

**Report of the Working Group on
Eliminating Corporal Punishment in
Schools**

**Under Section 17 of the
Right of Children to Free and
Compulsory Education Act, 2009**

**National Commission for Protection of Child
Rights (NCPCR)**

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1. Introduction

- 1.1 With the enactment of the Right of Children of Children to Free and Compulsory Education (RTE Act) corporal punishment is banned. Children are ensured a fundamental right to education that is free of physical and mental harassment and discrimination of any kind.
- 1.2 Children are subject to corporal punishment in schools, institutions meant for care and protection of children such as hostels, ashramshalas, juvenile homes and even in the family setting. A study 'Child Abuse in India- 2007, by Ministry of Women and Child Development, Government of India found that 69% of children reported to have been physically abused. Out of these 54.68% were boys. 52.91% of boys and 47.09 % of girls reported having been abused in their family environment. 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 law and 52.86% of children in need of care and protection reported having been physically abused.
- 1.3 Documented evidence points to the persistence of discrimination based on social, economic linguistic and religious identities inside the school. Equally discrimination based on disability and illness / disease has also been reported.
- 1.4 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. (Vissing, 1991).
- 1.5 National Commission for Protection of Child Rights (NCPCR) has since its inception in March 2007, responded to 296 complaints of corporal punishment from across the country, held public hearings on the matter, issued guidelines for prevention of corporal punishment and appropriate action of the schools, education department, departments of women and child development, social welfare and police.

2. 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 as necessary for children to grow into competent and responsible individuals. This perception of corporal punishment as justified, and deserved by children serves to sustain the practice of corporal punishment, as the child may not think that his/her rights have been infringed on and therefore does not feel the importance to report the incidence.
- 2.2 It is widely used by teachers and parents regardless of its evident lack of effectiveness, and potentially deleterious side effects. It's 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. Even if 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 care of children in school or other institutions are “in loco parentis” and therefore will always act in the interest of the child. This notion needs to be reviewed in light of the widespread violence that exists in all institutions occupied by children.

3. Long term Consequences of corporal punishment

3.1 Though advocates of school corporal punishment argue that it provides an immediate response to indiscipline, it is important to review the long term consequences of corporal punishment.

3.2 It is now globally recognized that punishment in any form or kind in school comes in the way of the development of the full potential of children. It could effectively push them out of the school system and also emotionally scar them for life.

3.3 Subtle and overt forms of discrimination and exclusion are also known to have a negative effect on the emotional and intellectual health of children.

3.4 Studies have linked corporal punishment to adverse physical, psychological and educational outcomes including, increased aggressive and destructive behaviour, increased disruptive classroom behaviour, 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 teacher (Poole et al., 1991).

3.5 Studies also show that children subjected to punishment preferred aggressive conflict resolution strategies with peers and siblings and they do not consider it a violation of their rights.

3.6 Research has clearly demonstrated associations between corporal punishment of children and maladaptive behaviour patterns in later stages of their life, such as aggression and delinquency (Knox 2010).

3.7 The more children are hit, the more anger they report as adults and consequently the more they hit their own children when they are parents the more likely they are to approve of hitting. Even controlling for baseline antisocial behaviour, the more 3- to 6-year-old children were hit; the worse their behaviour was, when assessed 2 years later (Strauss, 1996).

3.8 Findings support the view that when adult use corporal punishment it teaches their children that hitting is an acceptable means of dealing with conflict (Simons & Wurtele, 2010). At the same time while psychological maltreatment is a common accompaniment and consequence of physical and sexual abuse, it may occur as a distinct entity.

3.9 Studies comparing the effects of various forms of mental harassment or psychological maltreatment have documented 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 is the severity of physical injury experienced by children; (c) it is the indicator most related to behaviour problems for children and adolescents, (d) psychological abuse is a stronger predictor than physical abuse of both depression and low self-esteem (Briere and Runtz 1990; Claussen and Crittenden 1991; Egeland and Erickson 1987; Vissing et al. 1991). Childhood-experience histories

of adults, retrospectively surveyed, concluded that over one-third of the adult population has had significant psychological maltreatment experiences and that 10 to 15 percent of the adult population has suffered chronic or severe psychological maltreatment (Binggeli N et al.,2001).

3.10 A chronic pattern of psychological maltreatment destroys a child's sense of self and personal safety.

3.11 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."p.6

4 Definition of Corporal Punishment

All forms of corporal punishment 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 be only indicative. In keeping with the provision of the RTE Act corporal punishment could be classified as physical punishment, mental harassment and discrimination.

4.1 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:

4.1.1 Causing physical harm to children with the hand (hitting, kicking, scratching, pinching, biting, pulling hair, boxing ears, smacking, slapping, spanking,) or with any implement (cane, stick, shoe, chalk, dusters, belt, whip, giving electric shock etc.);

4.1.2 Making children assume an uncomfortable position (standing on bench, as wall chair, standing with bags on head, holding ears through legs, kneeling etc.)

4.1.3 Forced ingestion of anything (for example: washing soap, mud, chalk, hot spices etc.)

4.1.4 Detention in the classroom, library, toilet or any closed space in the school.

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

4.2.1 Sarcasm that hurts or lower the child's dignity;

4.2.2 Calling names and scolding using humiliating adjectives, intimidation;

4.2.3 Using derogatory remarks on the child, including pinning of slogans;

4.2.4 Ridiculing the child on background or status or parental occupation;

4.2.5 Ridiculing the child on health status of self or the family – especially HIV and tuberculosis;

4.2.6 Belittling a child in classroom due to his/her inability to meet the teacher's expectations of academic achievement.

- 4.2.7 Punish or disciplining a child by the school/teacher for 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 hyper activity disorder, mild developmental delay etc.
- 4.2.8 Using punitive measures to correct a child with attention deficit hyperactivity who may not only fare poorly in academics, but also poses a problem in management of classroom behaviours with and even labelling him/her as difficult.
- 4.2.9 'Shaming' the child to motivate the child to improve his performance.
- 4.2.10 Ridiculing the child with developmental problems such as learning difficulty or a speech disorder such as stammering or speech articulation disorder.

4.3 **Discrimination** is understood as prejudiced views and behaviour towards any child because of her/his caste/gender, occupation or region. It can be latent, manifest, open or subtle. It includes but is not restricted to the following:

- 4.3.1 Bringing social attitudes and prejudices held within the community into the school by using belittling remarks against a specific social group or gender or ability/disability;
- 4.3.2 Assigning different duties in school based on caste, community or gender prejudices (for example cleaning of toilets assigned by caste, making tea assigned by gender);
- 4.3.3 Commenting on academic ability based on caste or community prejudice;
- 4.3.4 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.
- 4.3.5 Deliberate / wanton neglect.

4.4 UN Committee on the Rights of the Child defines corporal punishment which India has ratified 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]"

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

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) (Forty-second session, 2006), U.N. Doc. CRC/C/GC/8 (2006).

“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.”The definition above 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” - constitutes corporal punishment – there isn’t a threshold below which physical force against a child is acceptable.

5 Legal basis

5.1 Under the RTE Act, corporal punishment, mental harassment and discrimination violate the right of the child to education, as well as the child’s right to life with dignity, and are hence proscribed. Section 17 of the Right of Children to Free and Compulsory Education Act 2009 reads – “no child shall be subjected to physical punishment or mental harassment.” Sections 8 and 9 of the 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”.

5.2 The RTE Act does not preclude the application of other legislation that relate to the violations of the rights of the child including the offenses under the IPC and the SC and ST Prevention of Atrocities Act of 1989.

5.3 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 socially accepted and regarded as legitimate.** So, the provisions highlighted below, the criminal provisions in particular, have the potential to be used in situations of corporal punishment, but rarely are. In addition, legal provisions in the IPC provide a defence to corporal punishment.

5.4 Constitutional provisions

5.4.1 Article 21 of the Constitution which protects the right to life, has been modified to include the right to education for children under 14 [Article 21a], and the right to life with dignity². It follows therefore, that 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 altogether³.

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

³

- 5.4.2** The Right of Children to Free and Compulsory Education Act, 2009 carries an express prohibition of corporal punishment in Section 17 which reads: "No child shall be subjected to physical punishment or mental harassment." Section 8 and 9 also expressly prohibit discrimination.
- 5.4.3** Article 14 of the Constitution guarantees equality before the law and equal protection under all laws. It can be strongly argued that tolerating abuse against children, that would lead to criminal prosecution if directed against an adult, amounts to discrimination and violates Article 14.
- 5.4.4** Article 15(3) of the Constitution allows the State to make special provisions for children. So, legislating to protect children, as a demographic category, from physical abuse to which they are particularly vulnerable is permitted by the Constitution.
- 5.4.5** Article 39 (e) directs the State to work progressively to ensure that those in "the tender age of children are not abused"
- 5.4.6** 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."

5.5 Indian Penal Code

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

- 5.5.1** Section 305: Abetment of suicide committed by a child;
- 5.5.2** Section 323: Voluntarily causing hurt;
- 5.5.3** Section 325: Voluntarily causing grievous hurt;
- 5.5.4** Section 326: Voluntarily causing hurt by dangerous weapons or means;
- 5.5.5** Section 352: Assault or use of criminal force otherwise than a grave provocation;
Section 354: Outraging the modesty of a woman;
- 5.5.6** Section 506: Criminal intimidation;
- 5.5.7** Section 509: Word, gesture or act intended to insult the modesty of a woman.

5.6 Other statutes

- 5.6.1** The Juvenile Justice (Care and Protection of Children) Act 2000⁴ is the only statute that criminalises acts that may cause a child mental or physical suffering.
- 5.6.2** Section 23 of the JJA 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

⁴ Amended in 2006

suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both’.

5.6.3 Section 23 covers the actions of anyone who as “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 JJA, it arguably applies to cruelty by anyone in a position of authority over a child, which would include parents, guardians, teachers and employers.

5.6.4 Section 23 thus has the potential to be used to prosecute corporal punishment in a range of contexts. Section 23 also generates legal ambiguity because it sits uneasily with defences against corporal punishment in the IPC. It is important to note, however, that the interpretation of this Section has not been tested in the higher courts yet⁵, though India’s international human rights obligations as well as domestic policy guidance would point towards expansive interpretation of Section 23.

5.6.5 It is also important to note that Section 23 is punishable with a maximum of six months imprisonment. Clearly, when a child is seriously harmed as a result of corporal punishment, the appropriate provisions of the IPC dealing with such harm would need to be used.

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

5.7.1 Some provisions of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 can be used to prosecute corporal punishment by an adult who does not belong to a scheduled caste or scheduled tribe against children who do fall under either of these categories.

5.7.2 These include:

5.7.3 Section 3(1)(i): forcing a member of a Scheduled Caste or Scheduled Tribe to eat any inedible or obnoxious substance;

5.7.4 Section 3(1)(iii): Forcible removal of clothes and parade naked or any similar act which is derogatory to human dignity.

5.7.5 Section 3(1)(x): Intentional insult or intimidation with the intent to humiliate.

5.7.6 Section 3(1)(xi): assault or use of force against a woman with intent to dishonour or outrage her modesty.

5.8 Guardians and Wards Act 1890

Section 4 of the Guardians and Wards Act 1890, a guardian means “a person having the care of the person of a minor or of his property or both.

⁵ Two appeals indicate that Section 23 has been used to prosecute allegations of sexual abuse in children’s homes or in police custody, but physical punishment inflicted in the name of discipline. [*Allan John Waters and Duncan Alexander Grant vs. State of Maharashtra and MaharukhAdenwala*, Criminal Appeal Nos. 476, 603 and 681 of 2006, decided by the Bombay High Court on 23.07.2008; *State vs. Rameez& Others*, CrI. M.C. No. 12/2006, decided by the Delhi High Court on 06.04.2009).

Section 39 of the Act provides that a guardian may be removed from guardianship for, *inter alia*, ill-treatment, or neglect to take proper care, of his ward. Section 39 does not define what constitutes ill-treatment and existing jurisprudence suggests that Section 39 has not been used in cases of physical and mental abuse or violence against a child.

5.9 The General Comment 8 by the Committee on Corporal Punishment in the CRC says in Article 37 that the Convention requires States to ensure that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment”. This is complemented and extended by Article 19, 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”. 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.”

5.10 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.." The law has now developed to remove corporal punishment from the protection of these provisions. 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 8, "the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment".

6. General Guidelines to Affirm Positive Development of Children

6.1 Addressing difficult situations in schools

6.1.1 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 inflict punishment are:

- I. Not keeping to time and cleanliness regulations- e.g., late to school, not coming in uniform (infrequent) 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), vandalizing, etc.

6.1.2 Situations I. To III are to be within the scope of the concerned teacher to “handle”. For situations IV to V it is the school's responsibility to have a clear algorithm to guide teachers about which situation needs assessment and intervention by a school counsellor and which 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).

6.1.3 The Child and Adolescent psychiatrist aim at understanding the concerns and fears of the teachers and parents by integrating the child's biological vulnerabilities, past experiences, current family, peer, school and social stressors. Considering these different influences they may provide multiple intervention targets for a particular problem, taking into consideration existing services in the school and community. The interventions are focused at empowering the family and teachers with behavioural techniques. The most critical part is to help children learn behaviours that help them develop a sense of self-discipline that leads to positive self-esteem.

6.2 Guidelines for non-punitive measures

6.2.1 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 ‘against rules’ objects into the classroom, provocative / challenging behaviours etc. However, two children with the same problems may come from different background – 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 amenable to child / classroom / school management.

6.2.2 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 democratize response dispositions. To this, an added component of preventive interventions such as the life skills programme, increases overall effectiveness.

6.2.3 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.

6.2.4 The following guidelines are based on therapeutic strategies based on the principles discussed above that are commonly employed by mental health professionals in clinical

settings for families with children with behaviour disorder. Though simple these are effective strategies when implemented consistently.

- Arriving at a consensus with children about expected behaviour and consequences;
- Framing rules and guidelines in consensus with children;
- Focusing on every child's positives and appreciating good behaviour;
- Using different strategies to encourage and promote positive behaviours;
- Never comparing one child's performance with another;
- Setting limits and developing clarity on boundaries;
- Providing children an opportunity to explain before any other response;
- Giving a warning or chance before any response;
- Actively listening, remaining calm and ensuring the safety of other children while handling troublesome or offensive behaviour;
- Addressing perceived "severe or problematic behaviour" through consultation with parents, child and counsellor / psychiatrist;
- Discussing (with children) and adopting time out strategy as the last resort with children.

Positive Engagement with Children – an example

(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 other children but refer to his 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 accommodative of children who require additional time and input, while provide additional tasks to children who finish work earlier.

(ii) Ignore minor incidents or lapses

- This is the first 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

- Enabling children to set clear limits for themselves
- It has to be done in 'firm and calm' manner – avoid an angry tone

(iv) If behaviour continues **take away privilege in consultation with the children** (negative reinforcement- this encourages child to follow good behaviour to keep his privilege, therefore it is not considered punishment)

- No star/point/mark on his chart for the day or negative point/marks.
- Or take away 15 min 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
- Should be consistently employed

6.3 Recognize that child needs help and not punishment

Children's temperament interacts with multiple environmental factors such as parenting style, disciplining 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 many a time underlying emotional problems result in disruptive behaviour in children. It is also necessary to provide opportunities for children from different background to learn psychosocial skills. When adults view problem behaviours of a child as a product of interaction of various psychosocial and biological factors it helps to understand that the child needs help rather than punishment.

6.4 Rights and enablement of the teaching community

Preventive strategies should take priority while planning interventions to improve teacher-student relationship and create child friendly environment at 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 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.

6.5 Rights and enablement of children in school:

6.5.1 Child's participation in a democratic fashion to enable a collective decision would provide better end result than rather than arbitrary, random, unpredictable decisions that are imposed on child. There is a shift of focus onto enablement and engagement processes, to ensure prevention and protection.

6.5.2 A guideline could 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

perspective and generates a sense of commitment to follow the regulations than when it is imposed upon them.

6.6 **Need for multi-disciplinary intervention**

There is a need for multi-disciplinary inputs and networking as no sector of child abuse can be compartmentalized as independent of other sectors. This has to be between psychologists, educationists, school teachers, parents, social workers, lawyers and children where together they are involved to improve their understanding and thereby increase their cooperation and participation in the well-being and participation of the child.

6.7 **Positive engagement – Life skills Education**

6.7.1 Life skills education should be an essential part of school curriculum.

6.7.2 Life skills education is to be used as a mode of healing. It helps children to improve their communication and interpersonal skills, empathy building, decision-making and critical thinking skills, coping and self-management skill. 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.

6.7.3 It addresses 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.

6.7.4 Appropriately implemented life skills education can lead to improvements that have long-term effects on the behaviour of children.

6.7.5 Experiential methodologies such as theatre, narratives, storytelling, 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.

Some suggestions for schools are provided below for practical purposes

Empathy building:

a. A simple story could be used to help children understand the meaning 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 other person feels and empathizing makes a person treat others in a kind and respectful manner.

Social problem solving skills:

b. 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.

c. For e.g., when a child is faced with teasing by his classmates, the only solution he generates could be aggressing on them. Or in another situation child decides to forge his score-sheet for fear that 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 the child. It is therefore important for teachers to help the children understand that the solution is temporary and actually puts them in greater problem than solving it. In the process of story-telling children are helped to focus on long term consequences than the immediate consequences and it assist 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:

d. One common issue of concern for teachers of secondary and higher secondary classes are 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, taking deep breaths or even punching a pillow/punch bag in the play room could be suggested. Once child is calm problem-solving techniques could be employed.

e. Another important source of stress for children and teachers is 'Exam'. As most often the focus is on 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 the rules and regulations. As school systems play an important role in the development of children it is important to bring in a balance between positive engagement and managing children with difficult behaviours through positive disciplining.

6.8 Guidelines to out-law all forms of corporal punishment, mental harassment and discrimination

- 6.8.1** All staff associated with the school is subject to these guidelines.
- 6.8.2** All staff shall ensure that that all children enjoy their rights as per the RTE Act.
- 6.8.3** All forms of interaction with children and amongst children must be geared towards ensuring this objective. All staff shall 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.
- 6.8.4** To achieve RTE it must be recognized that teachers are *not in loco parentis*. In other words teachers must not take on the role of parent.
- 6.8.5** No physical punishment of any kind is to be permitted.
- 6.8.6** No mental harassment of any kind is to be permitted.No form of discrimination based on gender, caste, class, disability, etc., is to be permitted.
- 6.8.7** Any instance of corporal punishment, mental harassment or discrimination is to be dealt with in a time bound manner such that the implications on the child are minimized.
- 6.8.8** It shall be the responsibility of all staff to create an environment free of all forms of fear, trauma, prejudice and discrimination.
- 6.8.9** The treatment of the child in the school is to be such that the child feels included and secure.The Counselling services for children are to be made available.

6.9 Guidelines for creating an environment conducive to learning as well as enablements for the same

- 6.9.1** All children must be informed through campaigns and publicity drives that they have a right to speak against physical punishments, mental harassments and discrimination 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.
- 6.9.2** The conduct of the teacher and administration must be such that it fosters a spirit of inclusion, care and nurturing as detailed in box 1 below.
- 6.9.3** All school management and educational administration authorities must 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.
- 6.9.4** The teachers must be trained in the skills as to how to positively engage with the children who are different, in order to understand their predicaments.
- 6.9.5** 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.
- 6.9.6** It must instruct every school headmaster / head teacher to hold a general body meeting with all parents of the school as well as school education committees or parent-teacher associations on the NCPDR guidelines and the procedures to be adopted for protecting children and their rights in schools.

6.9.7 'Corporal Punishment free environment' will be stipulated as one of the conditions for giving recognition/no-objection certificate to a school by the State Government and also as one of the conditions for giving affiliation to a school by the State Board. Similarly, 'practice of Corporal Punishment' will be stipulated as one of the conditions for withdrawal of recognition/no-objection certificate given to any school by the State Government and also for affiliation given to a school by the State Board. The relevant rules and regulations concerning the recognition/NOC will be reviewed by the State Government and necessary amendments in the same to this effect will be notified within a month's time.

6.10 Guidelines for Mechanisms and processes to give children a voice and engage in the process of creating a positive environment – agency of children:

6.10.1 A mechanism for children to express their grievances both in person and anonymously is to be provided.

6.10.2 It is the responsibility of the school management to enable the formation of "class balsabha" – so that children of all ages can positively engage with democratic processes.

6.10.3 Among the various functions the student council is to decide on a set of codes and rules – that does not violate the rights of children and the right to education.

6.10.4 Clear-cut protocols must be framed redressing the grievances of the students and/or of parents by the schools.

6.10.5 The School Management Committee must constitute a Corporal Punishment Monitoring Cell (CPMC) must be constituted 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 counsellor, two students.

6.10.6 The role of the CPMC shall be:

- I. To hear the grievances of physical punishment, mental harassment and discrimination;
- II. To ensure that no student/parent/teacher/staff is harassed for the complaints;
- III. To ensure that students are not forced/influenced by the school authorities to testify in their favour before media/police/court of law;
- IV. To see as to whether adequate steps have been taken to prevent physical punishment, mental harassment and discrimination in the school;
- V. The recommendations of the committee will be forwarded to the school management committee or the appropriate administrative authority 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 higher levels). In the latter case, as per the provisions in RTE, the matter may be taken to SCPCR and then NCPCR.

Box 1

Indicative guidelines that could be adopted in different situations

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

Level 1-2: Not keeping to time and cleanliness regulations and Academic related issues x

- 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 making goal and how to achieve next time

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-one attention (every third task), buddy support (seating with another child who is of low risk for such behaviour), etc. could help for younger children.
- Try managing a problem with minimal disruption to other children
- A simple verbal warning – e.g., just calling the name of the child who is talking in the class or by asking a question to one of them 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 had been discussed and agreed with the children.
- Check for underlying cause such as learning difficulties, attention deficit and hyperactivity, difficult home environment, trauma.
- Note to parents on observations at home, home assignments to improve attention- pencil sketching, letter cancellation (explain this).
- Consult the school counsellor/ PT master to provide attention enhancing tasks/games
- Discuss with parents about the problem, the efforts made and give them the choice of consultation

Level 4 - 5: Troublesome behaviour, causing hurt or injury to others

Not only should 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

- If the student regrets have the student visualize 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 is contributing to the problem or conduct disorder or refer to school counsellor for the same.
- For behaviour such as engaging in fighting/lying when infrequent – 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 and clarify for the above; 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 of how the problem behaviour could be tackled by school authorities.
- When the issue is severe or acute; such as unprovoked aggression, vandalizing, 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 that AM, check is child is avoiding any test/class due to LD or fear.
- Identify where school may contact student if student does not show up on time

Handling difficult circumstances:

(i) Dealing with verbally confrontational students

- Do not lose temper or raise your voice, don't use sarcasm
- Try to actively listen and allow 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
- Parent-teacher meet, 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 his/her abuse experience to the teacher, either in the school context or otherwise, it is important that
- They are open and supportive of child

- Without undermining or disbelieving the child’s information.
- The support given by the first contact person helps in facilitating better healing of the victimized child.
- It is also important not to blame the child and confidentiality is to be assured.
- However, child also needs to be explained that necessary help needs to be taken to prevent further abuse in future.

7 Accountability and Grievance Redressal

- 7.1** The State Government will constitute/designate a city/district level Committee to receive the complaints of physical punishments, mental harassments and discrimination in schools and redress them within reasonable time.
- 7.2** In every case of violence against children the respective Department/Board has to conduct an independent investigation, thus taking responsibility for what goes on in school and not rely simply on enquiries conducted by the school.
- 7.3** 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.
- 7.4** The education department shall conduct Block-wise meetings 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.
- 7.5** In case of suicide/sexual harassment/hospitalization resulting due to the action of a teacher(s), the accused shall be suspended pending enquiry. Further the police department shall investigate and initiate criminal proceedings against the school teacher.
- 7.6** Decide on a redressal mechanisms – for children, for teachers, for parents / others:
- 7.7** Help children air their grievances – create mechanisms whereby children can speak to CPMC and tell them about their experience.

8 Rules to be framed under the following Heads for the Banning of Corporal Punishment Under Section 17 of the RTE Act

- 8.1** Definition of the three different forms of punishment:
- a. Corporal Punishment
 - b. Mental Harassment
 - c. Discrimination
- 8.2** Grave violation if breach of any of these under service regulations.
- 8.3** Procedure for children to bring up complaints and have them dealt with
- a. Complaint Box
 - b. Other
- 8.4** In the event of breach of rules

- a. Re-training of teachers
- b. Counselling
- 8.5** Responsibilities
 - a. Of School
 - b. Of School Management
 - c. Of Administration
- 8.6** Corporal Punishment Monitoring Cell
- 8.7** Modalities to be worked out on the basis of various available models
- 8.8** Counselling services
 - a. Where they can be accessed
 - b. How they are to be used
- 8.9** Social Audit

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ELIMINATING CORPORAL PUNISHMENT IN SCHOOLS**

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