

Corporal Punishment: The Slap that Carries the Message of Violence

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Abstract

The present article is an endeavour to raise a few important points concerning corporal punishment which breaches children's fundamental human rights. It is a fact that corporal punishment is often practised in educational institutions to maintain discipline thereby promoting effective behaviour. Corporal punishment is a means of discipline that relies on fear and submissiveness and diminishes a child's capacity to grow up as an autonomous and responsible person. This paper focuses on the legal provisions of corporal punishment, pros and cons of this aspect and effective guideline in eliminating this 'threat' to the healthy development and welfare of children.

“Corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity. Its legality breaches their right to equal protection under the law. Urgent action is needed in every region of the world to respect the rights of all children – the smallest and the most fragile of people.” (Global Initiative to End All Corporal Punishment of Children – December 2011).

Corporal punishment is a discipline method in which a supervising adult

deliberately inflicts pain upon a child in response to a child's unacceptable behaviour or inappropriate language. The immediate aim of such punishment is usually to halt the offense, prevent its recurrence and set an example for others. The purported long-term goal is to change the child's behaviour and to make it more consistent with the adult's expectations. In corporal punishment, the adult usually hits the various parts of the child's body with a hand or with canes, paddles, yard

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sticks, belts or other objects expected to cause pain and fear.

It is a morally repugnant, illegitimate and unjust assault upon another human being and especially reprehensible in that it is perpetrated upon those who are least able to defend themselves.

Why Resort on Corporal Punishment?

A plethora of debates and discussions including recommendation of stern laws against this primitive method of enforcing order still makes corporal punishment raise its ugly head from time to time in many institutions and home spaces across the country.

Reasons often cited by teachers for resorting to punishment are stubbornness, telling lies, back-answering, questioning the teacher's authority, not doing homework, being tardy and not wearing clean uniforms or the appropriate ones. More serious reasons for punishment include hurting other students, bullying, stealing and cheating.

Punishing children is regarded as normal and acceptable in all settings – whether in the family or in institutions. It is often considered necessary in order that children grow up to be competent and responsible individuals. It is widely used by teachers and parents regardless of its evident lack of effectiveness, and potentially deleterious side-effects. Its very ineffectiveness tends to result in an

escalation spiral which then leads to both a culture of rationalization by those in authority and passive acceptance of the situation as evidence of 'caring' by children. So pervasive is the justification of corporal punishment that a child may not think his/her rights have been infringed upon. Even if the punishment hurts, the child does not feel the importance of reporting the incident.

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 where care children are entrusted in school or other institutions are in 'loco parentis', and will therefore always act in the interests of the child. This notion needs to be reviewed in the light of widespread violence that exists in all institutions occupied by children.

Legal Echoes

International law

- Article 28(2) of UNCRC requires the state parties to "take all appropriate measures to ensure that school discipline is administered in a manner consistent with child's human dignity and in conformity with present convention."
- Article 29(1)(b) of the convention emphasizes that the "state parties agree that the education of the child shall be directed to the development of respect for human rights and

fundamental freedoms, and for the principles enshrined in the charter of United Nations.”

- Article 37(a) of UNCRC requires state parties to ensure that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.”
- Article 19(1) of the convention, which requires states to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuses, while in the care of parents, legal guardian or any other person who has the care of the child.”
- Article 39(f) directs the state to work progressively to ensure that “children are given opportunities and facilitates 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.”

RTE ACT, 2009

Constitutional provisions

- Article 21 of the Constitution of India which protects the right to life and dignity includes the right to education for children up to 14 years of age. Corporal punishment amounts to abuse and militates against the freedom and dignity of a child. It also interferes with a child’s right to education because fear of corporal punishment makes children more likely to avoid school or to drop out altogether. Hence, corporal punishment is violative of the right to life with dignity.
- Article 39(c) directs the state to work progressively to ensure that “the tender age of children is not abused.”
- The Right of Children to Free and Compulsory Education (RTE) Act, 2009, which has come into force with effect from 1 April 2010, prohibits ‘physical punishment’ and ‘mental harassment’ under section 17(1) and makes it a punishable offence under section 17(2). These provisions read as follows:
 - 17, prohibition of physical punishment and mental harassment to child –
 - (1) No child shall be subjected to physical punishment or mental harassment.
 - (2) Whoever contravenes the provisions of sub section (1) shall be liable to disciplinary action under the service rules applicable to such person.
- Sections 8 and 9 of the RTE Act place a duty on the appropriate government and local authority to “ensure that the child belonging to weaker section and child belonging to disadvantaged group are not discriminated against and

prevented from pursuing and completing elementary education on any grounds”.

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

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

- Some provisions of the scheduled castes and tribes (prevention of atrocities) Act, 1989 can be used to prosecute an adult in the general category who inflicts corporal punishment upon Scheduled Caste or Scheduled Tribe child.

Pros and Cons of Corporal Punishment

Proponents of corporal punishment favour it as it is an easy and temporarily effective method of instilling discipline and nothing, they claim, works better than fear. They believe that to ‘spare the rod is to spoil the child’. No proper learning and development can take place through corporal punishment, but children suffer untold harm and their condition has worsened because of stick.

Positive outcomes

Corporal punishment is usually taken as an effective behaviour deterrent because it has immediate, short-term compliance. Most teachers feel that it does not cost anything and can be

administered on the spot. It also allows both the parties to return to their usual tasks. Teachers also think that because students, afraid of being humiliated or hurt, behave in the ‘required’ manner. But whatever justification is given for corporal punishment, the effects are always negative. Corporal punishment harms everyone. So putting an end to corporal punishment is an ethical duty of parents and teachers.

Effects of Corporal Punishment

On the part of children corporal punishment lowers the self-esteem, and promotes negativity among students. It is broadly believed that people who are subjected to corporal punishment become stronger; it prepares them for life but on the contrary they are being victimised. Today we know that corporal punishment does not make people stronger rather it makes them more prone to repeating the same mistakes. Corporal punishment interferes with the learning process and hampers intellectual, sensory and emotional development. It diminishes the use of reasoning, it hampers the capacity to understand the relationship between behaviour and consequences. It gives an emotional set back to children making them feel lonely, sad and abandoned. It also promotes a negative view of other people and of the society as a threatening place. It creates barriers that impede parent-child communication and damages the emotional links established between them. It stimulates anger and a desire

to run away from home. As we know that violence begets violence, it gives a false feeling that violence is an acceptable way of solving problems. Children who have been submitted to corporal punishment manifest difficulties with social integration. It does not teach children to cooperate with authority; it teaches them to comply with the rules or to infringe them. Corporal punishment can also cause physical injuries. When someone hits a child, the situation can get out of hand and result in more harm than expected.

On the part of the parents corporal punishment can produce feelings of anxiety and guilt. It promotes violence and increases the probability that parents would show aggressive behaviour in future with growing frequency and intensity and also in other contexts. Corporal punishment inhibits communication and damages the relationship between parents and their children. Parents use corporal punishment because they lack alternative sources of checking their child. They feel the need to justify their behaviour to themselves and to society. Therefore, they unduly justify it and give incoherent and unfounded rationale.

Society is equally responsible for this practice. Corporal punishment increases the use of violence in society and legitimizes it in the eyes of succeeding generations. It promotes a double standard: there are two categories of citizens – children and

adults. It is acceptable to assault children, but not adults. It carries a wrong impression. Corporal punishment contributes to broken family patterns. It also makes protection of the child difficult. Because the practice of punishment is tolerated, children lose faith in society as a protective environment. It is misunderstood as a characteristic of the society to be a submissive citizenship, where individuals have learned from their elders that being a victim is a natural condition.

Guidelines for Eliminating Corporal Punishment in Schools

- All children should be informed that they have a right to speak against physical punishments, mental harassment and discrimination and bring it to the notice of the authorities.
- The conduct of the teacher and administration should be such that it fosters a spirit of inclusion, care and nurturing.
- All school management and authorities should run regular training programmes to enable teachers and educational administrators to understand and appreciate the rights of children and spirit of Right to Education. This is essential to make a shift to a right-based approach to education and abolish physical punishment, mental harassment and discrimination.

- An environment free of corporal punishment should be stipulated as one of the conditions for giving recognition/no-objection certificate to school by state government under the new RTE Act and also as one of the conditions for giving affiliation to a school by the state board.
- Practice of corporal punishment should be stipulated as one of the conditions for withdrawal of recognition given to any school by the state government.
- Clear cut protocols should be framed by schools for redressing the grievance of the students and parents.
- The school management committee should constitute a Corporal Punishment Monitoring Cell (CPMC) in each school to look into the cases of corporal punishment.

A Few Personal Experiences

“I was first exposed to corporal punishment when I joined a reputed high school on temporary basis just after my B.Ed course. On the very first day, I was assigned the duty to handle 82 lively boys and girls of Class V A. A colleague gave me all the directions of handling the students. All my classroom management tactics seemed to shatter one by one. Along with the chalk piece and duster I was handed over a short stick. I was confused as to whether who was right? Somehow I managed to get inside the classroom I

found all students looking at the table and not at me. A kind of noise came buzzing out seeing the cane ‘uuuu..... ssss..... uuussss’. One boy named Rahul got up and asked “Mam, will you beat us?” The rest of the students joined him pining for an answer. I was so happy to say that at times of emergency I will have to resort to it. A teacher in the adjoining class came out rushing with her frowning eye brows and asked me “just inaugurate your class”. The normal procedure was explained artistically. First make them sit with discipline. For that you can use the cane by mild lashings on the thighs, calves, knuckles, palms.... it went on. I felt like piercing my finger tips on my ears. During my entire tenure in that institution, I struggled hard to move without a cane as there was not a single teacher handling classes without wielding the rod.” (Ms.Bindhu.T.S, Teacher Educator)

I don’t mean to tar all teachers with the same brush. I am sure there are a good number of teachers whom I feel privileged of working with and being taught. Stringent laws leading to the arrest of several offenders from among the teaching community, public debates and awareness initiatives are all welcome measures that have helped in controlling the use of corporal punishment in schools today. Teachers too need reassurance, and training them in the rudiments of counselling would help them in the rudiments of counselling would help restore in them a sense of self-worth.

Seminars and workshops suggesting ways of tackling behavioural problems in the young can be organised by schools for parents too, to enable them to be more sensitive and understanding about the needs of their children.

Children should feel that schools as more supportive structures, emphasising cooperation and surveillance and punishment. There should never be a condition where children see schools as a dark, vast sea where there are legions of individuals who can only be described as psychotic sadists who preside over classrooms in the manner of the chief wardens of torture chambers.

Positive, non-violent ways of discipline and child rearing are being promoted and applied in all regions and cultures. Supportive information, resources and guidance for achieving constructive discipline and child rearing should be promoted and made readily accessible to families, schools and communities.

If we wish to raise a generation of fearless, independent young people who are not afraid to think for themselves and find solutions to the many ills that beset us, then the first thing we need to do is to ensure that under no circumstances the body of a child be made the foil for insecurities and aggression of 'teachers'.

Corporal punishment legitimises the oppression of the vulnerable, and justifies the sadism and megalomania of the powerful. It should have no place

in our schools. Finally, what remains fundamentally important is to find alternative ways to motivate and guide the children. As a teacher educator, I had a close link with the schools for practice teaching selected by our B.Ed students. A good number of ways to handle the dynamics of the classroom are imparted to the B.Ed trainees before the practice teaching sessions. They are strictly instructed not to adopt any measures of punishment even though much classroom tensions may tempt them to resort to punishments.

During the practice teaching sessions, I had to go to the schools opted by my optional students for observing their classes. I entered one of the classes of my student (teacher-trainee) and sat in the last bench. The fine entry of her class impressed me and when I was about to write the comments on the observation schedule, I could hear the caning from the adjoining classroom.

My teacher-trainee entered her presentation stage. I couldn't concentrate a bit. The sound disturbed me. I felt like rushing out and have a look in the adjoining classroom. Instructions for student-activity were announced by my trainee, she began student grouping. Somehow at this moment, I stepped out of the class and surveyed the happenings of the next class. The person who was engaging the class came out. The verandah had a row of boys and girls standing, half-sitting, balancing one leg on the other. Scratching his head he turned to me.

“Ma’am.....to control them is difficult without this.” I responded, “Are you the law-maker of the classroom?” I feel you are a ‘weak teacher’ who cannot build a relationship with a class! Violence is the last resort of the weak.

To my great shock, the teacher was a previous student of our institution and was a person with great ideals and principles. His thought for the day on the topic ‘Anger Management’ lives fresh in my memory too.

I just left the scene posing him some questions. “How can you pay for the physical ailment you have inflicted on them?” How will the student get compensated for the portions missed while staying for hours in the verandah? The psychological damage created on the minds, the humiliation they offered will be irreparable loss. Taking a deep

breath I was about to enter the trainee’s class. The class was over. I missed one observation class. I could manage it by observing once again, but the relief I felt while responding to the cruel act is a great gain. (Ms.Vijayalekshmi, N.S, Teacher Educator)

Constructive, non-violent child discipline is needed. It should be formulated and applied in a manner that respects the human dignity and rights of the child and understanding of child development. Positive, non-violent ways of discipline and child rearing are being promoted and applied in all regions and cultures. Supportive information, resources and guidance for achieving constructive discipline and child-rearing should be made readily accessible to families, schools and communities throughout the world.

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