

# THE MENACE OF CORPORAL PUNISHMENT AT SCHOOLS -A LEGAL FRAMEWORK TO ENSURE CHILD'S HOLISTIC DEVELOPMENT

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## INTRODUCTION

School corporal punishment is the deliberate infliction of physical pain as a response to undesired behavior by students. The term corporal punishment derives from the Latin word for the "body", corpus. In schools it may involve striking the student on the buttocks or on the palms of their hands with an implement such as a rattan cane, wooden paddle, slipper, leather strap or wooden yardstick. Less commonly, it could also include spanking or smacking the student with the open hand, especially at the kindergarten, primary school, or other more junior levels. Much of the traditional culture that surrounds corporal punishment in school, at any rate in the English-speaking world, derives largely from British practice in the 19th and 20th centuries, particularly as regards the caning of teenage boys. There is a vast amount of literature on this, in both popular and serious culture. In the English-speaking world, the use of corporal punishment in schools has historically been justified by the common-law doctrine in loco parentis, whereby teachers are considered authority figures granted the same rights as parents to discipline and punish children in their care if they do not adhere to the set rules. A similar justification exists in Chinese-speaking countries. It lets school officials stand in for parents as comparable authority figures. The doctrine has its origins in an English common-law precedent of 1770.

## CORPORAL PUNISHMENTS MAY BE DIVIDED INTO THREE TYPES:

- **Parental or Domestic Corporal Punishment:** In this children are punished by parents or guardians.
- **School Corporal Punishments:** in this children are punished by school authorities (teachers, administrators, principals etc.) during their school tenures.
- **Judicial Corporal Punishments:** Court orders punishment to the children.

## CHILD ABUSE

A person who is below the age of 14 is considered to be a child. According to the UNCRC 'a child means every human being below the age of eighteen years unless, under the law applicable to the child.

Child abuse is physical, emotional or emotional maltreatment of a child or children. In in united states the Canter's for Disease Control and Prevention (CDC) and the Department for Children and Families (DCF) define child maltreatment as any act or series of acts of commission or omission by a parent or other caregiver that results in harm, potential for harm, or threat of harm to a child. 39% of the population in India consists of children.

## There are four types of abuses:

- Physical Abuse;
- Emotional Abuse;
- Sexual Abuse;
- Psychological Abuse;
- Neglect.

**ORIGIN OF CORPORAL PUNISHMENT:**

Corporal Punishment is a very old concept in India. Teachers and Gurus were the supreme authority and were responsible for making students educated and disciplined. Corporal punishments were a method of disciplining the children and youths in school settings (Gurukul in ancient India.).

**MEANING OF CORPORAL PUNISHMENTS**

Corporal punishment is a method that has been implemented by schools since times immemorial to enforce discipline amongst the students and it is also used as a means to deter the students from committing similar offences in the near future.

“Any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting (smacking, slapping, spanking) children, with the hand, or with an implement- a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing hairs, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example washing children’s mouths out with soap or forcing them to swallow hot spices). In the view of the committee, corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment that are also cruel and degrading and thus incompatible with the Convention. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.”

Corporal punishment is defined as “the intentional infliction of pain or discomfort and/or use of physical force upon a student in order to stop or change behaviour” (National Association of School Psychologists). Corporal punishment is the intentional infliction of physical pain as a method of changing behaviour. It may include methods such as hitting, slapping, punching, kicking, pinching, shaking, use of various objects (paddles, belts, sticks, or others), or painful body postures (National Association of School Nurses, 2000). Hyman states that “corporal punishment in the schools is the infliction of pain or confinement as a penalty for an offence committed by a student” (Hyman, 1990:10).

**KINDS OF PUNISHMENTS IN SCHOOLS:**

Punishment is any event whose presence decreases the likelihood that the ongoing behaviour will recur. Punishment is generally used in operant conditioning.

Before we understand punishment, let us understand the meaning of reinforcer & punisher. A reinforcer is a stimulus that follows behaviour and increases the likelihood that behaviour will be repeated whereas a punisher is a stimulus follows behaviour & decreases the likelihood that behaviour will be repeated.

Often punishment is mistakenly taken as negative reinforcement but which is not true because reinforcement always increases the chances that behaviour will reoccur and punishment always decreases the chances that behaviour will recur.

Following are the types of punishments used by schools for children:

**Physical Punishments :**

- Making children stand as wall chair.
- Keeping the school bags on heads.
- Making them stand under the sun for whole day.
- Making the children kneel down and do the work and then come inside the class.
- Making them raise their hands for long time.
- Hold pencil in their month and stand for whole day.
- Holding their ears with hands passed under the legs.
- Tying of the children’s hand.
- Making them do sit ups.
- Canning and pinching.
- Twisting the ears.

### **Emotional Punishments :**

- Slapping by opposite sex.
- Scolding, abusing and humiliating.
- Label the child according to his behaviour and send him or her around the school.
- Make them stand at the back of class and to complete the work.
- Suspending them for couple of days.
- Pinning paper on their back and labelling them “I am a fool”, “I am a donkey” etc.
- Teacher takes the child to every class she goes and humiliates the child.
- Removing the shirts of boys.

### **Negative Reinforcements**

- Detention during the break and lunch.
- Locking them in a dark room.
- Call for parents or asking the children to bring explanatory letters from the parents. 4. Sending them home or keeping the children outside the gate.
- Making the children sit on the floor on the classroom.
- Making the child clean the premises.
- Making the child run around the building or in the playground.
- Sending the children to principals.
- Making them to teach in the class.
- Making them to stand till the teacher comes.
- Giving oral warnings and letters in the diary or calendar.
- Threatening to give TC for the child.
- Asking them to miss games or other activities.
- Deducting marks.
- Treating the three late comings equal to one absent.
- Giving excessive imposition.
- Make the children pay fines.
- Not allowing them into the class.
- Sitting on the floor for one period, day, week and month
- Placing black marks on their disciplinary charts.

### **OBJECTIVES OF THE STUDY:**

- To study the Parenting and Teaching Techniques.
- To study the Child Protection and Child Rights in India.

### **Child Protection and Child Rights in India:**

#### **Children Rights In India :**

- To have :
  - Mother free of violence.
  - Safe and secure home.
  - Medical needs to be fulfilled.

- To be:
  - Loved;
  - Nurtured well;
  - Fed well;
  - Education;
  - Touched in a loving way;
  - Guided in decision making;
  - Supervised , Monitored and not left alone;
  - Encouraged and supported in one's interest.
- To know :
- To learn :
  - To be a loving person;
  - To share;
  - Responsibility;
- To be free of:
  - Racial behaviour;
  - Hate Bias;
  - Emotional Abuse;
  - Sexual Abuse;
  - Physical Abuse;
- To Not:
  - Be scapegoat of mom or dad's negative experiences, decisions or behaviours!
  - Suffer the consciences of abuse perpetuated upon one's mother!
- To live:
  - Without fear;
  - In society of violence;

#### **If No Corporal Punishment Than What?**

- Respect the child's dignity.
- Develop pro-social behaviour, self-discipline and character.
- Maximise the child's active participations.
- Respect children development needs and quality of life.
- Respect the child's motivational characteristics and life views
- Assure fairness and transformative justice
- Promote solidarity

#### **LEGAL PROHIBITION OF CORPORAL PUNISHMENT:**

The current limitations on the use of corporal punishment (para 141, Education Rules 2000) were an attempt to protect children from indiscriminate corporal punishment. They are believed and experienced to have been widely ignored by teachers, and

generally neither monitored nor enforced by managers nor the Ministry of Education, in a continuing culture of impunity. Many children have for nine years been victims of the failure of an attempt to protect them. Yet there are more and more teachers who complete their professional teacher education qualifications based on no corporal punishment, there are more and more schools and teachers in Belize who already do not use corporal punishment, there are more and more parents who do not wish others to hit their children. As long as the law authorizes corporal punishment in schools, teachers will see it as a legitimate way to deal with school discipline. With legal prohibition and more and ongoing professional training for everyone in the education sector, ignorance can no longer be used as an excuse

### **INDIAN CONSTITUTION TO PROTECT CHILDREN'S INTEREST AND RIGHTS :**

Our Indian Constitution is keen to protect children's interest and rights. The following aspect emphasises for a holistic Development of a child in our constitution.

- Right to family care
- Right to health
- Right to Education
- Right to play and recreation
- Right to be protected against exploitation

The constitutional legislation states in Article 21-A, (86th Amendment, 2002), "Right to free and compulsory elementary education for all children in the age of 6-14 years"

Article-24 states that "Right to be protected from any hazardous employment upto 14 years

The Rights of Children to free and compulsory education (RTE) Act 2009, prohibits physical punishments and mental harassment and emphasises curriculum in consonance with values enshrined in our constitution which would ensure a holistic development of child building in knowledge, potentiality, talents also free from anxiety, fear and trauma through a system of child friendly and child centered learning.

Despite of all the constitutional, legal and institutional provisions its identified that the menace of corporal punishments still persist in schools which hampers and deteriorates the holistic Development of a child

### **RECOMMENDATIONS**

- Maintenance of healthy pupil-teacher ratio
- Avoid the appointment of untrained teachers
- Proportionate recruitment of lady teachers
- Emphasis on moral education in teacher preparation programme.
- Periodical organisation of seminars, workshops and training programmes for school teachers.
- Provision of counselling for needy teachers.
- Strengthening Parent Teacher Association (PTA).
- Adequate first aid in schools.

### **CONCLUSION**

The Minister of Human Resource Development to bring forward a Comprehensive New Education Policy banning corporal punishment, learning while playing and reducing the burden of carrying umpteen books in a duck back bag, and lay stress on learning through computers. It will reduce the physical stress and increase the IQ of the student. This way, the student would be able to show his talent also.

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