

Guidelines for
Eliminating Corporal Punishment
in Schools





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National Commission for Protection
of Child Rights (NCPCR)

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The prevalence of corporal punishment in schools and all other settings as a social norm goes on unquestioningly causing untold harm to children. We hope that these Guidelines are adopted by all States enabling elimination of corporal punishment in schools completely.

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1

Introduction

- 1.1** Children are subject to corporal punishment in schools; institutions meant for care and protection of children such as hostels, orphanages, *ashram shalas*, and juvenile homes; and even in the family setting. A study ‘Child Abuse in India – 2007’, by the Ministry of Women and Child Development, Government of India, found that 69% of children reported having been physically abused. Of these 54.68% were boys. Incidents of having been abused in their family environment have been reported by 52.91% of boys and 47.09% of girls. Of the children who were abused in family situations, 88.6% were abused by their parents. Every two out of three school children reported facing corporal punishment. In juvenile justice institutions, 70.21% of children in conflict with the law and 52.86% of children in need of care and protection reported having been physically abused.
- 1.2** Documentary evidence points to the persistence of discrimination based on social, economic, linguistic and religious identities inside the school. Discrimination based on disability and illness/disease has also been reported.
- 1.3** It is also reported that psychological aggression (i.e., controlling or correcting behaviour that causes the child to experience psychological pain) is more pervasive than spanking and physical punishment.

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Perceptions on Corporal Punishment

- 2.1** Punishing children is regarded as normal and acceptable in all settings – whether in the family or in institutions. It is often considered necessary in order that children grow up to be competent and responsible individuals.
- 2.2** It is widely used by teachers and parents regardless of its evident lack of effectiveness, and potentially deleterious side-effects. Its very ineffectiveness tends to result in an escalation spiral which then leads to both a culture of rationalisation by those in authority and passive acceptance of the situation as evidence of ‘caring’ by children.
- 2.3** So pervasive is the justification of corporal punishment that a child may not think her/his rights have been infringed upon. Even if the punishment hurts, the child does not feel the importance of reporting the incident.
- 2.4** Therefore there are layers of beliefs and practices that cloak corporal punishment under the guise of love, care and protection, when it is actually an abuse of authority that harms the child. This follows from the belief that those in whose care children are entrusted in school or other institutions are *‘in loco parentis’* and will therefore always act in the interests of the child. This notion needs to be reviewed in the light of the widespread violence that exists in all institutions occupied by children.

Long-term Consequences of Corporal Punishment

- 3.1** It is now globally recognised that punishment in any form or kind in school comes in the way of the development of the full potential of children.
- 3.2** When adults use corporal punishment it teaches their children that hitting is an acceptable means of dealing with conflict. The more children are hit, the more is the anger they report as adults and consequently the more they hit their own children when they are parents, and the more likely they are to approve of hitting.
- 3.3** Corporal punishment leads to adverse physical, psychological and educational outcomes – including increased aggressive and destructive behaviour, increased disruptive behaviour in the classroom, vandalism, poor school achievement, poor attention span, increased drop-out rate, school avoidance and school phobia, low self-esteem, anxiety, somatic complaints, depression, suicide and retaliation against teachers – that emotionally scar the children for life.
- 3.4** Children subjected to punishment prefer aggressive conflict resolution strategies with peers and siblings and they do not consider it a violation of their rights.
- 3.5** There is an association between corporal punishment meted out to children and maladaptive behaviour patterns in later life, such as aggression and delinquency.
- 3.6** The effects of various forms of mental harassment or psychological maltreatment have shown that (a) combinations of verbal abuse and emotional neglect tend to produce the most powerfully negative outcomes; (b) psychological maltreatment is a better predictor of detrimental developmental outcomes for young children than the severity of physical injury experienced by them; (c) it is the indicator most related to behaviour problems for children and adolescents; and (d) psychological abuse is a stronger predictor of both depression and low self-esteem than physical abuse.
- 3.7** A chronic pattern of psychological maltreatment destroys a child's sense of self and personal safety.
- 3.8** Subtle and overt forms of discrimination are also known to have a negative effect on the emotional and intellectual health of children.
- 3.9** In recognition of the harmful consequences of corporal punishment on the child, the General Comment on corporal punishment stated that, "There is no ambiguity: 'all forms of physical or mental violence' does not leave room for any level of legalized violence against children. Corporal punishment and other cruel or degrading forms of punishment are forms of violence and States must take all appropriate legislative, administrative, social and educational measures to eliminate them." [CRC, General Comment 8, p.6]

4.1 All forms of corporal punishment including sexual abuse are harmful to the child. Currently, there is no statutory definition of corporal punishment of children in Indian law. Definition of corporal punishment can at best only be indicative. In keeping with the provisions of the RTE Act, 2009, corporal punishment could be classified as physical punishment, mental harassment and discrimination.

4.2 Physical punishment is understood as any action that causes pain, hurt/injury and discomfort to a child, however light. Examples of physical punishment include but are not restricted to the following:

- 4.2.1 Causing physical harm to children by hitting, kicking, scratching, pinching, biting, pulling the hair, boxing ears, smacking, slapping, spanking or with any implement (cane, stick, shoe, chalk, dusters, belt, whip, giving electric shock etc.);
- 4.2.2 Making children assume an uncomfortable position (standing on bench, standing against the wall in a chair-like position, standing with schoolbag on head, holding ears through legs, kneeling etc.);
- 4.2.3 Forced ingestion of anything (for example: washing soap, mud, chalk, hot spices etc.);
- 4.2.4 Detention in the classroom, library, toilet or any closed space in the school.

4.3 Mental harassment is understood as any non-physical treatment that is detrimental to the academic and psychological well-being of a child. It includes but is not restricted to the following:

- 4.3.1 Sarcasm that hurts or lowers the child's dignity;
- 4.3.2 Calling names and scolding using humiliating adjectives, intimidation;
- 4.3.3 Using derogatory remarks for the child, including pinning of slogans;
- 4.3.4 Ridiculing the child with regard to her background or status or parental occupation or caste;
- 4.3.5 Ridiculing the child with regard to her health status or that of the family – especially HIV/AIDS and tuberculosis;
- 4.3.6 Belittling a child in the classroom due to his/her inability to meet the teacher's expectations of academic achievement;
- 4.3.7 Punishing or disciplining a child not recognising that most children who perform poorly in academics are actually children with special needs. Such children could have conditions like learning disability, attention deficit hyperactivity disorder, mild developmental delay etc.;
- 4.3.8 Using punitive measures to correct a child and even labelling him/her as difficult; such as a child with attention deficit hyperactivity disorder who may not only fare poorly in academics, but also pose a problem in management of classroom behaviours;
- 4.3.9 'Shaming' the child to motivate the child to improve his performance;

4.3.10 Ridiculing a child with developmental problems such as learning difficulty or a speech disorder, such as, stammering or speech articulation disorder.

4.4 Discrimination is understood as prejudiced views and behaviour towards any child because of her/his caste/gender, occupation or region and non-payment of fees or for being a student admitted under the 25% reservation to disadvantaged groups or weaker sections of society under the RTE, 2009. It can be latent; manifest; open or subtle. It includes but is not restricted to the following:

4.4.1 Bringing social attitudes and prejudices of the community into the school by using belittling remarks against a specific social group or gender or ability/disability;

4.4.2 Assigning different duties and seating in schools based on caste, community or gender prejudices (for example, cleaning of toilets assigned by caste; task of making tea assigned by gender); admission through 25% reserved seats under the RTE; or non-payment of any prescribed fees;

4.4.3 Commenting on academic ability based on caste or community prejudices;

4.4.4 Denying mid-day meal or library books or uniforms or sports facilities to a child or group of children based on caste, community, religion or gender;

4.4.5 Deliberate/wanton neglect.

4.5 The United Nations Committee on the Rights of the Child defines corporal punishment as follows:

The Committee defines “corporal” or “physical” punishment as 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 ears, 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.¹ [*emphasis added*]

4.6 The Committee also notes that corporal punishment can be inflicted in many contexts:

Corporal punishment and other cruel or degrading forms of punishment of children take place in many settings, including within the home and family, in all forms of alternative care, schools and other educational institutions and justice systems – both as a sentence of the courts and as a punishment within penal and other institutions – in situations of child labour, and in the community.

This definition is a useful benchmark because it emphasises the various physical forms that corporal punishment might take, and establishes that this full spectrum of physical punishment – even acts that many consider ‘mild’ constitute corporal punishment. There is no threshold below which physical force against a child is acceptable.

¹ *Committee on the Rights of the Child, General Comment No. 8*, ‘The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment’ (Arts. 19; 28, Para 2; and 37, *inter alia*) (42nd session, 2006), UN Doc. CRC/C/GC/8 (2006).

5.1 International Law

- 5.1.1 Article 28(2) of UN CRC requires the State parties 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.”
- 5.1.2 Similarly, Article 29(1) (b) of the Convention emphasises that the “State parties agree that the education of the child shall be directed to the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations”.
- 5.1.3 Further, Article 37(a) of UN CRC requires States Parties to ensure that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment”.
- 5.1.4 This is complemented by Article 19(1) of the Convention, which requires States to–
 “Take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”
- Article 19(2) lays down that–
 “Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.”

5.2 Relevant Constitutional Provisions

- 5.2.1 Article 21 of the Constitution of India which protects the right to life and dignity includes the right to education for children up to 14 years of age². Corporal punishment amounts to abuse and militates against the freedom and dignity of a child. It also interferes with a child’s right to education because fear of corporal punishment makes children more likely to avoid school or to drop out altogether. Hence, corporal punishment is violative of the right to life with dignity.
- 5.2.2 Article 21A of the Constitution provides that “the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.” This fundamental right has been actualised with the enactment of Right of Children to Free and Compulsory Education Act, 2009.

² *Unnikrishnan v. State of Andhra Pradesh*, (1993) 1 SCC 645; *M.C. Mehta v. State of Tamil Nadu & Ors*, (1996) 6 SCC 756.

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- 5.2.3 Article 39(e) directs the State to work progressively to ensure that “... the tender age of children are not abused”.
- 5.2.4 Article 39(f) directs the State to work progressively to ensure that “children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.”

5.3 Indian Penal Code (IPC)

Several provisions of the Indian Penal Code (IPC) relating to varying degrees of physical harm and intimidation can be used to prosecute perpetrators of corporal punishment against children in an institutional setting. These include, *inter alia*:

- 5.3.1 Section 305: Abetment of suicide committed by a child;
- 5.3.2 Section 323: Voluntarily causing hurt;
- 5.3.3 Section 325: Voluntarily causing grievous hurt;
- 5.3.4 Section 326: Voluntarily causing hurt by dangerous weapons or means;
- 5.3.5 Section 352: Assault or use of criminal force otherwise than a grave provocation;
- 5.3.6 Section 354: Outraging the modesty of a woman;
- 5.3.7 Section 506: Criminal intimidation;
- 5.3.8 Section 509: Word, gesture or act intended to insult the modesty of a woman;
- 5.3.9 Till recently, the provisions of Sections 88 and 89 of the IPC were invoked to explain the power teachers exercised when inflicting corporal punishment. These two provisions in the chapter on ‘General Exceptions’ cover harms that may be caused without penal consequence. Section 88 exempts an act from being treated as an offence when the harm was caused “to any person for whose benefit it is done in good faith”. Section 89 exempts acts “done in good faith for the benefit of a person under 12 years of age ... by or by consent, either express or implied, of the guardian or other person having lawful charge of that person.” However, contrary to Sections 88 and 89 of the IPC, the Gujarat High Court in its judgement *Hasmukhbhai Gokaldas Shah v. State of Gujarat*, 17 November 2008, has clearly stated that “corporal punishment to child in present days ... is not recognised by law”. Further, India is a State Party to the Convention on the Rights of the Child. The standard of ‘the best interests of the child’ is now a part of domestic law. In 2006, the Committee on the Rights of the Child explained this obligation further when it reiterated, in General Comment No. 8, “the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”.
- 5.3.10 In theory, corporal punishment is covered by all the provisions under Indian law that punish perpetrators of physical harm. While these provisions make no distinction between adults and children, in practice, corporal punishment in schools and other institutions tends not to be prosecuted because it is widely accepted socially and regarded as legitimate. So the provisions highlighted in this section, the criminal provisions in particular, have the potential to be used in situations of corporal punishment, but rarely are.

5.4 RTE Act, 2009

5.4.1 The Right of Children to Free and Compulsory Education (RTE) Act, 2009, which has come into force with effect from 1 April 2010, prohibits ‘physical punishment’ and ‘mental harassment’ under Section 17(1) and makes it a punishable offence under Section 17(2). These provisions read as follows:

17. Prohibition of physical punishment and mental harassment to child – (1) No child shall be subjected to physical punishment or mental harassment.

(2) Whoever contravenes the provisions of sub-section (1) shall be liable to disciplinary action under the service rules applicable to such person.

5.4.2 Sections 8 and 9 of the RTE Act place a duty on the appropriate Government and the local authority to “ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds”.

5.4.3 The RTE Act does not preclude the application of other legislation that relates to the violations of the rights of the child, for example, booking the offenses under the IPC and the SC and ST Prevention of Atrocities Act of 1989.

5.5 The Juvenile Justice (Care and Protection of Children) Act, 2000³

The Juvenile Justice (Care and Protection of Children) Act, 2000 is an important statute that criminalises acts that may cause a child mental or physical suffering.

5.5.1 Section 23 of the JJ Act, 2000 states as follows: “Whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes or wilfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both.”

5.5.2 Section 23 covers the actions of anyone who has “actual charge or control over” a child. While Section 23 is likely to be applied most often to personnel in childcare institutions regulated by the JJ Act, it arguably applies to cruelty by anyone in a position of authority over a child, which would include parents, guardians, teachers and employers.

5.6 Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989

5.6.1 Some provisions of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 can be used to prosecute an adult in the general category who inflicts corporal punishment upon a scheduled caste or scheduled tribe child.

5.7 Protection of Civil Rights Act, 1955

5.7.1 Various provisions of the Protection of Civil Rights Act, 1955 can be used to prosecute a person/manager/trustee as well as warrant resumption or suspension of grants made by the Government to the educational institution or hostel on the ground of untouchability.

³ Amended in 2006.

6.1 The National Commission for Protection of Child Rights (NCPCR) and the State Commissions for Protection of Child Rights (SCPCRs) have been entrusted with the task of monitoring children's right to education under Section 31 of the Right of Children to Free and Compulsory Education Act, 2009, which reads as follows:

31. *Monitoring of child's right to education* – (1) The National Commission for Protection of Child Rights constituted under Section 3, or, as the case may be, the State Commissions for Protection of Child Rights Act, 2005 (4 of 2006), shall, in addition to the functions assigned to them under the Act, also perform the following functions, namely:-
 - (a) examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;
 - (b) inquire into complaints relating to child's right to free and compulsory education; and
 - (c) take necessary steps as provided under Sections 15 and 24 of the said Commissions for Protection of Child Rights Act.
- (2) The said Commissions shall, while enquiring into any matters relating to child's right to free and compulsory education under clause(c) of sub-section(1), have the same powers as assigned to them respectively under Sections 14 and 24 of the said Commissions for Protection of Child Rights Act.
- (3) Where the State Commission for Protection of Child Rights has not been constituted in a State, the appropriate Government may, for the purpose of performing the functions specified in clauses(a) to (c) of sub-section(1), constitute such authority, in such manner and subject to such terms and conditions, as may be prescribed.

6.2 As per Section 31.1 of the RTE Act the NCPCR and SCPCRs are supposed to:

- (i) Examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;
- (ii) Inquire into complaints relating to child's right to free and compulsory education;
- (iii) Take necessary steps as provided under Sections 15 and 24 of the Commissions for Protection of Child Rights Act.

Under Section 32(3) and (4) of the RTE Act, the SCPCRs are the appellate authority to receive appeals from the aggrieved persons who would prefer such appeals when their grievances relating to children's right to education are not redressed by the designated local authorities under Section 32(2) .

Some Guidelines for Affirmative Action in Schools Towards Positive Development of Children

7.1 Addressing difficult situations in schools

- 7.1.1 Some behaviours of children are perceived by schools and teachers as problematic and the prevalent practice is to respond to them with punishment of varying degrees. Some such situations that arise in schools that invite punishment are:
- i. Not keeping to time and cleanliness regulations – e.g., late to school, not coming in uniform etc.;
 - ii. Academic related issues – e.g., incomplete home assignment, below expected academic performance, not taking a book to school, etc.;
 - iii. Not meeting classroom expectations of school authorities – e.g., inattentive, talking in class, making noise in class, etc.;
 - iv. Troublesome behaviour – e.g., disturbing other children in class, lying, stealing etc.;
 - v. Offensive behaviour, causing hurt or injury to others – e.g., bullying, aggression towards peers, stealing (violating rights of others), vandalising, etc.
- 7.1.2 Situations (i) to (iii) should be within the scope of the concerned teacher to ‘handle’.
- 7.1.3 For situations (iv) and (v) the school should have a clear protocol to guide teachers about which situation needs assessment and intervention by a school counsellor and which one needs immediate intimation to higher authorities at school and the parents. If an attempt at resolving the problem is not satisfactory, parents could then be referred to a specialist (a child and adolescent psychiatrist or a counsellor).
- 7.1.4 The child and adolescent psychiatrist or counsellor should help children learn behaviours that help them develop a sense of self-discipline that leads to positive self-esteem. The school counsellor should have the skills to build trust. He/she should have constant interaction with the child, his/her parents and teachers for understanding the difficulties of the child. The parents should be taken into confidence before sending a child to the counsellor. The school counsellor should be allowed to hold workshops with the students in different classes from time to time without the presence of teacher and staff. Besides having in-house counsellors, the students and their parents should have the liberty to approach reputed counsellors/mental health professionals to be empanelled by school. The school should also invite reputed mental health professionals to hold workshops for its students and teachers.

7.2 Guidelines for positive engagement with children

- 7.2.1 Punishment is often justified as a 'last' resort in extreme situations for instance – bullying, causing physical harm, destruction of property, vandalism, sexual harassment, infringement of rules such as playing truant, carrying objects which are against school rules into the classroom, provocative/challenging behaviours etc. However, two children with the same problems may come from different backgrounds – one an indulgent family, which believes that a little exuberance is all right, and another where the family is also at its wits' end. The contexts in which a child's behaviour takes place and how it comes to notice, lend themselves to child/classroom/school management.
- 7.2.2 A protocol of response based on first versus repeated problems founded on a set of rules the school develops with children's inputs would go a long way to democratise response dispositions. To this, an added component of preventive interventions, such as life-skills programme, increases overall effectiveness.
- 7.2.3 A difficult situation can also be resolved by a process of triangulation between the student/family, the teacher/school administration and a student council. A more difficult situation then may not be so much a discipline issue but a psychological one that needs professional attention and care.
- 7.2.4 The following guidelines are based on therapeutic strategies based in turn on the principles discussed above that are commonly employed by mental health professionals in clinical settings for families with children with behaviour disorders. Though simple, these are effective strategies when implemented consistently:
- i. Arriving at a consensus with children about expected behaviour and consequences;
 - ii. Framing rules and guidelines in consensus with children;
 - iii. Focusing on every child's positives and appreciating good behaviour;
 - iv. Using different strategies to encourage and promote positive behaviours;
 - v. Never comparing one child's performance with another;
 - vi. Setting limits and developing clarity on boundaries;
 - vii. Providing children an opportunity to explain before any other response;
 - viii. Giving a warning or chance before any response;
 - ix. Actively listening, remaining calm and ensuring the safety of other children while handling troublesome or offensive behaviour;
 - x. Addressing perceived 'severe or problematic behaviour' through consultation with parents, child and counsellor/psychiatrist;
 - xi. Discussing (with children) and adopting time-out strategy as the last resort with children.

Positive engagement with children

Some examples

- (i) Pay positive attention
 - ♦ Notice children being good and appreciate them verbally
 - ♦ Focus on the positives of every child, even the most difficult ones
 - ♦ Identify good efforts even if ultimately unsuccessful
 - ♦ Never compare performance with that of other children but refer to the child's own previous attempt
 - ♦ Use motivational award chart (for younger children) or points or additional marks for good behaviour
 - ♦ Award children for demonstrating values such as responsibility, honesty, caring, etc.
 - ♦ Be accommodating of children who require additional time and input, while providing additional tasks to children who finish work earlier
- (ii) Ignore minor incidents or lapses
 - ♦ This is the best strategy; the situation may aggravate in the short-term but it disappears later
- (iii) Set clear limits
 - ♦ Explain clearly the classroom behaviour expectations that the children have framed together
 - ♦ Use 'I need you to ...' rather than 'You need to ...' statements
 - ♦ Give clear commands on what is expected, e.g., 'stay quiet' instead of 'be good'
 - ♦ Avoid 'Don't' commands
 - ♦ Enable children to set clear limits for themselves
 - ♦ Use a 'firm and calm' manner – avoid an angry tone
- (iv) If behaviour continues, take away privileges in consultation with the children (negative reinforcement – this encourages the child to follow good behaviour to keep his privilege, therefore it is not considered punishment)
 - ♦ Do not give star/point/mark on his chart for the day or give negative point/marks
 - ♦ Take away 15 minutes of any privilege time (child and teacher mutually agree) for recurrent misbehaviours
 - ♦ Discuss the consequences well ahead with children so that there is consensus regarding plan of action when a particular behaviour occurs
 - ♦ The negative reinforcement should be appropriate and fair
 - ♦ It should be consistently employed

7.3 Recognise that the child needs help and not punishment

- 7.3.1 Children's temperament interacts with multiple environmental factors such as parenting style; disciplinary patterns at home and school; stress such as marital disharmony, domestic violence, etc. Many children are not ready or prepared for the demands of the school in terms of academics, social and interpersonal relationships. It is therefore important to try and understand what could be causing the behaviour as underlying emotional problems often result in disruptive behaviour in children. It is also necessary to provide opportunities for children from different backgrounds to learn psychosocial skills. When adults view problem behaviours of a child as a product of interaction of various psycho-social and biological factors it helps to understand that the child needs help rather than punishment.

7.4 Rights and enablement of the teaching community

- 7.4.1 Preventive strategies should take priority while planning interventions to improve the teacher-student relationship and create a child-friendly environment in schools. While addressing corporal punishment, mental harassment and discrimination it is also essential to provide guidelines and assistance to school systems and empower them with alternative effective strategies to handle difficult situations, and provide children with a good learning experience. To this end, regular/periodic workshops are essential for teachers to share their experiences and learn from each other and from experts who could help them manage difficult situations. However, ending corporal punishment should be seen as an immediate obligation, with clear sanctions for non-compliance, and separated from the inevitably much longer process of transforming schools to rights-respecting institutions.
- 7.4.2 The school should maintain the student-teacher ratio at the level as prescribed under the RTE Act, 2009, in order to avoid overcrowding and unmanageable class, leading to the practice of corporal punishment.

7.5 Rights and enablement of children in school

- 7.5.1 A child's participation in a democratic fashion to enable a collective decision should provide a better end-result rather than arbitrary, random, unpredictable decisions that are imposed on a child. There is a shift of focus onto enablement and engagement processes, to ensure prevention and protection.
- 7.5.2 Guidelines should be framed in consensus with children and can be adopted by school systems. Involving the children in the processes of framing the regulations gives an opportunity for them to discuss their concerns, view the problems from different perspectives and generate a sense of commitment to follow the regulations rather than impose the regulations upon them.

7.6 Need for multi-disciplinary intervention

- 7.6.1 There is a need for multi-disciplinary inputs and networking as no sector of child abuse can be treated as independent of other sectors. Psychologists, educationists, school teachers, parents, social workers, lawyers and children should be involved so as to improve their understanding and thereby increase their cooperation and participation towards the well-being and participation of the child.

7.7 Positive engagement – Life-skills education

- 7.7.1 Life-skills education should be an essential part of school curriculum.
- 7.7.2 Life-skills education should be used as a mode of healing. It helps children to improve their communication and interpersonal skills, builds empathy, decision-making and critical-thinking skills, coping as well as self-management skills. The interplay between the skills produces powerful behavioural outcomes, especially where this approach is supported by other strategies such as media policies and health services.
- 7.7.3 Life-skills education should address issues of self-esteem, aggression, drug abuse, lack of praxis in academic engagement, lack of engagement in education, decision-making, problem-solving, coping with emotions, coping with stress, communication skills – negotiation/refusal skills, interpersonal skills, creative thinking, critical thinking, self-awareness skills – including awareness of rights, influences, values, attitudes, strengths and weaknesses.
- 7.7.4 Appropriately implemented life-skills education should lead to improvements that have long-term effects on the behaviour of children.
- 7.7.5 Experiential methodologies such as theatre, narratives, storytelling and artwork helps children learn better. It helps all children participate in and contribute equally to the production of knowledge, which is a continuous dialogue. The objective of the process is to liberate participants from both internal and external oppression, so as to make them capable of changing their reality, their lives, and the society they live in.

Practical examples of positive engagement

Empathy building

A simple story could be used to help children understand the meaning of empathy. Children can be asked to think if the characters acted responsibly. Children could then be asked if they have ever been in a situation where they could understand exactly how the other person felt, because they have had similar experiences. During the process children are helped to learn that empathy is to understand how the other person feels and that empathising makes a person treat others in a kind and respectful manner.

Social problem-solving skills

Children often engage in maladaptive behaviours such as lying, stealing or aggression because of their inability to generate alternative solutions to the problems they have in hand.

For example, when a child is faced with teasing by his classmates, the only solution he generates could be being aggressive with them. Or in another situation a child decides to forge his score-sheet for fear that

contd. ...

his parents might punish him. Though in both these situations the child's concern is genuine, the solution he/she chooses only worsens the situation for him/her. It is therefore important for teachers to help the children understand that such solutions are temporary and actually compound the problem, rather than solving it. In the process of story-telling children are helped to focus on long-term consequences rather than on immediate consequences and it assists them in generating a set of solutions which would be more appropriate in such situations. Children should also be encouraged to take assistance from a trusted adult when they are unable to decide.

Coping with emotions and stress

One common issue of concern for teachers of secondary and higher secondary classes is children who have difficulty controlling their anger. Most of the time the child's anger has a genuine reason and therefore while addressing anger management, it is important to acknowledge the reason for anger and explain that anger *per se* is not the problem. Children often agree that verbal or physical aggression which results from anger is not acceptable and are willing to take help when offered. It is critical to assist children to become aware of their emotions and handle them before they escalate. Simple techniques such as: STOP and leave, drink water, count numbers, take deep breaths or even punch a pillow/punch bag in the playroom, could be suggested. Once the child is calm, problem-solving techniques could be employed.

Another important source of stress for children and teachers is examinations. As the focus is most often on the outcome, i.e. the grades and marks, children often are not appreciated for the efforts. This results in immense anxiety when children face exams, as they are worried about performance and outcome. It is therefore important for teachers to appreciate children and help them focus more on the process of preparation than the outcome. It would help students if a teacher facilitates a discussion on exam-related stress well ahead of exams.

These are some of the techniques that have been discussed from a mental-health perspective to give teachers a conceptual framework and empower them with some practical tips to follow and execute rules and regulations. As school systems play an important role in the development of children it is important to bring about a balance between positive engagement and managing children with difficult behaviours through positive disciplining.

7.8 Role of school management/administration

- 7.8.1 All staff associated with the school should be subject to these guidelines.
- 7.8.2 All staff should ensure that all children enjoy their rights as per the RTE Act.
- 7.8.3 All forms of interaction with children and amongst children should be geared towards ensuring this objective. All staff should ensure that the child is treated in a manner that encourages him or her to stay in school and learn to his or her potential.
- 7.8.4 To achieve the aims of RTE it should be recognised that teachers are **not** *in loco parentis*. In other words teachers should not take on the role of parent.
- 7.8.5 No physical punishment of any kind should be permitted.
- 7.8.6 No mental harassment of any kind should be permitted. No form of discrimination based on gender, caste, class, disability, etc., should be permitted.

- 7.8.7 Any instance of corporal punishment, mental harassment or discrimination should be dealt with in a time-bound manner in such a way that implications for the child are minimised.
- 7.8.8 It should be the responsibility of all staff to create an environment free of all forms of fear, trauma, prejudice and discrimination.
- 7.8.9 The treatment of the child in the school should be such that the child feels included and secure. Counselling services for children should be made available.

7.9 Guidelines for creating an environment conducive to learning as well as enablement for the same

- 7.9.1 All children should be informed through campaigns and publicity drives that they have a right to speak against physical punishments, mental harassment and discrimination and bring it to the notice of the authorities. They should be given confidence to make complaints and not accept punishment as a 'normal' activity of the school.
- 7.9.2 The conduct of the teacher and administration should be such that it fosters a spirit of inclusion, care and nurturing.
- 7.9.3 All school management and educational administration authorities should run regular training programmes to enable teachers and educational administrators to understand and appreciate the rights of children and the spirit of the Right to Education. This is essential to make a shift to a rights-based approach to education and abolish physical punishment, mental harassment and discrimination.
- 7.9.4 The teachers should be trained in the skills required to positively engage with children who are different in order to understand their predicaments.
- 7.9.5 All teachers working in any school – government run, aided or private – should provide a written undertaking to the management of the school and to the concerned district authority of the department of the government to which the schools normally report that they would not engage in any action that could be construed legally as amounting to 'physical punishment, mental harassment and discrimination'.
- 7.9.6 All schools should conduct an annual social audit of physical punishment, mental harassment and discrimination. This should be made public and accessible to the authorities, the parents and to civil society. This audit should be concluded before the end of the academic year and be made public before the commencement of the new academic year.
- 7.9.7 The school management/administration should instruct every school headmaster/head teacher to hold a general body meeting with all parents of the school as well as the school management committees (SMCs) under the RTE, the school education committees or parent-teacher associations (where the SMCs are not functional) on the NCPCR guidelines and the procedures to be adopted for protecting children and their rights in schools.
- 7.9.8 An environment free of corporal punishment should be stipulated as one of the conditions for giving recognition/no-objection certificate (NOC) to a school by the State Government under the new RTE and also as one of the conditions for giving affiliation to a school by the State Board. Similarly, 'practice

of Corporal Punishment' should be stipulated as one of the conditions for withdrawal of recognition/ NOC given to any school by the State Government and also for affiliation given to a school by the State Board. The State should frame appropriate rules and regulations concerning the recognition/ NOC in relation to the above. The rules should be reviewed by the State Government and necessary amendments to this effect should be notified in a time-bound manner.

Indicative guidelines that should be adopted in different situations

Some of the strategies that should be employed based on the level i.e., severity and frequency of problem behaviours are discussed below:

- i. *Levels 1–2*: Not keeping to time and cleanliness regulations and academic related issues
 - ◆ Give the child an opportunity to explain
 - ◆ Give opportunities for student to find solutions for the problem when he/she doesn't meet expectations
 - ◆ Give a warning and a chance before taking any further action
 - ◆ When the frequency is more, involve family members who could supervise the student
 - ◆ With adolescents, work through the frustration about not achieving the goal and how to achieve it the next time
- ii. *Level 3*: Not meeting classroom expectations of school authorities, e.g. inattentive, talking in class, making noise in class, etc.
 - ◆ Set limits (in a clear tone without being angry) for mutually agreed behaviour in class
 - ◆ Strategies like seating in front to limit distractions, frequent one-to-one attention (every third task), buddy support (seating with another child who is of low risk for such behaviour), etc. should help younger children
 - ◆ Try managing a problem with minimal disruption to other children
 - ◆ A simple verbal warning e.g. just calling out the name of the child who is talking in the class or asking him/her question could help
 - ◆ With older children, humour could be used to get across the point
 - ◆ Use a time-out chair if behaviour continues, **only if it has been discussed** and agreed to by the children
 - ◆ Check for underlying causes such as learning difficulties, attention deficit and hyperactivity, difficult home environment, trauma
 - ◆ Consult the school counsellor/PT master to provide attention enhancing tasks/games
 - ◆ Discuss the problem with parents, the efforts made and give them the choice of consultation
- iii. *Levels 4–5*: Troublesome behaviour, causing hurt or injury to others:
 - ◆ Not only teachers, but children also should have an idea of other children's right. When children violate the rights of others:
 - ◆ Give the child an opportunity to explain his/her behaviour without threatening
 - ◆ Set clear limits and discuss the possible consequences of such behaviour
 - ◆ Have a plan for dealing with violence that is also discussed with students

contd. ...

- ♦ If the student regrets his action have the student visualise appropriate response to provocation (other than aggression)
- ♦ Clarify if the behaviour is recent or longstanding
- ♦ Look for learning difficulty, underlying emotional disturbance/family situation that are contributing to the problem or conduct disorder or refer to school counsellor for the same
- ♦ For behaviour such as engaging in fighting/lying, when occasional , give assignments on writing down possible consequences of such behaviour, writing alternative solutions (with assistance from parents), and possible ways of dealing with anger-provoking situations
- ♦ Involve parents early; explain what was tried at school and how this is affecting child's academic and social development and overall success. Prepare the parents before suggesting consultation with a specialist for guidance as to how the problem behaviour could be tackled by school authorities
- ♦ When the issue is serious or acute – such as, unprovoked aggression, vandalising, disrupting the school routine – explain to the parents the need for immediate consultation with a child and adolescent psychiatrist to prevent harm to the child and other children
- ♦ For truancy, have parents notify school when student leaves the house in the morning; check if child is avoiding any test/class due to learning disability or fear
- ♦ Identify where school may contact the student if the student does not show up on time

Handling difficult circumstances

- i. Dealing with verbally confrontational students
 - ♦ Do not lose your temper, raise your voice, or use sarcasm
 - ♦ Try to actively listen and allow the child to calm down, call the child later when he/she is calm to debrief
 - ♦ Avoid involving other students
 - ♦ If things escalate, call for additional assistance from administration
 - ♦ Meet the parents–Though some may not be receptive it is still important
 - ♦ Address anger management issues
- ii. Dealing with children who can get physically aggressive in class
 - ♦ Remain as calm as possible
 - ♦ Call for assistance by another adult
 - ♦ Have a student designated to get help from another teacher
 - ♦ The safety of the other students is important, send the other students from the room if it appears they could get hurt
- iii. Handling disclosures

School systems also need to be empowered to handle disclosure/detection in an appropriate way. When the child confides about being abused to the teacher, either in the school context or otherwise, it is important that the teacher:

contd. ...

- ♦ Is open and supportive of the child
- ♦ Does not undermine or doubt the child's information
- ♦ Does not blame the child and assures him/her of confidentiality
- ♦ Explains to the child that necessary help needs to be taken to prevent further abuse in future

7.10 Guidelines for mechanisms and processes to give children a voice and engage in the process of creating a positive environment – agency of children

- 7.10.1 A mechanism for children to express their grievances both in person and anonymously should be provided. Drop boxes for complaints should be placed in the school and a mechanism should be developed to address the same. Anonymity of the children/parents should be maintained while sharing the details of the complaints/grievances with other agencies such as the media in order to protect their privacy/confidentiality.
- 7.10.2 It is the responsibility of the school management to enable the formation of 'class *bal sabha*' so that children of all ages can positively engage with democratic processes.
- 7.10.3 Among its various functions the student council should also decide on a set of codes and rules that does not violate the rights of children and the right to education
- 7.10.4 Clear-cut protocols should be framed by the schools for redressing the grievances of the students and/or parents.
- 7.10.5 The School Management Committee should constitute a Corporal Punishment Monitoring Cell (CPMC) in each school to look into cases of corporal punishment. This committee should consist of two teachers, two parents (elected by the parents), one doctor (where available), one lawyer nominated by the District Legal Services Authority, one independent counsellor, an independent child rights or woman rights activist of the local area (nominated by the District Child Protection Society from a panel recommended by the local *Tehsildar*/BDO) and two students who are also duly elected from a class which is not the highest class in the case of high school and higher secondary school. The purpose is to ensure that students who are facing high school finals or public examinations are not drawn into this process. For example, in a school having classes up to 5 it can be 2 students from Class 5; in a school which has classes up to 8 it can be 2 students from Class 8. However, in a school having classes up to Class 10, it has to be 2 students from Class 9 and not Class 10; and in a school having classes up to Class 12, it has to be a student from Class 11.

7.10.6 The role of the CPMC should be:

- i. To hear the grievances of corporal punishment, child sexual abuse, mental harassment and discrimination without any delay whatsoever and preferably on the day of the occurrence; it should be noted that any delay can result in the evidence being tutored in favour of any one and especially in a case of violence against children when children continue to remain in the custody of the school/teachers' community, they are susceptible to the influence of the school management/teachers. To ensure that no student/parent/teacher/staff is harassed for the complaints that have been preferred;
- ii. To ensure that students are not forced/influenced by the school authorities to testify in their favour before media/police/court of law or any other authority;
- iii. To see as to whether adequate steps have been taken to prevent corporal punishment, child sexual abuse, mental harassment and discrimination;
- iv. To ensure that whenever such occurrences take place in a school the 'victim child' is always protected and provided, under the supervision of this committee, the best possible speedy care – medical and psychological – and the required treatment for the trauma that the child has suffered;
- v. The recommendations of the CPMC should be forwarded to the district level authority for such matters with a copy to the Taluk/District Legal Services Authority within 48 hours of the occurrence for appropriate action.
- vi. It is important to distinguish between primary redressal (meaning, the adjudication of the CPMC is accepted by the child and his/her family) and secondary redressal (where the child and family are not happy with the CPMC and the matter may have to be referred to the district level authority for action).
- vii. Even in cases where the parents of the child are satisfied that no legal action needs to be followed, the matter should be inquired into by the CPMC.
- viii. When the issues are not sorted out at the school level, recourse should be taken to the procedures outlined under Clause 8 of these guidelines.

- 8.1** The ‘right to remedy’ includes providing (a) equal and effective access to justice; (b) adequate, effective and prompt reparation for the harm suffered; (c) access to relevant information concerning violations and reparation mechanisms. Effective reparation should include restitution, compensation, rehabilitation, satisfaction and guarantee of non-repetition. It is pertinent therefore that the State Governments which have to ensure their State rules provide for better implementation of the RTE, 2009, make suitable legal provisions for ‘effective reparation’ in cases of corporal punishment.
- 8.2** All educational institutions including schools and hostels, government as well as private, are custodians of children during the time the children are on their premises. It is thus the responsibility of the management/administration of the school/institution to ensure that children are safe from all forms of violence, including corporal punishment. Therefore, along with the school teacher, warden or the staff of the school/institution that has inflicted violence on the child, the management/administration of the school/institution and their respective education administrators/managements at the higher levels should also be held responsible.
- 8.3** In every case of violence against children the respective management/administration should conduct an independent investigation, thus taking responsibility for what goes on in school/institution and not rely simply on enquiries conducted by the school/institution. In any case of child abuse, if the parent withdraws the case, the designated authority should take cognisance of the offence and proceed without harming the child and taking strict action against the accused.
- 8.4** As required under Section 32(1) of the RTE Act, State Governments and UT Administrations should designate appropriate ‘local authority’ and notify the same to all concerned for the purpose of redressing the grievances relating to corporal punishment and discrimination. Such ‘local authority’ should be a member of the District Child Protection Society (DCPS) which exists under the Integrated Child Protection Scheme (ICPS) and is headed by the District Collector/Magistrate/Deputy Commissioner. The DCPS should function as the District Level Committee for the purpose of corporal punishment under the Chairpersonship of the District Collector/Magistrate/Deputy Commissioner and the concerned Sub-divisional Magistrate (SDM) should be its *ex officio* Member Secretary/Convener. The District Collector/Magistrate/Deputy Commissioner should receive the complaints of physical punishment, mental harassment and discrimination in schools and get these redressed within a reasonable timeframe. It should also be his responsibility to take *suo motu* cognisance of grave cases of corporal punishment and to take remedial measures as per law expeditiously.
- 8.5** Immediately upon being informed about the occurrence of a case of corporal punishment, it should be the duty of the SDM concerned to immediately ensure that the CPMC undertakes a preliminary fact-finding exercise as mentioned in clauses in the previous paragraphs of these Guidelines.

- 8.6** In a matter where a child while in school suffers from corporal punishment, resulting in death (homicide or suicide), sexual abuse or serious/grievous mental or physical injury, the SDM concerned should rush to the school as soon as he comes to know about the incident and get the preliminary enquiry organised immediately under his direct supervision. He should ensure that the preliminary enquiry is completed within 7-10 days.
- 8.7** In cases of suicide/sexual harassment/hospitalisation resulting due to the action of a teacher/staff of the school, the accused should be suspended immediately until the investigations by the SDM and police are over.
- 8.8** As soon as the preliminary enquiry report of the CPMC is made available to the designated SDM, he/she should independently assess the report and verify the facts, wherever he/she has doubt. If he/she is convinced that a *prima facie* case exists then, speedily and without any delay whatsoever prefer a complaint in writing to the local police station at the earliest but not later than one month from the date of the incident, asking them to set the process of law in motion.
- 8.9** In all complaints of corporal punishment preferred by the concerned SDM, it should be the duty of the Station House Officer/Police Station in-Charge to immediately register it as First Information Report (FIR) and forward a copy of the same to the concerned SDM, CPMC and the school management and the parents/guardian of the affected child forthwith. He should ensure that all relevant penal provisions are reflected in the FIR, including that of IPC, the Juvenile Justice (Care and Protection of Children) Act, 2000 and corresponding Rules, the Protection of Civil Rights Act 1955, and the SC/ST (Prevention of Atrocities) Act, 1989 and corresponding Rules.
- 8.10** Thereafter, the case should be entrusted to the Child Welfare Officer (CWO) of the local police station to take it to logical conclusion from the police side. He should immediately proceed in apprehending the accused in cognisable offences and complete his/her investigation within a reasonable timeframe. He should file the charge-sheet in the court of the concerned magistrate with a copy of the same being endorsed to the concerned SDM within a reasonable timeframe but preferably within 3 months from the date of registration of FIR. He/she should ensure that, irrespective of the gravity of the alleged offence(s), no child/teacher/staff/parent witness from the school or the neighbourhood who has sufficient knowledge of the incident are examined in the police station for the purpose of investigation. His interaction with the children in the school or neighbourhood should be in a non-intimidating manner and should be in the presence of their parents and the legal aid member of the concerned CPMC.
- 8.11** It should be the responsibility of the legal-aid member of the CPMC from the District Legal Aid Services Authority (nominated by its Member Secretary) to provide free and effective legal aid from beginning to end to a child victim of corporal punishment and his parents connected thereto, wherever parents are not able to engage a lawyer on their own.

Guidelines for Eliminating Corporal Punishment in Schools

- 8.12** The SDM and CWO should always take special care to ensure that the head of the school or the school management or teachers' associations/unions, directly or indirectly, do not attempt to tamper with the witnesses in any manner whatsoever.
- 8.13** The concerned CPMC and SDM should ensure that priority is accorded in the entire process to the victim child and her/his safety and both physical and mental health. Hence, if the child needs to be rushed to a hospital they may take care to do so without any delay, or if the services of a professional psychiatrist or psychologist or child counsellor are required, these should be arranged at Government expense in the case of government schools. For all aided or private schools the local educational authority should organise the same at the expense of the private management.
- 8.14** Once the enquiry by the SDM is complete, he should recommend through the Collector to the State Government for paying adequate compensation to the child victim or his family in light of the gravity of the case within a definite timeframe. The same may be recovered by the government from the school in due course.
- 8.15** The SDM concerned should also send a copy of his enquiry report to the Director (School Education) with his recommendation for disciplinary action against the teacher/principal/non-teaching staff of the school concerned (wherever applicable). In cases, where the report of the SDM reveals that there is a clear case made out against the teacher/head/staff, proper disciplinary action as per law/rules should be initiated by the Director (School Education) and appropriate actions should be taken within a reasonable timeframe.
- 8.16** The Director (School Education) should also take into account the record of the school concerned regarding corporal punishment, while renewing its recognition and/or giving NOC to it to open a new branch.
- 8.17** For having timely assistance, the District Level Committee on Corporal Punishment under the Chairpersonship of the District Collector/Magistrate/Deputy Commissioner should maintain (in updated manner) a list of required professionals, such as doctors, counsellors, psychologists, criminal lawyers, child rights/women rights activists (sub-district wise). Orientation programmes for such empanelled professionals on the issues relating to corporal punishment should be organised from time to time by the District Level Committee. The School Education Department should make a provision in its budget and place the same at the disposal of the District Magistrate for the purpose of paying honorarium to them on a case-to-case basis, as well as for meeting the training/orientation/sensitisation/publicity/public awareness programme expenses.
- 8.18** The SDMs should keep the District Collectors/Magistrates (as the Chairperson of the District Level Committee on Corporal Punishment) informed about the developments in the cases of corporal punishment within their jurisdiction once in 3 months in the format that should be prescribed by the Directorate of School Education or the District Magistrate.

- 8.19** The District Collectors/Magistrates should periodically, but at least once in 3 months, hold the meeting of the District Level Committee on corporal punishment to assess the situation of corporal punishment in the District so as to take remedial measures.
- 8.20** It should be made the responsibility of the Director (School Education) of the State Governments/ UT Administrations as the State Level Nodal Officer to ensure that the above guidelines are widely known to all concerned and implemented in letter and spirit.
- 8.21** All the School Education Boards, including ICSE, CBSE and State Boards should take *suo motu* cognisance of the incidents of corporal punishment in the schools affiliated to them and to get the same inquired into within a reasonable timeframe. The School Boards should maintain a multi-disciplinary panel of professionals (State-wise) for the purpose of independent enquiry. They should constitute a Grievance Redressal Cell to receive complaints of corporal punishment and to take appropriate actions in such matters expeditiously. These Cells should also work out strategies for preventing such incidents in schools affiliated to them. One such strategy should be to ask the affiliated schools to organise sensitisation/ orientation programmes for teachers on corporal punishment issues from time to time. These Cells should also suitably advise the said Boards in addressing the issue from a larger perspective.
- 8.22** The School Boards should issue Guidelines to the schools affiliated to them, stipulating that '*corporal punishment-free environment*' would be one of the conditions for granting affiliation/recognition/NOC to them. Similarly, they should also stipulate that 'practice of physical punishment/mental harassment' would be one of the grounds for withdrawal of affiliation/recognition/NOC granted to them.
- 8.23** The School Boards should also issue instructions immediately to all schools affiliated to them to abide by the provisions of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 as well as the Rules and Guidelines framed/issued/notified thereunder. They should have a test check in this regard once in a year. The Department of School Education and Literacy in the Ministry of Human Resource Development (MHRD) should get the compliance level in this regard evaluated through NUEPA once in a year and the findings should be shared with NCPCR.

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ELIMINATING CORPORAL PUNISHMENT IN SCHOOLS**

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2	Ms. Dipa Dixit Member, NCPCR
3	Dr. Vinod Kumar Tikoo Member, NCPCR
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