proportionality. These decisions are not 'winner takes all', however. Duty bearers taking a rights-based approach must 'continue' to do everything possible to balance human rights, considering that the facts of some cases will change over time and decisions will need re-examined and balanced. A fair and transparent process for doing so might prevent rights breaches and motivate duty bearers to pay attention to resolving rights tensions through compromise earlier in the process to avoid

unnecessary escalation.

These rights tensions raise the best interests principle (Reyneke, 2016; Perry-Hazan & Lambrozo, 2018; Lundy & Gillett-Swan, 2022). Balancing competing rights and interests of different children is an onerous task and an issue for which there lacks an evidential basis for establishing what is in the best interests of that individual child (Power & Taylor, 2024; Reyneke, 2016; Gillett-Swan & Lundy, 2022). For example, removal of a child from a classroom or school may resolve immediate disruption but does little to consider and weigh the rights-based implications of such a decision for *all* stakeholders and does little to ensure that children's rights are at the centre of decision-making and considered alongside other rights-holders (Gillett-Swan & Lundy, 2022). In this regard, a rights-based model of behaviour might help educators conceptualise their actions in terms of human rights and make dilemmas easier to resolve and to justify (Zak-Doron & Perry-Hazan, 2023b). Yet, neither the need to balance these interests, nor the factors to consider, are considered in policy which may frame such a decision as mere procedure, when in fact it is a moral dilemma and human rights conflict (Reyneke, 2016; Gillett-Swan & Lundy, 2022). Indeed, a key question when considering the case of a young person with additional needs who is disrupting the class is whether the issue is that young person's enjoyment of their right to inclusive education, or the violation of another right (such as reasonable accommodations) that is causing the conflict with the rights of other individuals (Gillett-Swan & Lundy, 2022).

The lack of attention to the best interests of *all* children in disciplinary matters is aggravated by the retributive approach to behaviour. The adversarial process commonly applied to deal with behaviour inevitably leads to a focus on individual children's behaviour with the primary aim of establishing 'guilt' and deciding sanctions (Reyneke, 2016; Power & Taylor, 2024). This means that there is little consideration of the rights that frequently come into tension in policy, for example, privacy, protection and participation rights, as well as the tensions between individual and collective rights (Zak-Doron & Perry-Hazan, 2023b; Gillett-Swan & Lundy, 2022). This oversight creates a breeding ground for an unbalanced focus on individual children's behaviour and an increased risk of intervention on children who experience intersecting identities such as additional needs, gender, or poverty (Reyneke, 2016; Gillett-Swan & Lundy, 2022). Indeed, Perry-Hazan and Lambrozo's (2018) findings show that a prominent challenge of due process rights appears to be their location at the intersection between legal and criminal justice structures and educational or pedagogical discourses; narratives that are irreconcilable and which engender a 'distorted' due process (Perry-Hazan & Lambrozo, 2018). This may go some distance to explain why, despite statements of fairness and consistency in school discipline policies, discipline continues to be accompanied by claims of the opposite.

Discussion

The international literature confirms that education rights are frequently reduced to a matter of access to education over the ambitious aims of education (intra-right conflict) and to a matter of the right of one child to access education over the rights of other children to access education (inter-right conflict) which can muddy the waters when rights conflicts arise. The right to education engages *all other* rights in schools which, to be upheld, require a focus on the relationships through which rights and their conflicts are negotiated, weighed and balanced. Yet, as the findings highlight, these rights conflicts are overwhelmingly conceptualised in utilitarian terms where the rights of the majority outweigh the rights of the individual. This is perhaps because inevitably, rights conflicts centre around individual rights that are exercised and claimed in collective spaces and where, in classes of approximately 30 students, the appeal of resorting to utilitarianism is difficult to resist because it appears straightforward and, ostensibly at least, 'fair'. Such a method of resolving conflict, however, leaves open the possibility that

the rights of marginalised individuals, such as students with disabilities or from minorities, will always be the subjects of these trade-offs which may be made against less important interests on account of higher numbers (Waldron, 1989). Rights, in contrast to utilitarianism, place limits on these trade-offs by placing qualitative priority over considerations of utility (Waldron, 1989). When considering education rights, this is significant because the literature suggests that these trade-offs tend to prioritise quantitative factors such as respect for the right to education over the obligations and duties that correspond with the CRC as a whole.

The findings suggest that there has been inadequate identification of the full gamut of obligations and duties in education which has led to insufficient examination of rights conflicts and tensions that arise between the human rights apparatus and the systems to which it is applied in education. Whilst there is some evidence of the beginnings of a systematic process for resolving these challenges in the field (see Gillett-Swan & Lundy, 2022), these make two assumptions: that educators possess the requisite legal and human rights knowledge to adjudicate and balance rights tensions and conflicts; and that the human rights tensions and conflicts in the field are conceptualised as such. There is therefore a core need for further empirical research in this area. This section discusses three central challenges which traverse the findings: relations, discourse and omissions. I argue that these challenges are not always understood as human rights concerns which has created a lacuna in the human rights apparatus in schools, filled instead with adversarial systems of rewards and sanctions which produce and perpetuate human rights conflicts.

Firstly, rights tensions and conflicts manifest ubiquitously in how school conflict is understood and managed which produces *relational* rights challenges whereby student attempts to exercise the right to be heard and to freedom of expression lead to escalation procedures. These conflicts engage both inter-rights and intra-rights conflicts in the relationships between duty bearers and rights holders and the due process rights they are entitled to, but also between individual children and their peers. In the case of inter-rights conflicts, these arise where a duty bearer assesses that the human rights obligation to one student cannot be fulfilled at the same time as a different right of another student and therefore one right becomes 'prioritised' over the other. In classroom situations, this usually entails the prioritisation of the right to education, or 'access' which reveals a key tension and human rights conflict between individual and collective rights, or the interests of the 'many' versus the 'few', and between quantitative and qualitative rights mechanisms. In the case of intra-rights conflicts, relational conflicts also present where more than one student's right to, for example, safety, is threatened by a student whose actions may also endanger themselves. This can create a challenge where the rights of the 'majority' are prioritised over the right to safety of a young person in distress, particularly where that student has a disability.

School systems of behaviour management are adversarial which means they have relational conflict built into their architecture. The international literature highlights that many educators think of discipline in terms of conflict, but not as a rights issue. This manifests as decisions made by escalating sanctions, not weighing or balancing human rights. The literature suggests that this oppositional approach to relational conflict frequently manifests as giving students a 'choice' between preset options which evades confronting the possibility that rules might create rights conflicts or that they may be discriminatory. This reflects a central conflict in how these tensions are understood; when students are responsabilised, as they are under systems of rewards and sanctions, their actions become framed as bad decisions instead of examining such systems for privileging certain intersectional identities over others and conceptualising the consequent discrimination and inequality manifested by these systems. It also precludes an examination of the inherent rights conflict between the rights of individuals and how they are claimed in collective spaces; a debate that is necessary to deepen education rights scholarship. Instead of framing these

behaviours as breaches of the discipline policy warranting immediate escalation of sanctions, consulting children and young people about their experiences and perspectives may in fact highlight rights breaches and conflicts that remain hidden, and which may be the source of dissent.

A second rights-based challenge is *discursive*; the conflict between different discourses at play when it comes to considering children's behaviour in schools. These conflicting narratives form the spine of discipline policies through conflicting discourses between law and criminal justice disciplines, and educational and pedagogical narratives to frame decision-making. These discursive conflicts distort the due process rights of students, placing expectations of 'acceptable' behaviour over students' rights. This is further exemplified through the conflict between 'choice' and 'responsibility', where a disproportionate focus on the behaviour itself couches students' expression of dissent as 'poor choice' and holds them accountable for such choices. Consequently, rights discourse in many schools becomes dependent on behaviour whereby a focus on individual students' behaviour risks disproportionate escalation of sanctions on students who have intersecting marginalised identities.

Whilst 'responsibility' in its human rights meaning is anchored to the exercise of individual rights with consideration for the rights of others, the attachment of this concept to 'choice' removes this understanding. This reflects a deeper conflict between rules imposed from the adult world onto children's lived experience and human rights without sufficient examination of how rules may breach rights, and how the various obligations generated by rights entitlements are to be weighed and balanced, or empirical examination of how children perceive these conflicts and tensions. Indeed, the CoRC emphasises that rights conflicts should be weighed and balanced on a case-by-case basis using the best interests principle to explain how individual children's interests have been weighted against other considerations and draw explicit attention to the interdependence of best interests and participation rights.

The final rights challenge identified from the literature is *omissive*. If, as Griffin (2008) argues, there is no better test of human rights than what they have to say about human rights conflict, then there is a pressing need for empirical investigations to locate and examine what these conflicts are and how their resolution might deepen the children's rights field. Human rights conflict in schools and education have not to date occupied centre stage in the jurisprudence – an omission that facilitates inaction, misunderstanding, and restrains human rights implementation. In the case of education rights in schools, omitting any discussion of challenges and barriers as human rights conflicts serves to add complexity; for example, the concealment in everyday practices of decision-making that has already been taken by adults but is not examined for human rights implications. This is a key omission which requires a human rights-based approach to exposing these conflicts before any discussion of how to resolve them can deepen scholarship.

A central omission to the rights conflicts that occur in schools is highlighted by the international literature regarding systems of rewards and sanctions. These systems are viewed as being objective through a 'one-size-fits-all' application but omit consideration of dissenting voices which are, using these discipline policies, interpreted as 'unacceptable' behaviour, and therefore omit any consideration of classroom inequalities. Indeed, the presentation of systems of false choices ignores and obscures the possibility that discipline policies may inhibit children's right to a quality education centred on relationships. The literature highlights a distinct absence of processes by which students can challenge or question the validity or fairness of rules and their implementation. This engages administrative procedures wherein the relationships at the centre of interactions form the basis of conflicts and substantive due process which engages with rights conflicts themselves. The literature highlights a tendency to omit the former – relational conflict – as a rights conflict at all, perhaps because the relationship between duty bearers and rights-holders is not considered to be a human rights concern. Behaviour policies sideline the relational core of

resolving conflict by omitting any recognition of it, and foreground sanctions to this end.

Conclusion

The international literature highlights that rewards and sanctions systems clash with a human rights-based approach. This both overlooks and produces several rights tensions and conflicts including an over-reliance on 'access' to education when it comes to children's rights, with little consideration of broader rights under the CRC, and discord between the rights-compliant processes required to operationalise a quality education and the systems through which these processes should be implemented. The challenge for education is to identify and conceptualise the administrative and educational principles that guide these policies, where these principles conflict, and to bring these conflicts to the human rights debate; a challenge that requires detailed empirical research.

Before we can begin the conversations about resolving rights conflicts suggested by Griffin (2008), we need detailed empirical examination of the tensions and conflicts in schools that takes account of the limitations of the current study. Whilst the selection of only three databases and the choice of search terms may have limited the comprehensiveness of the literature search, this study included 13 articles which present some ad hoc identification of tensions and conflicts, but little in-depth exploration of them. This literature is concentrated in the Global North which may affect the types of rights tensions and conflicts identified. This highlights that there is a need for a more detailed catalogue of these tensions and conflicts from a larger field landscape to more comprehensively map these rights tensions and conflicts in education, and to distinguish between rights 'tensions' and 'conflicts'. This includes reframing conflict in schools as human rights concerns through children's rights enshrined in the CRC.

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No ethical approval was required

CRedit authorship contribution statement

Amy Hanna: Writing – review & editing, Writing – original draft, Resources, Project administration, Methodology, Investigation, Funding acquisition, Formal analysis, Data curation, Conceptualization.

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