



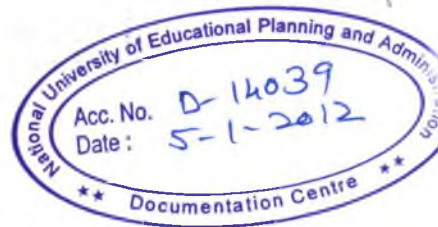
State Consultation on

## **Discipline with Dignity**

**Promoting Positive Discipline  
in Schools of Assam**

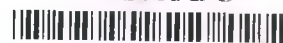
28 - 30 July 2009, Guwahati

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# PUNISHMENT FOR DISCIPLINE



Discipline has traditionally been integral to schooling. It is common belief that children need to be ‘punished’ for effective disciplining – punishment makes children realize their mistake/errant behaviour and deters them from repeating such mistakes/errant behaviour. This may be purely out of fear – fear of physical pain or humiliation – and not out of realization.

And different kinds of punishment have been used and justified as necessary to ensure discipline among students. Leaving deep scars of trauma on innocent minds, some of these methods of punishment used to discipline children in schools have proved detrimental to children’s growth and development

Punishment for discipline has been socially accepted since time immemorial and has been practiced at home, in schools and other environments. Parents, teachers and care givers do not consider this as a form of violence but look at it as only a disciplinary tool to teach children what is right and wrong, which is necessary to help them grow up as responsible individuals. Consequently, punishment-free schools or homes are difficult to come by as it is deemed necessary to punish children or else they will be spoilt.

While on the one hand, manifestation of punishment for discipline has sometimes bordered on violence and abuse of children, on the other hand, the usual forms of punishment such as making children stand on the bench, stand on one leg outside the classroom, kneeling down, caning, slapping, and scolding have become socially accepted. There is no voice against these forms of disciplining, and public outcry is witnessed only when the child suffers severe consequences in the form of injury or death. It needs to be recognized that besides the physical vulnerability of the child, the so called milder forms of punishment also leave an impact on the psychological well-being of the child.

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**People take corporal punishment as a just reward for bad behaviour. Views expressed below reflect the social acceptance of corporal punishment for discipline.**

***“There are just too many children for me to handle in a class and so punishments become a necessary tool.”***

***“Corporal punishment is a necessary part of upbringing and education.”***

***“Corporal punishment is a part of my culture and child-rearing tradition.”***

***“Schools need corporal punishment as a last resort – a deterrent to discourage bad behaviour and encourage good work.”***

Source :  
Spare the Rod It Won’t Spoil the Child....., Plan India,  
Delhi, November 2007, p. 10

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Childhood is an important stage in everyone's life. It is an age of physical and mental growth that leads to adulthood to become part of the wider society. But in reality all children do not enjoy their childhoods. Many face violence in the form of punishments, abuse, neglect, etc. even at a tender age. Physical and psychological punishment are common forms of violence that many children suffer in their childhoods as they are the most accepted tools for discipline. In the context of schools and other forms of institutional care to children, some children face a greater degree of punishment on the basis of their class, caste, religion, gender, ethnicity, socio-economic background, etc. as compared to other children.

Corporal punishment is widely tolerated around the world as the way adults instill discipline in and exercise control over children. A favored method of discipline, it is perceived as "taming' the unruly child, training the presumptuous child to take his or her 'proper place' in the social order, and hardening the unseasoned child to the difficult, brutal, and abrasive world" (Pineiro 2006). Since it is commonly accepted as a routine way of raising and disciplining children, it is frequently not perceived as a form of violence.

Corporal punishment is often meted out differently to boys and girls, and for different reasons. Data from various studies showed that, in general, boys experience more physical punishment than girls (Boyle et al. 2002; Alexandrecu et al. 2005).

## DISCIPLINE AT WHAT COST?



As corporal punishment is an accepted way of life in schools and homes across the country children accept it without questioning except in extreme situations.

Sometimes children react to punishment by expressed resentment to go to school – the same school that they enjoyed until they were subjected to punishment in the name of discipline. *“Recently a student of class nine was beaten on her bare bottom by a teacher in front of her classmates. Though the school authorities later apologised to her parents and sacked the erring teacher, the hapless girl refused to go to that school again and the trauma continued to haunt her in a new school she was admitted to.”* (<http://www.indianexpress.com/story-print/427906>)

The fear of being further reprimanded by parents, coupled with a general acceptance of punishment as a means of disciplining, sets in a culture of silence – a situation, where the child bottles up, impacting on performance, and the way the child relates to school.

Children are often silent due to fear and submit to violence without questioning. They sometimes show signs of deep hurt in their behavior but this often goes unnoticed, perpetuating further violence on them.

The other extreme fallout is that children learn from adults that violence is acceptable and resort to it as a solution.

*“The menace leaves students not only traumatized for life, but also puts their education in jeopardy with female students suffering the most.”<sup>1</sup>*

There is evidence to show that disciplinary methods often cause damage to children’s physical and mental growth affecting their development besides causing severe injuries. Rather, some disciplinary action results in the very opposite of what was intended to achieve.

There is a large body of international research detailing the negative outcomes of corporal punishment. Some of the conclusions are presented below.

### **Escalation in punishment/violence<sup>2</sup>**

Mild punishment in infancy tends to escalate as the child grows older. The little smack thus becomes a spanking and then a beating.



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Reacting to Shano Khan's death in a primary school under the Municipal Corporation of Delhi in April 2009, Anshu Borah, a primary school teacher in Guwahati told IANS by phone "I have no words to express how shocked I am after seeing the images on television and reading about the incident. As a teacher I know that even a slight reprimand can break a child's heart, make them feel small and embarrassed. This kind of physical brutality, therefore, is unthinkable. Not only is it unlawful, but also barbaric."

Source : <http://indiaedunews.net>

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### Encouraging violence

- Even a little slap carries the message that violence is the appropriate response to conflict or unwanted behaviour.
- Aggression breeds aggression. Children subjected to physical punishment have been known to be more likely than others to be aggressive to siblings; to bully other children at school; to take part in aggressively anti-social behaviour in adolescence; to be violent to their spouses and their own children and to commit violent crimes.

### Psychological damage

- Corporal punishment can be emotionally harmful to children.
- Messages such as "*I punish you for your own sake. You must show remorse no matter how angry or humiliated you are*"<sup>3</sup> confuse love with pain, and anger with submission, and are the most psychologically harmful.

Such adverse repercussions of punishment have heightened the debate on whether punishment as a means of disciplining children to learn better or ensure their total development is desirable in schools. There is also a realization that the line between punishment and abuse is rather thin and blurred and that there are other more judicious and effective ways than beating or causing harm to one's psychological well being in the name of discipline. Undoubtedly, the effect of hurt, pain, anger, humiliation and loss of self-esteem is enormous.

This necessitates creation of an universal understanding of 'corporal punishment' and 'positive discipline' for disciplining with dignity.

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The Hindu Monday, Feb 11, 2008

Corporal punishment affects academic performance of child

By Special Correspondent

CHENNAI: Child right activists and psychologists on Sunday decided to use the State Government's directive to ban schools from resorting to corporal punishment as an effective tool to educate teachers. Participating in a seminar on 'Trauma and Disaster Management' organised by the Tamil Nadu Association of Clinical Psychologists and National Academy of Psychology (NAOP) India, they said "even though there is a direction from the Government, it is not being followed effectively. Hence, we would like the State Government to abolish corporal punishment in schools. We would also utilise the services of parents and common man in this regard."

Talking on the subject 'Traumatic experience of punishment in school children', V.K. Vijayan, Professor, Institute of Mental Health, Kilpauk, said corporal punishment not only affected the emotional behaviour and academic performance of a child, but it also led to reduction in self esteem and dignity of child.

Rural children were the most affected lot.

Source: <http://www.hindu.com/2008/02/11/stories/2008021160090900.htm>

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# UNDERSTANDING CORPORAL PUNISHMENT



“The dictionary defines ‘punishment’ as an undesirable event that follows an instance of unacceptable behaviour and is intended to decrease the frequency of that behaviour. In fact punishment is a part of violence. Here violence includes “all forms of physical or mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.”<sup>4</sup>

Corporal punishment is the use of physical force for control or discipline, for correcting or changing behavior, or for educating or bringing up a child (Save the Children 2003). It is a degrading form of violence that has negative physical and psychological effects on students, including pain, injury, humiliation, helplessness, anxiety, and low self-esteem (Harber 2004; Halford et al. 2004).

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## Defining Corporal Punishment

Strictly defined ‘corporal punishment’ is the infliction of pain intended to change a person’s behaviour or to punish them.

Though it mainly refers to physical pain, an evolving definition also includes within its ambit wrongful confinement, verbal insults, threats and humiliation, which are used with little forethought.

The Committee on the Rights of The Child, in the General Comment No. 8, 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....In 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.”*

Source : Kit, Media Dialogue on Corporal Punishment, NCPDR & UNICEF, New Delhi, 17 February, 2009.

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## ARGUMENTS FOR ENDING PHYSICAL AND PSYCHOLOGICAL PUNISHMENT

There are a number of important arguments for ending physical and psychological punishment:

- Physical and psychological punishment violates a child's right to respect, physical integrity and human dignity.
- Physical and psychological punishment has an adverse effect on child development. It has social, emotional and physical consequences on children
- Physical and psychological punishments teach children that violence is a right method for conflict resolution. It also legitimises the abuse of power as an essential part of affective relationships
- Besides, physical and psychological punishments are so readily at hand that it discourages some teachers and parents from trying alternatives
- Physical and psychological punishments may also be responsible for school drop outs, poor academic performance, improper communication and low self esteem in children

Adults are better able to stop using corporal punishment and other humiliating forms of discipline if they feel that there are effective alternative ways of encouraging appropriate children's behaviour.

Two things need to be considered here (Ending Corporal Punishment of Children – Making it Happen, Save the Children Spain, Sweden and UK 2001, p 24-25) :

Giving up corporal punishment does not mean giving up discipline: children need clear limits and guidance on what is right and what is wrong, and abandoning the short-cut of violence is likely to produce better disciplined children. Parents and teachers need to see clearly that there is an alternative, and this can be found if corporal punishment is no longer considered as a possible tool for meting out discipline.

While there is a range of alternative discipline approaches available, the real trick is to adopt a different approach that acknowledges children's evolving capacities and affirms children's good behaviour rather than punishes their bad behaviour.

Source:

A Tool-Kit on Positive Discipline with Particular Emphasis on South and Central Asia, Save the Children, 2007. p 25

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# NATIONAL SITUATIONAL ANALYSIS: PUNISHMENT FOR DISCIPLINE IN SCHOOLS



Corporal punishment is practiced in most schools to deal with children's 'errant behaviour' and indiscipline that supposedly hamper their performance in school and also hinder their personal development. The available information suggests corporal punishment to be commonly practiced in schools.

## 1. Study on Child Abuse in India<sup>5</sup>

The recent study on child abuse, by the Ministry of Women and Child Development, Government of India, in 2007, has revealed that almost all children interviewed reported corporal punishment in schools. It has brought out high prevalence of physical punishment of children in all settings across the 13 sampled States: their homes, schools, institutions and on the streets. The study is based on the experiences of 12,447 children aged 5-18 years (of which 3,163 are school going). It also involved 2,324 young adults (18-24 years) and 2,449 stakeholders (adults holding positions in government departments, private service, urban and rural local bodies and individuals from the community).

### Definition : Physical Abuse

Physical abuse is the inflicting of physical injury upon a child. This may include burning, hitting, pushing, shaking, kicking, beating or otherwise harming a child. The parent or caretaker may not have intended to hurt the child. It may, however, be the result of over-discipline or physical punishment that is inappropriate to the child's age.

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#### Indicators :

- Slapping
  - Beating with stave/stick
  - Pushing
  - Shaking
- 

### Definition : Emotional Abuse

Emotional abuse is also known as verbal abuse, mental abuse, and psychological maltreatment. It includes acts or the failure to act by parents or caretakers that have caused or could cause, serious behavioural, cognitive, emotional, or mental trauma. This can include parents/caretakers using extreme and/or bizarre forms of punishment, such as confinement in a closet or dark room or being tied to a chair for long periods of time or threatening or terrorizing a child. Less severe acts, but no less damaging, are belittling or rejecting treatment, using derogatory terms to describe the child, habitual tendency to blame the child or make him/her a scapegoat.

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#### Indicators :

- Humiliation is the lowering of the self esteem of the child by harsh treatment, ignoring, shouting or speaking rudely, name calling and use of abusive language
  - Comparison is between siblings and with other children.
-

## According to the study:

- Two out of three school going children in India are physically abused
- Boys are marginally more likely to face physical abuse (73 %) than girls (65%)
- Every second child reported facing emotional abuse
- Equal percentage of both boys and girls reported facing emotional abuse
- The crime is rampant in every single district of the country
- Corporal punishment is deeply ingrained as a tool to discipline children in both government as well as private schools
- Most children do not report or confide about the matter to anyone and suffer silently
- Over 50 percent of the children in all 13 sample states were being subjected to one or the other form of physical abuse
- Andhra Pradesh, Assam, Bihar and Delhi reported higher rates of abuse in all forms as compared to other states
- 48 percent of the young adults felt that physical punishment was necessary to discipline children

## 2. Aapanach Study<sup>6</sup>

A 2004 study by the NGO Aapanach found that, of 350 children surveyed from public, private, and municipal schools, over 75 percent said that they received punishment at school, and nearly 60 percent said the most frequent form of punishment was caning or hitting with a ruler. It was common for the whole class to be punished (66%). A third (33%) reported cases of severe injury due to punishment.

## 3. PGI Chandigarh Survey<sup>7</sup>

A survey in 2004 of 1,500 adolescents in ten government schools of Chandigarh, carried out by the Advanced Pediatric Center, PGI found that the prevalence rate of corporal punishment was 22 percent.

## 4. Attitudes Study on Elementary Education in India: A Consolidated Report<sup>8</sup>

A 1996 study supported by UNICEF found that 66 percent of children in the state of Maharashtra reported being regularly punished by their teachers in class. In Tamil Nadu state the corresponding figure was 87 percent, with similar prevalence figures in urban and rural schools.

## 5. Impact of Corporal Punishment on School Children<sup>9</sup>

A large scale research study conducted in May 2006 by Saath Charitable Trust and supported by Plan International (India) looked at children's experiences of corporal punishment in schools and in the home. The study looked at experiences of children in 41 schools and in the homes in one district each in four states – Uttar Pradesh, Bihar, Rajasthan and Andhra Pradesh. It involved 1,591 children mostly

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The most suitable form of punishment for ensuring discipline and good conduct among children according to the young adults who favoured physical punishment were:

- scolding or shouting 40%
- slapping/beating with stick 13%
- locking up in a room/denying food 11%

Withdrawing love and affection, social ostracism, fixing a tight work schedule, isolation were other suggested forms of punishment.

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from schools as well as various children’s organizations. Parents, teachers, community members, government officials and other adults were also consulted. The main methods used were interviews, focus group discussions, role play and classroom observation.

The study found corporal punishment to be an accepted way of life in all schools and communities visited. Many people argued that children cannot be disciplined without punishment. The most common forms of punishment were hitting with hands and stick, pulling hair and ears, and telling children to stand for long periods in various positions. Threats of physical violence were common. Severe forms of corporal punishment were also encountered, including being kicked, starvation, tying with rope to chairs/poles followed by beatings, and being assigned physically strenuous work (e.g. in the fields). In all schools, there would be at least five beatings every day, in addition to other more moderate forms of punishment, though the punishments were less severe than those experienced in the home. Punishment in the home was inflicted by mothers and fathers on both girls and boys with equal severity, more frequently for boys.

### Findings of the Study:

- Corporal punishment was an accepted way of life in all the schools and communities visited.
- Most common forms of corporal punishment were: Hitting with hands and stick, pulling hair and ears and telling children to stand for long periods in various positions.
- Threats of physical violence were also common
- There was a stick in every classroom or in the hands of the teacher<sup>10</sup>.
- Severe forms of corporal punishment were also encountered, including being severely kicked, starvation, tying with rope to chairs/poles followed by beatings, and being assigned physically strenuous labour (e.g. in the fields).
- In all schools, there would be at least five beatings every day, in addition to other more moderate forms of punishment, though the punishments were less severe than those experienced in the home.

**Types of Punishment in School Reported by Children**

Type	Intensity	Common	Unique
Non Physical	Moderate	Threatening	Tearing up notebooks <sup>2</sup>
	High	Scolding Verbal abuse	Monetary Penalty <sup>2,4</sup>
Physical	Moderate	Hands above the head	Stand on one leg with the nose touching the wall <sup>2</sup>
		Rooster position	
		Chair Position	
		Sit ups	
		Running	
	High	Ear pulling	Standing on one leg for a long time <sup>1</sup>
		Penciling (Keep a pencil between two fingers & twist)	Overthrowing <sup>1</sup>
	Severe	Stand in the sun	Beating with a rubber belt <sup>3</sup>
		Palming (Hitting the palm with a stick)	Beating with footwear <sup>3</sup>
		Beating with hands	
Beating with fists			
Beating with a stick, cane			
1: Uttar Pradesh, 2: Bihar, 3: Rajasthan, 4: Andhra Pradesh			
Source: Plan India (2006), Impact of Corporal Punishment on School Children			

# CORPORAL PUNISHMENT : SITUATION IN ASSAM



As elsewhere in the country, the dimensions of corporal punishment in Assam are not fully known. At the same time, its prevalence is reported by parents, and there have been sporadic cases of severe punishment of children in schools.

## 1. Study on Child Abuse : India 2007<sup>11</sup>

With reference to Assam the study reveals that there is high prevalence of physical and emotional punishment in schools.

### Physical Punishment/Abuse

- 99.56 per cent of children suffer physical punishment in school – the highest prevalence rate in the 13 States covered by the study
- More girls (55%) than boys (45%) are subjected to physical punishment – it is one

among three States along with Bihar and Kerala to have reported higher proportion of girls subjected to corporal punishment

- Incidence of physical punishment highest in the oldest age group :
  - 18% for Younger Children (5-12 years)
  - 33% for Children (13-14 years)
  - 49% for Adolescents (15-18 years)
- Incidence of physical punishment highest in Government schools :
  - 1% in Municipal/Zila Parishad schools
  - 64% in State Government schools
  - 21% in NGO run schools
  - 14% in other schools (including Public schools)

### Emotional Punishment/Abuse

- 71.31 percent children reported facing one or more forms of emotional abuse
- 50.21 percent boys and 49.79% girls face emotional abuse
- 44.25 percent boys and 55.75% girls in schools report emotional abuse through humiliation
- Assam reports highest incidence of emotional abuse through humiliation – 68.26 percent
- 66.15 percent boys and 33.84 percent girls in schools report emotional abuse through comparison

## 2. Study in Tea Gardens of Dibrugarh District<sup>12</sup>

A study, carried out in tea garden schools of Dibrugarh district in Assam has also brought out high prevalence of punishment.

### According to 4,100 parents .....

#### 49% beat their children for

- Disobedience 42%
- Mischievous behaviour 6%
- Telling lies 1%

#### 68% consider physical punishment bad for children's education

- It harms their studies 64%
- Has bad mental effect 4%

#### 21% think corporal punishment has a positive impact on children

- It helps develop interest in studies 17%
- They obey out of fright 3%
- They do what they are asked to do 1%

### Based on responses from 6,608 children .....

- More fathers beat : Mother beats 41 percent and Father beats 48 percent
- Teacher beats them in school : 63 percent



## 3. Interactions with Children, Parents and Teachers : Some Findings<sup>13</sup>

To develop an understanding of the prevalence and magnitude of the incidents of corporal punishment in the state, interactions were held with children (293), parents (202) and teachers (169) in Dhubri, Dibrugarh, Hailakandi and Kamrup districts. In all 664 children, parents and teachers were involved in this interactive process.

- Of the 293 children 69 percent reported corporal punishment in schools
- Kamrup (81%) reported highest prevalence of corporal punishment among the four districts covered
- 83 percent teachers resorted to the use of corporal punishment – 91 percent teachers resort to corporal punishment in Kamrup
- Only 32 percent parents are aware of the incidence of corporal punishment in school – 48 percent parents aware in Hailakandi
- Corporal punishment is accepted as a part of the school system by children and parents
- Teachers expressed different views on corporal punishment
  - corporal punishment is for the betterment of the students
  - some have seen positive results
  - corporal punishment has negative impact.



**District Wise Report of Corporal Punishment by Children and Teachers**

District	Children	Teachers
Dhubri	63%	84%
Dibrugarh	66%	83%
Hailakandi	64%	77%
Kamrup	81%	91%

#### Reasons for punishment reported by children

- Indiscipline and mischief in the classroom
- Unable to perform in the class, incomplete homework
- Writing objectionable words on desks/benches
- Disobedience
- Theft
- Copying
- Teasing
- Talking in the class, lack of attention
- Not coming to class with books
- Quarrelling, fighting
- Defacing school property
- Coming late to school
- Frequent absence from class.

Awareness among parents about incidents of corporal punishment in schools was found to be rather low at 32 percent. The district wise awareness levels are as follows:

District	Parents' Awareness
Dhubri	25%
Hailakandi	48%
Dibrugarh	13%
Kamrup	37%

#### Nature of punishment reported by children

- Twisting ears
- Made to stand or kneel down holding ears
- Scolding and threatening to beat
- Caning on the palm and buttocks
- Kneel down in a corner of the classroom or outside
- Stand facing the wall
- Sit-ups holding ears
- Stand on a bench, inside or outside the class, even in the sun
- Write 10-20 times that the mistake will not be repeated
- Walk around the school holding ears
- Stand on one leg in the sun
- Put head under the teacher's table
- Sit in uncomfortable position (rooster position)

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#### Punishment Unique to Tea Garden Schools

- Girls made to slap boys and vice versa
  - Excessive beating .....as a children often urinate
  - Raising skirts and beating girls on their buttocks
  - Girls made to sit between boys and vice versa
  - Labelled with discriminatory names
-

# বইটামাৰীত প্ৰধান শিক্ষকৰ প্ৰহাৰত আহত ছাত্ৰ সংকটজনক অৱস্থাত চিকিৎসালয়ত ভৰ্তি : উত্তেজিত গঞা

অগ্ৰদূত বাৰ্তা

অভয়াপুৰী, ৩১ মে' : বঙাইগাঁও জিলাৰ প্ৰাথমিক বিদ্যালয় এখনৰ প্ৰধান শিক্ষকজনে সাধাৰণ অহুহাৰতে গালে-মুখে চৰ, কুকু শোপাই ছাত্ৰ এজনৰ অৱস্থা সংকটজনক কৰাৰ পাছত শিক্ষকজনে বিভিন্ন অহুহাৰত বিদ্যালয়ত বিদ্যালয়ত পৰা অনুপস্থিত থকাৰ তথ্য সন্ধানিত পোৱাৰ পাছত আছিল: উক্ত শাকমাৰা মহাকুমাৰ অতি ভিতৰকা অঞ্চলৰ তথা বইটামাৰী শিক্ষা বণ্ডৰ অন্তৰ্গত ২০৩ নম্বৰ কাৰীপুৰী প্ৰাথমিক বিদ্যালয়ৰ চতুৰ্থ শ্ৰেণীৰ দুই ছাত্ৰ ক্ৰমে মানবজোৰিত দাস আৰু জয়দেৱ মন্তলৰ মাজত শিৱৰ চিৰতন দহাৰ অনুসাৰে যোৱা ১৯ মে' ৩ কাৰিমা লাগে। পাছত দুয়োৰে মিলো হয়। কিন্তু শিৱৰ কাৰিমাতে বণ্ডল হৈ পৰে প্ৰধান শিক্ষক লগেৰে কলিত। শিক্ষক কলিতই তিতাহিত জাল পাৰনি ছাত্ৰ মানবজোৰিতৰ গাল, মুখ

অধিত উপৰুপৰি চৰ-কুকু শোপোৱাত নাচেৰে বহুক্ষণ হোৱাৰ লগতে মুখমণ্ডল ফুলি বিকৃত ৰূপ ধৰে। পৰিস্থিতি বিকৃত দেখি লেবেজনে তৈ পৰা মানবক কলিতই চকুটো কাবলৈ পাঁচ টকা শুক্কি দি শিক্ষকজনে প্ৰত্যাহ নৰনাৰ বুলি ক'বলৈ কয়। তেওঁ মানবক সেয়া কোনো সমনীয়াৰ কাম বুলি মান-বালেকক ক'বলৈ দিয়ে। শিক্ষকজনে মানত ধৰাশায়ী হোৱা মানবে ফোনোৰকমে ঘৰলৈ গৈ সনিশেৰ কোৱাৰ পাছতে তেওঁৰ অৱস্থা সংকটজনক হৈ পৰে। অতি দুৰ্বীয়া তথা মাত্ৰ মানি গীৰিকা নিৰ্বাৰ কৰা মানবৰ লিভু গোপাল দাস কিকৰ্তাৰা বিমুঢ় হৈ পৰে। পাছত গোপালৰ আৰীয়া তথা চুবুৰীয়াই লগ লাগি বঙাইগাঁওস্থিত লৱাৰ আচাৰ হাৰ্পতালত তেওঁক ভৰ্তি কৰাৰলৈ বইটামাৰী শিক্ষকজনেৰ ওপৰত ক্ষুব্ধ হৈ পৰে। পাছত গঞাৰ ওচৰত সেও মানি শিক্ষক কলিতই চিকিৎসাৰ দায়িত্ব নিজে বহন কৰিব বুলি আশ্বাস দিয়ে।

যদিও শিক্ষকজনে সিংহিনাৰ পৰাই অহুহাৰ হৈ পৰে। অভিমোগ অনুসৰি যোৱা চাৰি-পাঁচ দিন শিক্ষকজনে বিদ্যালয়ত অনুপস্থিত থাকি যোৱা ২৫ মে'ত বিদ্যালয়ত ভাৰত সাৰে-ভৰিত সাৰে উপস্থিত হৈ অনুপস্থিত দিন কেইটাৰ উপস্থিতি দেখুৱাই দাফন কৰাৰ লগতে উক্ত জিমাৰ পৰাই পাঁচ দিনৰ বাবে বাটমোৰীস্থিত বণ্ড প্ৰাথমিক শিক্ষা বিষয়াৰ পৰা গেটন অসুখ দেখুৱাই নৈমিত্তিক ছুটী মঞ্জুৰ কৰায়। ইপিনে, মানবৰ চিকিৎসাৰ ধন পোৱাৰ নোৱাৰি বিপাঙত পৰে পৰিয়ালটো। এই সন্দৰ্ভত বাটমুৰ অৱগত কৰোৱাত বিষয়টো সন্ধ্যাৰোগে সু-মীমাংসা কৰাৰ বাবে ২৪ মে'ত এখন সভা আহ্বান কৰি প্ৰধান শিক্ষকজনে উপস্থিত কৰাৰ বাবে আহ্বান জনায়। কিন্তু তাওঁজনৰ চিকিৎসাৰ খৰচ প্ৰতিশ্ৰুতি অসমি বহন কৰিব বুলি ভাৰিয়েই সভাখনত উপস্থিত থকাৰ পৰা বিৰত থাকে। ইয়াৰ

বিপৰীতে বিদ্যালয়খনৰ পৰিচালনা সমিতিৰ সভাপতি নাৰায়ণ দাসৰ সেউজ সাক্ষেতত প্ৰধান শিক্ষকজনে পেটাৰ অসুখ দেখুৱাই পাঁচ দিনৰ নৈমিত্তিক ছুটী লৈ বিদ্যালয়ৰ পৰা আঁতৰি থকাও সহকাৰী শিক্ষয়িত্ৰী লক্ষ্মী বালা দাসক ভাৰপ্ৰাপ্ত প্ৰধান শিক্ষকৰ দায়িত্ব অৰ্পণ কৰে। ইয়াৰ পাছতো শিক্ষকজনে পুনৰেই কহিলেৰ পৰা তিনিদিনৰ বাবে নৈমিত্তিক ছুটী শিক্ষা বিষয়াৰ পৰা অনুমোদন হোৱাৰ পাছত বিদ্যালয়খনৰ পৰা বদলি হোৱাৰ বাবে বণ্ড প্ৰাথমিক শিক্ষা বিষয়াৰ গোপন বুজাবুজিত মিলিত হোৱা বুলিও বাইজৰ মাজত চৰ্চিত হৈছে। মহাকুমাৰেও অতি দুৰ্গম অঞ্চলত অৱস্থিত বিদ্যালয়খনৰ ছাত্ৰ-ছাত্ৰী তথা সহক-সহক দুৰ্বীয়া পৰিচালক আৰু ছাত্ৰী শিক্ষক আৰু সংশ্লিষ্ট শিক্ষা বিষয়াই চলোৱা এখন নৈৰাজাৰ উচিত তদন্ত দায় কৰিছে অঞ্চলটোৰ বাইকে।

Dainik Agradoot, Guwahati  
1 June 2009. p 6

## Student injured after being beaten by headmaster in Boitamari

Abhayapuri: A class IV student of No. 203 Baripukhuri Primary School under Boitamari Education Block in North Salamara sub-division has been undergoing treatment in Lower Assam Hospital in Bongaigaon after being severely assaulted by the headmaster for some flimsy reason. Though initially the headmaster asked the student not to report the matter to his parents, later on due to pressure from the public, he agreed to bear the hospital expenses. But after that the headmaster abstained from duty for a number of days. On May 25, he arrived in school secretly and applied for leave for five days. On the other hand the public have alleged that the headmaster has entered into a secret understanding with the Block Education Officer for getting transfer.

# ছাত্ৰক গুৰুতৰভাৱে শিক্ষকৰ প্ৰহাৰ শৰাইঘাট হাইস্কুলত প্ৰতিক্ৰিয়া

প্ৰতিদিন মহানগৰ সেৱা, গুৱাহাটী বিশ্ববিদ্যালয়, ৮ মে' ৯ মহানগৰীৰ আমিনগাঁওস্থিত শৰাইঘাট হাইস্কুলত যোবা ৬ এপ্ৰিলত বিদ্যালয়ৰ শিক্ষক এজনে দশম শ্ৰেণীৰ ছাত্ৰ এজনক গুৰুতৰভাৱে মাৰপিট কৰা ঘটনাক কেন্দ্ৰ কৰি অঞ্চলটোত ব্যাপক প্ৰতিক্ৰিয়াৰ সৃষ্টি হৈছে। ঘটনাৰ বিবৰণীমতে বিদ্যালয়খনৰ মাণিক চন্দ্ৰ বৈশ্য নামৰ প্ৰধান শিক্ষকগৰাকীয়ে বিগত ৩০ এপ্ৰিলত অবসৰ গ্ৰহণ কৰাৰ পিচত অনানুষ্ঠানিকভাৱে বিদ্যালয়ৰ কৰ্মৰত শিক্ষকসকলে সেইদিনাই বিদ্যালয়ৰ কাৰ্যালয়ত তেওঁক বিদায় সম্বৰ্ণনা জনায়। এই উদ্দেশ্যে ছাত্ৰ-ছাত্ৰীসকলেও বিদায় সম্বৰ্ণনা এটিৰ আয়োজন কৰাৰ মানসেৰে বৰ্তমানৰ ভাৰপ্ৰাপ্ত প্ৰধান শিক্ষকগৰাকীৰ পৰা অনুমতি বিচাৰে। উল্লেখযোগ্য যে ভাৰপ্ৰাপ্ত প্ৰধান শিক্ষকগৰাকীৰ অনুমতি সাপেক্ষে বিদ্যালয়খনৰ দশম শ্ৰেণীৰ ছাত্ৰ নিকু দাসে ন্যূনতম ধন সংগ্ৰহ কৰাৰ বাবে আগভাগ লয়। এইক্ষেত্ৰত বিদ্যালয়খনৰ হিন্দী শিক্ষক ভবেন্দ্ৰ চন্দ্ৰ দাসে প্ৰধান শিক্ষকগৰাকীক

কোনোধৰণৰ সম্বৰ্ণনা জনোৱাৰ প্ৰয়োজন নাই বুলি কৈ নিকু দাস নামৰ ছাত্ৰজনক অতি নিৰ্মম তথা গুৰুতৰভাৱে প্ৰহাৰ কৰে। লগে লগে বিদ্যালয়খনৰ শিক্ষক-শিক্ষয়িত্ৰীসকলে বাধা প্ৰদান কৰে আৰু এগৰাকী শিক্ষয়িত্ৰীয়ে বেতডাল আঁজুৰি নি হস্তগত কৰে। গুৰুতৰভাৱে আহত নিকু দাসক ততাতৈয়াকৈ স্থানীয় চিকিৎসালয়লৈ প্ৰেৰণ কৰা হয়। ছাত্ৰ-ছাত্ৰীসকলৰ লগতে শিক্ষক-শিক্ষয়িত্ৰীসকলেও ঘটনা সন্দৰ্ভত তীব্ৰ প্ৰতিবাদ কৰে। বিদ্যালয়খনৰ একাংশ ছাত্ৰ-ছাত্ৰী তথা স্থানীয় নাগৰিকে জানিবলৈ দিয়ামতে হিন্দী শিক্ষকগৰাকীৰ মইমতালিয়ে বিদ্যালয়খনৰ পৰিবেশ যথেষ্ট পৰিমাণে বিনষ্ট কৰি তুলিছে। লগতে স্থানীয় বহিৰ্ভে ঘটনা সন্দৰ্ভত সংশ্লিষ্ট শিক্ষা বিষয়া আৰু স্থানীয় আৰক্ষীক বিহিত ব্যৱস্থা গ্ৰহণ কৰাৰ বাবে দাবী জনায়। ইতিমধ্যে নিকু দাসৰ পৰিয়ালে স্থানীয় আৰক্ষীৰ ওচৰত শিক্ষকগৰাকীৰ বিৰুদ্ধে এটি গোচৰ ৰুজু কৰা বুলি জানিব পৰা গৈছে।

**Tension in Saraighat High School over teacher severely beating up student**

**Guwahati:** Tension prevails in Saraighat High School in Amingaon area of Guwahati after Class X student Niku Das was allegedly beaten severely by a teacher of the school on May 6. He was taken to the local hospital and a FIR has been lodged against the teacher by Niku's parents.

Asomiya Pratidin, Guwahati  
9 May 2009. p 12

In such a scenario, appropriate cognizance of corporal punishment in the education policy of the state would contribute to the fulfillment of the state's commitment to child's right to development, protection, and participation. Presently, there is limited legal provision to address the issue of corporal punishment, with a Code of Conduct for teachers, which prohibit cruelty and misbehaviour in the non-government educational institutions in Assam<sup>14</sup>. Shift in policy would need to focus on education in a non-threatening and positive environment.

Human rights instruments to which India is a signatory together with the national policy articulations and legislative provisions would be useful in enabling such a shift in the schools of Assam.



# HUMAN RIGHTS PROVISIONS ON CORPORAL PUNISHMENT



## THE UNIVERSAL DECLARATION ON HUMAN RIGHTS

**Summary of Preamble :** The General Assembly recognizes that the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

<b>Article 1</b>	Everyone is free and we should all be treated in the same way.
<b>Article 2</b>	Everyone is equal despite differences, such as skin color, sex, religion or language.
<b>Article 3</b>	Everyone has the right to life and to live in freedom and safety.
<b>Article 5</b>	<b>No one has the right to hurt or torture another person</b>
<b>Article 29</b>	Everyone must respect the rights of others, the community and public property
<b>Article 30</b>	No one has the right to take away any of the rights in this declaration

## THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

### Article 19 (1)

“States Parties shall 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 28 (2)

“States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention.”

**Other relevant Articles from the UNCRC<sup>15</sup> are as follows :**

### Article 2

All children have these rights, no matter who they are, where they live, what their parents do, what language they speak, what their religion is, whether they are a boy or girl, what their culture is, whether they have a disability or whether they are rich or poor. No child should be treated unfairly on any basis

### Article 3

Adults should do what is best for children. When adults make decisions, they should think about how their decisions will affect children

### Article 4

The government has a responsibility to make sure children's rights are protected. They must help families protect children's rights and create an environment where children can grow and reach their potential

### Article 5

Children's families have the responsibility to help children learn to exercise their rights and to ensure that their rights are protected

### Article 6

Children have the right to be alive

### Article 12

Children have the right to give their opinions and for adults to listen to them and take them seriously

### Article 16

Children have the right to privacy

### Article 34

Children have the right to be free from sexual abuse and exploitation

### Article 36

Children have the right to protection from any kind of exploitation (being taken advantage of)

### Article 37

**No one is allowed to punish children in a cruel or harmful way.**



- During the first decade of the Convention, the Committee on the Rights of the Child recommended to over 120 States to *abolish all corporal punishment and develop public education campaigns to promote positive, non-violent discipline in the family, schools and other institutions.*
- In 1999 the Committee on Economic, Social and Cultural Rights adopted a General Comment on "The Right to Education" which stated that *corporal punishment is inconsistent with the fundamental guiding principle of international human rights law enshrined in the Preambles to the Universal Declaration of Human Rights and both Covenants.*

Source : Frequently Asked Questions, Kit, Media Dialogue on Corporal Punishment, NCPDR and UNICEF, New Delhi, 17 February 2009.

# INDIA: POLICY ENVIRONMENT<sup>16</sup>



## Constitution of India

In the Indian context, Article 21 of the Constitution protecting the 'right to life' is the first point of reference. The Constitution of India has, in several provisions, including clause (3) of Article 15, clauses (e) and (f) of Article 39, Articles 45 and 47, impose on the State a primary responsibility of ensuring that all the needs of children are met and that their basic human rights are fully protected.

Several provisions ( including Articles 15, 39 45 and 47) impose on the State a primary responsibility of ensuring that all needs of children are met and that their basic human rights are fulfilled.

**The National Policy on Education (1986, modified in 1992)** states that “corporal punishment will be firmly excluded from the educational systems” (section 5.6)

## Child Rights Charter 2003

According to Article 9 a of the Child Rights Charter 2003 *“All children have a right to be protected against neglect, maltreatment, injury, trafficking, sexual and physical abuse of all kinds, corporal punishment, torture, exploitation, violence and degrading treatment.”*

## 2006 National Plan of Action for Children

The 2005 National Plan of Action for Children, states the intention in relation to children in difficult circumstances that all children should be protected from corporal punishment (para. 11.2.1).

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## Draft National Policy and Charter for Children, 2001

**Section 7 (f) : The State shall ensure that school discipline and matters related thereto do not result in physical, mental, psychological harm or trauma to the child.**

Source : <http://wcd.nic.in/charterchild.htm>

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# INDIA : LEGAL PROVISIONS



While, at present there is no national legislation that prohibits corporal punishment in schools, several sections of the Indian Penal Code (IPC), as well as legislations such as the Juvenile Justice (Care and Protection of Children) Act, 2000, as amended in 2006 (Assam Rules in draft stage; to be notified), and the SC/ST Prevention of Atrocities Act, 1989, have been used as legal recourse to corporal punishment.

## The Indian Penal Code (IPC)

The IPC provides for specific legal provisions which can be used for crimes of corporal punishment as indicated in the table below.

### Legal provisions under the Indian Penal Code<sup>17</sup>

Section	Offence
<b>Section 305</b> Abetment of suicide of child or insane person	If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or <sup>1</sup> [imprisonment for life], or imprisonment for a term not exceeding ten years, and shall also be liable to fine.
<b>Section 323</b> Punishment for voluntarily causing hurt	Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.
<b>Section 325</b> Punishment for voluntarily causing grievous hurt	Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
<b>Section 352</b> Punishment for assault or criminal force otherwise than on grave provocation	Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred, or with both.

Section	Offence
<p><b>Section 352.</b> Punishment for assault or criminal force otherwise than on grave provocation</p>	<p>Explanation: - Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or If the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or</p> <p>If the provocation is given by anything done in the lawful exercise of the right of private defence.</p> <p>Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.</p>
<p><b>Section 354</b> Assault or criminal force to woman with intent to outrage her modesty</p>	<p>Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.</p>
<p><b>Section 375</b> Rape</p>	<p>A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:</p> <p>Firstly : Against her will.</p> <p>Secondly : Without her consent.</p> <p>Thirdly : With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.</p> <p>Fourthly : With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.</p> <p>Fifthly : With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.</p> <p>Sixthly : With or without her consent, when she is under sixteen years of age.</p>
<p><b>Section 377</b> Unnatural offences</p>	<p>Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with [imprisonment for life], or with imprisonment of [either description for term which may extend to ten years, and shall also be liable to fine.</p>

## Section 88

### **Act not intended to cause death, done by consent, in good faith, for persons benefit.**

Nothing which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

A teacher/guardian who administers in good faith a moderate and reasonable corporal punishment to a pupil to enforce discipline in school is protected by this section and such an act is not even a crime under Section 323.<sup>18</sup> This section therefore needs to be amended.

## Section 89<sup>19</sup>

### **Act done in good faith for benefit of child or insane person, by or by consent of guardian.**

Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person :

#### **Provisos-Provided**

- First : That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;
- Secondly : That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;
- Thirdly : That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death of grievous hurt, or the curing of any grievous disease of infirmity;
- Fourthly : That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

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#### **Illustration**

**A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon. Knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.**

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Sections 88 and 89 of the IPC are not only considered protective of the perpetrator, but are also not interpreted as prohibiting corporal punishment, making children up to the age of 12 years, most vulnerable. These provisions of the law need to be reviewed.

### **Juvenile Justice (Care and Protection of Children) Act 2000, amended in 2006**

- Section 23 provides punishment for cruelty to juvenile or child with imprisonment for a term which may extend to six months, or fine, or with both.<sup>20</sup>
- This section makes no exceptions and intends to punish cruelty by those in authority; it applies equally to parents, guardians and teachers.

## **The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989**

- can be used to lodge a complaint
- Section 3 (1)(x)<sup>21</sup> would also cover verbal abuses and insults.
- Section 3(2)(vii)<sup>22</sup> would invoke a stiffer punishment of not less than one year for public servant including teachers in government schools.

## **Right to Education Bill**

The provision in the Right to Education Bill 17- (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 persons” is expected to enforce stringent regulatory measures against corporal punishment in schools.

The Bill that was passed in the Rajya Sabha on 20 July 2009, provides a framework the orienting National and State Policy on Corporal Punishment.

In Parents Forum for Meaningful Education and Another vs Union of India and another the Delhi High Court referring to the CRC, Constitution and NPE, took the view that right to life means a right to live with dignity as expounded by the Supreme Court in various judgements and held that the impugned rule (Rule 37 of the Delhi School Education Rules, providing for corporal punishment) was not in consonance with the fundamental rights of the child and hence ultra vires. (Refer Annex 1)

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## **The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 and Rules of 2007 framed thereunder:**

- Rule 17 (d) : Suspension for cruelty towards any student
  - Rule 17 (e) : Suspension for misbehaviour towards any parent, guardian, student
  - Rule 24 (a) (xvi) : Code of conduct for teachers: “no teacher shall be guilty of misbehaviour or cruelty towards any parent, guardian, student, teacher or employee of the institution”
-

The directives of the NCPCR Jury at a public hearing on corporal punishment organized in Tamil Nadu offer pertinent insights on the practical steps that can be instituted to protect children from abuse.

**General Recommendations of the NCPCR Jury: 23<sup>rd</sup> January 2008 (extracts)**

**TamilNadu Public Hearing and Directives**

**General Recommendations:**

1. The Institution (school/hostel/children home) should be held responsible for the welfare of the children enrolled with it. In the case of any injury/ill-health/assault/death the institution will be held summarily responsible for the same, in the same manner as the police is held responsible for the inmates in the police stations/prisons etc.
2. The institution management shall pay compensation in the event of death/injury and hospitalization of any child, due to any incidence that happens in the institution.
3. In every case of violence against children the respective Education Department/Board has to conduct a parallel investigation. The PTA has to be involved in such an investigation.
4. In any case of child sexual abuse, if the parent withdraws the case, the Government must take cognizance of the offence and proceed without harming the child and taking strict action against the accused.
5. Whenever a child has made a statement of discrimination, a case needs to be booked under the SC/ST (POA) Act.
6. In cases of corporal punishment, the Education Department/Board shall conduct a social audit on corporal punishment with the children.
7. The Child Welfare Committees in each district have to be supported and strengthened to protect children's welfare.

**In case of Child's Death or (Attempt to) Suicide, and Hospitalization:**

8. Every case of suicide shall be treated as 'abetment of suicide', and the management of the institution will be held accountable.
9. It should be noted that an 'attempt to suicide' by a child cannot be registered as an 'attempt to suicide' under law, as it would be doubly victimizing the child.
10. In case of suicide/sexual harassment/hospitalization resulting due to the action of a teacher(s), the accused shall be suspended pending enquiry.
11. Whenever a child has been admitted to a hospital with suspicious injury/ill-health, the Hospital must record a medico-legal case; and record the child's statement.
12. The Education Department or SWJD shall devise protocols to follow whenever a child takes ill in any hostel, such as how will the child be transported to the hospital (make budgetary provisions), will parents be provided monetary support to travel to the school and take the child home etc.

**Private Institutions**

The Commission recommends that the Government should constitute a committee to review:

13. Licensing procedures of private child care/educational institutions.
14. Institute procedures of regulation and monitoring of these private institutions.

Through this public hearing the Jury felt that there is a greater emphasis on protecting institutions over protecting children. It must be understood that we can protect institutions only by protecting children and their rights.



# STATE RESPONSE TO CORPORAL PUNISHMENT



## States in India that have banned corporal punishment

States/ Union Territories	Law/Policy
Andhra Pradesh	Secretary, School Education I V Subba Rao issued Government order (GO Ms No 16) on February 18, 2002, replacing the provisions on corporal punishments issued earlier in GO Ms No 1188 in 1966. Through the new order of 2002, the Andhra Pradesh government imposed a ban on corporal punishment in all educational institutions by amending Rule 122 of the Education Rules (1966), violations of which should be dealt with under the Penal Code.
Chandigarh	Corporal punishment was prohibited in Chandigarh in the 1990s.
Delhi	Petition filed by Parents Forum For Meaningful Education. The Delhi School Education Act (1973) had provision for corporal punishment that has been struck down by Delhi High Court. In December 2000, the Delhi High Court ruled that provisions for corporal punishment in the Delhi School Education Act (1973) were inhuman and detrimental to the dignity of children.
Goa	The Goa Children's Act 2003 bans corporal punishment in Goa.
Haryana	In December 2007, the Director General, of Education in Haryana has through a letter to all district education officers, directed them to put a blanket ban on corporal punishment in schools
Himachal Pradesh	In 2001, the government banned corporal punishment to students completely by adopting a new Education code. In 2007, the Education Ministry further clarified that corporal punishment in all private schools were also banned but the head of any educational institution could impose a fine of Rs five on an erring student for late attendance, foul language and other bad habits

States/ Union Territories	Law/Policy
Karnataka	In 2007, the state issues a ban on corporal punishment after a student was beaten by seven teachers at her school for not doing her homework.
Orissa	In 2004, the Orissa government imposed a ban on corporal punishment in all state-run and private schools in the state with the Chief Minister issuing the directions to officials of the school and mass education department
Puducherry	In December 2007, the Director of School Education issued a statement that all schools in Puducherry (formerly Pondicherry) including those under private managements have been directed not to practice corporal punishment on students.
Punjab	In December 2007, the Director of School Education issued a statement that all schools in Puducherry (formerly Pondicherry) including those under private managements have been directed not to practice corporal punishment on students.
Tamil Nadu	Corporal punishment was prohibited in Tamil Nadu in June 2003 through an amendment of Rule 51 of the Tamil Nadu Education Rules prohibiting the infliction of mental and physical pain during “corrective” measures.
Uttar Pradesh	In October 2007, The Chief Secretary in a government order marked as “Most important/ High priority”, banned corporal punishment in government, aided and private schools.
West Bengal	In February 2004, the Calcutta High Court ruled that caning in state schools in West Bengal was unlawful A PIL has also been filed by Tapas Bhanja (advocate) in the Calcutta High Court.

Despite the ban on corporal punishment in Andhra Pradesh, Delhi, Goa, Madhya Pradesh, Maharashtra and West Bengal the high rate of incidence from these states is a matter of concern. Study on Child Abuse : India 2007

In January 2008, it was reported that the Chhattisgarh Government is planning to enact a law to ban corporal punishment in schools in the wake of an incident in which an eight-year-old child lost vision after a teacher pricked her eye with a pin.



Source: MoWCD (2006), *Child Protection: A Handbook for Teachers*, Government of India, Ministry of Women and Child Development and other media sources

The National Commission for Protection of Child Rights has, since 2007, been communicating with the State Governments to address the issue of corporal punishment in schools through issuance of guidelines and advocacy initiatives.

No. NCP/CR/Edu.1/07/39

9<sup>th</sup> August, 2007

Dear Chief Secretary/Administrator,

**Sub: Corporal Punishment in Schools**

Since the time schools have reopened this academic session, there have been news items on the ghastly violence on children in schools. For example in Rajasthan the report was on the death of a student two days after the school teacher beat him up; in Andhra Pradesh the report was on how a school teacher subjected her students to electric shock, with full support and even justification given by the school head master. These are not isolated instances but manifestations of a culture of violence and insensitivity to children and their rights.

Children due to fear are often silent and submit to violence without questioning. They sometimes show signals of deep hurt in their behavior but this goes unnoticed, perpetuating further violence on them.

Corporal punishment involves, rapping on the knuckles, running on the school ground, kneeling down for hours, standing up for long hours, sitting like a chair, and beaten with a scale, pinched and slapped, child sexual abuse, torture, locking up children alone in classrooms, 'electric shock' and all other acts leading to insult, humiliation, physical and mental injury, and even death.

It is being noticed that corporal punishment in schools both government as well as private is deeply ingrained as a tool to discipline children and as a normal action. All forms of corporal punishment are a fundamental breach of human rights. A slap is as detrimental to the child's right as grievous injury. Indeed there are no gradations since it must be seen that condoning so called 'small acts' actually lead to gross violations. It is also legally impermissible. The Supreme Court has banned corporal punishment for children on December 1 2000 when it directed the State to ensure "that children are not subjected to corporal punishment in schools and they receive education in an environment of freedom and dignity, free from fear".

Children are as human and sensitive as adults are, if not more. They need to be secure with a caring atmosphere. Practicing non-violence as a highest form of culture begins with seeing children as children. It is necessary for adults to behave with them in a manner that they are not subject to violence and hurt of any kind. In a way fostering such a culture will develop adults as responsible adults who would in turn be vigilant and question those that are breaking the norms of respecting childhood.

It is in this context, that the onus of responsibility in safeguarding children from punishment lies with the schools teachers, education administration at all levels as well as all those responsible for management equally.

The National Commission for Protection of Child Rights directs the education departments of all the States to ensure the following:

1. All children are to be informed through campaigns and publicity drives that they have a right to speak against corporal punishment and bring it to the notice of the authorities. They must be given confidence to make complaints and not accept punishment as a 'normal' activity of the school.
2. Every school, including hostels, JJ Homes, shelter homes and other public institutions meant for children must have a forum where children can express their views. Such institutions could take the help of an NGO for facilitating such an exercise.
3. Further a box where children can drop their complaints, even if anonymous has to be provided for in each school.
4. There has to be a monthly meeting of the PTAs or any other body such as the SEC/VEC to review the complaints and take action.
5. The PTAs are to be encouraged to act immediately on any complaints made by children without postponement of the issue and wait for a more grave injury to be caused. In other words the PTAs need not use their discretion to decide on the grievousness of the complaint.
6. Parents as well as children are to be empowered to speak out against corporal punishment without any fear that it would have adverse effect on children's participation in schools.
7. The education department at all levels-block, district and State are to establish procedures for reviewing the responses to the complaints of children and monitoring the action taken on the same.

All the States are to intimate to the Commission on the action taken regarding above directions within two months.

With regards

Signed

The Chief Secretary/Administrator  
of State Governments/Union Territories

Yours sincerely,

(Shantha Sinha)

No. NCPCR/Edu.1/07/39

May 26, 2009

**Additional Guidelines on Corporal Punishment in Schools**

The National Commission for Protection of Child Rights is concerned about the violence on children in the schools in the country. There have been complaints from children received by the Commission highlighting the insults and humiliation they face while in schools. There are also newspaper reports both in local as well as national dailies that have brought to the forefront the violence children are subjected to in schools.

2. In this regard, Commission's guidelines on corporal punishment issued vide d.o. letter of even number dated 9<sup>th</sup> August 2007 addressed to the Chief Secretaries/Administrators of the State Governments/Union Territories respectively may be recalled (copy attached), which were to be displayed in every school and publicized adequately.

3. In order to stop corporal punishment of children once and for all and enable school teachers to treat children as equal human beings with respect and dignity, the Commission would like the District Collectors/District Magistrates/Deputy Commissioners (as the case may be) to take the following actions (in addition to the guidelines already issued by the Commission and referred to in para 2 above):-

- (i) To get Block-wise meetings conducted for all the school headmasters on corporal punishment and to convey them that serious action would be taken against the school as a whole on any act of violence on children in the State.
- (ii) To conduct meetings with the District Education Officers, Block Education Officers as well as the Cluster Resource Centres staff on the importance of protection of children's rights and against corporal punishment in schools and to issue instructions to them that they would be held accountable for any instance of violation of children's right and corporal punishment in school.
- (iii) To instruct every school headmaster to hold a general body meeting with all parents of the school as well as school education committees or parent-teacher associations on the NCPCR guidelines and the procedures to be adopted for protecting children and their rights in schools.

4. An action taken on the above may be submitted by the District Collectors/District Magistrates/Deputy Commissioners (as the case may be) to the Secretary (School Education) of the State Government/UT concerned by August 1, 2009, who may submit a consolidated report in respect of all the Districts of the State/Union Territory to the Commission by September 1, 2009 along with the copies of the letters/circulars issued

by the District Administration with regard to the earlier guidelines as well as these additional guidelines issued by this Commission.

**(Shantha Sinha)**  
**Chairperson, NCPCR**

The District Collectors/District Magistrates/Deputy Commissioners of the Districts in the Country.

Cc:

1. The Chief Secretaries/Administrators of State Governments/Union Territories – with the request to issue necessary instructions in the matter.
2. Secretary (School Education) of State Governments/Union Territories – with the request to issue necessary instructions and submit a consolidated report in respect of all the Districts of the State/UT to the Commission by September 1, 2009 along with the copies of the letters/circulars issued by the District Administration in the matter.

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**Intervention by Government of India in 2007**

On 17 December 2007, Secretary, Department of School Education and Literacy, Ministry of Human Resource Development, Government of India, wrote to State Government, vide DO letter No F.16-94/2007-Sch.1, that,

“...the National Policy on Education 1986, as modified in 1992, has explicitly mentioned that any form of corporal punishment should be firmly excluded from the school system. Corporal punishment also goes against the UN Convention on the Rights of the Child, adopted by the General Assembly. Article 28 of the UN Convention strongly advocates that “State parties shall take all appropriate measures to ensure that school discipline is administered in a manner, consistent with the child's human dignity and in conformity with the present convention”....

May I request you to prohibit corporal punishment in all schools under the jurisdiction of your state government in the spirit of National Policy on Education? If necessary, the relevant School Education Act or Rules may be amended...”

**In the Lok Sabha in 2007**

... questions on corporal punishment were asked in the Lok Sabha with regarding the status of ban on corporal punishment in schools, compliants received if any, and steps taken/proposed to be taken to check corporal punishment.

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# POSITIVE DISCIPLINE



## What is Positive Discipline? <sup>23</sup>

The positive discipline parenting and classroom management model

- It consists of a specific set of techniques for rewarding good behavior and curtailing negative behaviors.
- It is a program designed to teach children to become responsible, respectful and resourceful and inculcates a spirit of self-discipline.
- It empowers children to make life decisions, based on their own experiences, and to utilise an internal system of reinforcement to weigh the values of the decisions that they have made.

Positive Discipline	Physical and Psychological Punishment
Never includes forms of violence, neither physical nor humiliating	It is a physical or psychological form of violence
Questions the action, never the person	Questions the person's dignity, not the action It does not offer an alternative behaviour
It offers an alternative behaviour	It is not related to wrong action and neither is it proportional to it. It produces fear and obligation to obey, not learning
It is always an action related to the wrong behaviour and proportional to it, to produce positive learning in the child	It is based on an abuse of power
It is not imposed with authority	It is faster and easier, does not require time to plan and think
It is always thought out and planned	It never includes child participation
Children participate as much as possible, and at least they are informed of the norms and the consequences	It teaches children that people who love them hurt them (link between love and violence) and people who have authority can abuse it (link between authority and violence) [refer to section above]
It includes non-violent forms of punishment	

**Techniques of positive discipline are closely linked to effective classroom management. These include :**

### **Teacher-Student Relationships**

Thus, the important part of classroom management is not discipline, but the process of creating a good teacher - student relationship that encourages student to succeed. The teachers must be able to relate to, and develop a good relationship with their students. Without this, it is unlikely that any discipline plan will succeed.

For practising positive discipline techniques, teachers would be required to first develop and establish respect and trust within their students.

### **Developing Ground Rules**

In developing the ground rules for the class/school, it is important for teachers to partner with students to keep them informed about the expected/desired behaviour/conduct. When students have the opportunity to help develop the rules, chances are high that they will take ownership of the rules and are more likely to follow them. This would create a positive learning environment.

Some examples of ground rules could be :

- Everyone seated with books on their desks at the beginning of the lesson
- Stay at their seats
- Raise their hand before speaking
- Stand up to ask/answer questions
- Set standards and targets.

These would serve as preventives to disruptive actions/behaviour in the classroom.

### **Classroom Processes**

When planning lessons teachers may consider a mix of whole class, individual independent work, paired work and group work. The movement between individual, tasks, paired work to group work will help settle kinesthetic learners.

### **Rewards for Following the Ground Rules**

For those children who follow the ground rules, teachers should find ways of rewarding them with something they would really like. For example, they may be given extra play time, story books to read, display their work for the class to see, commended for their work in public etc. Teachers may make it a practice to praise children for any good work they do.

Stella McIntyre writes "I always have students line up outside the classroom. Once they are quiet and orderly I invite them into my classroom. I always stand at the door to greet them by name and sometimes make a comment such as "Hope you're feeling better" to students who have been absent or "I am glad you're back, I'll go through the things you have missed as soon as I can." This makes the student feel individually important to you and allows you to assess their mood as they enter the room. ...." (How to Instill Positive Discipline and Effective Classroom Rules, <http://www.helium.com/users/497204>)



# THE CHILD FRIENDLY INCLUSIVE SCHOOLS AND SYSTEMS (CFISS)



The Child Friendly Inclusive Schools and Systems (CFISS) approach can potentially support the State in the elimination of corporal punishment. CFISS is a comprehensive approach to ensure that each and every child is offered quality education that respects the child’s dignity, develops positive social behaviour and self-discipline, and promotes equality and respect for others. Teacher training, teaching practices and learning among children are accorded equal emphasis by CFISS.

There are five dimensions or components of CFISS that deal with the different aspects of the comprehensive approach to quality education with equity, viz. (i) Active Learning Environment, (ii) School Environment, (iii) Teacher Empowerment and Support System, (iv) Community, Government and Civil Society Partnerships and (v) Policies and System. A child friendly school is not just child-welcoming but also child seeking. It works to

attract and retain children from different backgrounds, respect diversity and ensure inclusion and participation.

This means :

- Providing safe and protective schools that are adequately staffed with trained teachers, equipped with adequate resources, and appropriate conditions for learning
- Recognizing that different children face different circumstances and have different needs, such schools build on the assets that children bring from their homes and communities and also compensate for shortcomings in the home and community environment
- Promoting children’s ability to think and reason, build self respect and respect for others and reach their full potential as individuals, members of their communities and citizens of the world.

The following elements of the five dimensions of CFISS can be drawn upon to promote and institutionalize positive discipline in schools	
I. Active Learning Environment	<ol style="list-style-type: none"> <li>1. Learning processes and strategies</li> <li>2. Classroom organization and management</li> <li>3. Psycho-social support (teacher-student relationship)</li> </ol>
II. School Environment	<ol style="list-style-type: none"> <li>1. School Ethos/emotional environment</li> <li>2. Healthy, safe and protective</li> </ol>
III. Teacher Empowerment & Support System	<ol style="list-style-type: none"> <li>1. Performance</li> </ol>
IV. Community, Government, Civil Society Partnership	<ol style="list-style-type: none"> <li>1. Protection of Children</li> <li>2. Social audit</li> </ol>
V. Policy and System	<ol style="list-style-type: none"> <li>1. Corporal Punishment</li> <li>2. Child friendly standards and monitoring</li> <li>3. Teacher Education systems</li> </ol>

## ANNEXURE 1

The historic judgement delivered on Dec., 1st 2000, almost 3 years later held rule 37 (1) (a) (ii) and (4) of the Delhi Education Act & Rule 1973 as violative of Article 14, 21 of the Constitution and accordingly struck down. It once again draws our nation's attention to the importance a child deserves:

"Child being a precious national resource is to be nurtured and attended with tenderness and care and without cruelty. Subjecting the child to corporal punishment for reforming him cannot be part of education."

The Hon'ble judges have categorically emphasized the constitutional rights of a child as guaranteed in Article 21 which runs counter to the practice of CP.

"Freedom of life and liberty guaranteed by Article 21 is not only violated when physical punishment scars the mind of the child and robs him of his dignity. Any act of violence which traumatizes, terrorizes a child, or adversely affects his faculties falls foul of Article 21 of the Constitution.

The honourable judges view the provisions of the Delhi Education Act in the light of the Indian Constitution, National Policy of Education (NPE) and Convention on the Rights of the Child (CRC), adopted by the UN and signed by India in 1992. They find that Article 14, 21, 39 of our Constitution are in consonance with NPE and the provision of CRC which set out at great length the rights of children. The judges, after citing these provisions at considerable length sum up as under:

**... in a nutshell the thoughts which pervade the various Articles of the Convention are basically protection of the child from all forms of physical or mental violence, injury, neglect, exploitation, abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment and adoption of means for the welfare of the child in every conceivable way and preservation of dignity of the child. (p.11)**

The judgement focuses on the long term consequences of corporal punishment.

"The fallout of physical force on the children in schools by teachers defeats the very purpose for which it is applied. Infliction of bodily pain as penalty for indiscipline by the children. Some children may become submissive while others may learn that punishment is an accepted mode of ensuring compliance of one's wishes by others and that physical violence is an accepted means of exercising control over them. With the latter class of subjects, violence becomes means to acquire what they wish."

It not only perpetuates but inculcates violence in children as the judgement observes.

Thus violence becomes an integral part of their lives. It is difficult to imagine the future of a nation whose children believe in violence for subjugating others or being submissive to force. Brutal treatment of children can never inculcate discipline in them. Obedience exacted by striking fear of punishment can make the child adopt the same tactics when he grows up for getting what he wants. (p 16)



The judgement noted the anti-educational effects of CP denying right to education.

“Children who are ruled by the rod in school may acquire disdain and hatred for their teachers. Beating affects their concentration in studies and leads to development of fear psychosis towards learning. Fear of corporal punishment discourages regular attendance at schools and increases dropout rate. This obviously hampers and obstructs education and affects their right to education, which is a fundamental right flowing from Article 21.”

CP is not in keeping with child’s dignity, observed the judgement.

“It also appears to us that corporal punishment is not keeping with child’s dignity. Besides, it is cruel to subject the child to physical violence in school in the name of discipline or education.

The judgement refocuses the objective of the nation,

“The child has to be prepared for responsible life in a free society in the spirit of understanding, peace and tolerance. Use of corporal punishment is antithetic to these values.”

If we want our country to move in the direction of a peaceful and well ordered society, we have to begin by building on such values from early childhood. The judgement cites Gandhiji’s insight in this regard:

“If we are to reach real peace in this world, and if we are to carry on a real war against war, we shall have to begin with children, and if they will grow up in their natural innocence, we won’t have to struggle, we won’t have to pass fruitless idle resolutions, but we shall go from love to love and peace to peace, until at last all the corners of the world are covered with that peace and love for which, consciously or unconsciously, the whole world is hungering. (quoted, p. 17).”

Dismissing the concept of a school discipline based on physical punishment as untenable and outdated, the judgement concludes as follows:

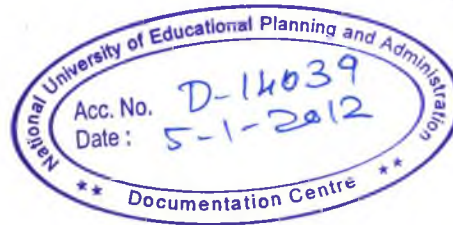
“In view of the forgoing, the writ petition succeeds. The rule is made absolute. Rule 37(1)(a) (ii) and (4) of the Delhi School Education Rules, 1973, is held to be violative of Article 14 and 21 of the Constitution and is accordingly, struck down.”

It also directs the state to ensure that “children are not subjected to corporal punishment in schools and they receive education in an environment of freedom and dignity, free from fear. (p.22)”

Source: [www.pfmeonline.org](http://www.pfmeonline.org)

## REFERENCES

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- <sup>4</sup> Spare the Rod It Won't Spoil the Child....., Plan India, Delhi, November 2007, p. 2
- <sup>5</sup> Study on Child Abuse in India in 2007, Ministry of Women and Child Development, Government of India.
- <sup>6</sup> Reported in [cities.expressindia.com](http://cities.expressindia.com), 7 April 2007
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- <sup>9</sup> Saath Charitable Trust/Plan International, India, 2006, Impact of Corporal Punishment on School Children: A Research Study – Final Report
- <sup>10</sup> Spare the Rod It Won't Spoil the Child..... Plan India, Delhi, November 2007. p. 11
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- <sup>12</sup> Child Protection in Tea Gardens, A Study in Dibrugarh District, Assam Branch Indian Tea Association & UNICEF, 2005
- <sup>13</sup> Interactions held in districts Dibrugarh, Dhubri, Hailakandi and Kamrup, Law Research Institute, May-June 2009
- <sup>14</sup> The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 and Rules of 2007
- <sup>15</sup> Adapted from UNICEF, Fact Sheet: A Summary of the Rights Under the Convention on the Rights of the Child
- <sup>16</sup> Is Corporal Punishment Permitted in Schools and Child Care Institutions in India? Kit, Media Dialogue on Corporal Punishment, NCPCR and UNICEF, New Delhi, 17 February 2009
- <sup>17</sup> The Code of Criminal Procedure, 1973 *as amended* by The Code of Criminal Procedure (amendment) Act, 2001 *with state* amendments.
- <sup>18</sup> Section 323. **Punishment for voluntarily causing hurt.** Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.
- Section 334. **Voluntarily causing hurt on provocation.** Whoever voluntarily causes hurt on grave and sudden provocation, if the neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.
- <sup>19</sup> <http://www.vakilno1.com/bareacts/IndianPenalCode/S89.htm>
- <sup>20</sup> Section 23. **Punishment for cruelty to juvenile or child.** 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.
- <sup>21</sup> Section 3.(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe:-(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
- <sup>22</sup> Section 3.(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe:- (vii) being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.



### Other Useful References

- Global Initiative to End All Corporal Punishment of Children [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)
- Factual documentation and resources on corporal punishment around the world [www.corpun.com](http://www.corpun.com)
- NCPCR <http://ncpcr.gov.in>
- UNICEF [unicef.org/india/](http://unicef.org/india/)
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- <http://www.helium.com/users/497204>
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Children learn what they live.....

If children live with criticism  
They learn to condemn

If children live with hostility  
They learn to fight

If children live with ridicule  
They learn to be shy

If children live with shame  
They learn to feel guilty

If children live with tolerance  
They learn to be patient

If children live with encouragement  
They learn confidence

If children live with praise  
They learn to appreciate

If children live with fairness  
They learn justice

If children live with security  
They learn to have trust

If children live with approval  
They learn to like themselves

If children live with acceptance and friendship  
They learn to find love in the world

(Dorothy Law Nolte)

From : Training Manual on Alternatives to Corporal  
Punishment (for Bhutan)

1<sup>st</sup> Draft, Charlotte Hunt UNICEF UK