



Corporal Punishment

For Prelims: [National Commission for Protection of Child Rights](#), [Juvenile Justice \(Care and Protection of Children\) Act, 2015](#), [Right to Education Act, 2009](#)

For Mains: Issue of Corporal punishment, Constitutional and legal provisions regarding corporal punishment.

Source: TH

Why in News?

Recently, the **Tamil Nadu** School Education Department released guidelines for the **elimination of corporal punishment in schools (GCEP)**.

- The guidelines are focused on **safeguarding the physical and mental well-being of students** and extend beyond eliminating corporal punishment to address any form of harassment of students.

What are the Key Facts About the Guidelines?

- The guidelines **aim to create safe and nurturing environments** for students by addressing physical punishment, mental harassment, and discrimination.
- The GCEP includes **safeguarding the mental well-being of students** and conducting awareness camps to familiarise stakeholders with **the guidelines of the [National Commission for Protection of Child Rights \(NCPCR\)](#)**.
- The GCEP emphasises the **establishment of monitoring committees** at each school comprising school heads, parents, teachers, and senior students **to oversee the implementation of guidelines** and address any issues.
- The Department also listed **affirmative actions against corporal punishment**, including multidisciplinary intervention, life-skills education, and mechanisms for children's voices.

What is Corporal Punishment?

- **About:**
 - Corporal is defined by the **UN Committee on the Rights of the Child**, as **“any punishment in which physical force is used** and intended to cause some degree of pain or discomfort, however light.”
 - According to the Committee, this mostly involves **hitting (smacking, slapping, spanking)** children with a hand or implements like sticks, belts, etc.
 - According to **[the World Health Organization \(WHO\)](#)**, corporal or physical punishment is **highly prevalent globally, both in homes and schools**.
 - Around **60% of children aged 2-14 years** regularly suffer physical punishment by their parents or other caregivers.
 - There is **no statutory definition of ‘corporal punishment’** targeting children in India.

- **Types of corporal punishment:**
 - **Physical punishment**, as defined by the [National Commission for Protection of Child Rights \(NCPCR\)](#), encompasses **any action that inflicts pain, injury, or discomfort** upon a child.
 - This includes coercing children into uncomfortable positions such as **standing on a bench, against a wall in a chair-like stance**, or with a school bag on their head.
 - It also involves practices like **holding ears through legs, kneeling, forced ingestion of substances**, and confining children to enclosed spaces within the school premises.
 - **Mental harassment** pertains to non-physical mistreatment that **adversely affects a child's academic and psychological well-being**.
 - This form of punishment encompasses behaviours such as sarcasm, name-calling, scolding using **derogatory language, intimidation, and the use of humiliating remarks**.
 - It also includes actions like ridiculing, belittling, or shaming the child, creating an environment of emotional distress and discomfort.
- **Justification of Corporal Punishment:**
 - **In the United States**, school corporal punishment is **currently legal in 22 states**.
 - A few sections of the [Indian Penal Code \(IPC\), 1860](#) provide the grounds for justification of Corporal Punishment.
 - **Section 88** provides safeguards for "**Acts not intended to cause death**, done by consent in good faith for a person's benefit,".
 - **Section 89** protects "**Acts done in good faith for the benefit** of a child or insane person, by or with the consent of a guardian.
 - **Juvenile Justice (Care and Protection of Children) Act, 2015**: Under **Section 2(9)**, the term "**best interest of the child**" denotes the foundation for any decision concerning the child, ensuring the fulfilment of their fundamental rights and needs, identity, social well-being, and physical, emotional, and intellectual development.
- **Effects of Corporal Punishment:**
 - **Mental Health:**
 - **Increased Anxiety and Depression:** Corporal punishment can cause children to feel unsafe, scared, and unloved. This can lead to increased anxiety and depression further **leading to poor academic performance**.
 - **Lower Self-Esteem:** Children who are physically or mentally punished may develop **lower self-esteem and a negative sense of self-worth**.
 - **Aggression and Violence:** Exposure to violence can increase the likelihood that children will become aggressive or violent themselves. Also, the child may **develop a revenge attitude against the teacher and peers**.
 - **Difficulty with Relationships:** Children who experience corporal punishment may have difficulty forming healthy relationships with others.
 - **Physical Health:**
 - **Physical Injuries:** Corporal punishment can lead to physical injuries, ranging from minor bruises to more serious injuries.
 - **Substance Abuse:** Children who experience corporal punishment are more likely to abuse drugs and alcohol as adults.

What are the Constitutional and Legal Provisions Regarding Corporal Punishment?

- **Statutory Provisions:**
 - [Right to Education Act \(RTE\), 2009:](#)
 - Section 17 of the Act **imposes an absolute bar on corporal punishment**. It prohibits 'physical punishment' and 'mental harassment' and makes it a **punishable offence**.
 - It **prescribes disciplinary action** to be taken against the guilty person in accordance with the service rules applicable to such person.
 - [Juvenile Justice \(Care and Protection of Children\) Act, 2015:](#)
 - According to **Section 23** of the act, any person who is **in control of a juvenile** and who abandons, assaults, exposes or wilfully neglects the juvenile which in turn

causes mental or physical pain to him/her **shall be punished with imprisonment up to six months**, or fine, or with both.

▪ **Legal Provisions:**

◦ [Indian Penal Code, 1860](#)

- **Section 305** pertaining to abetment of suicide committed by a child
- **Section 323** pertaining to voluntarily causing hurt
- **Section 325** which is about voluntarily causing grievous hurt.

▪ **Judicial Cases:**

- In ***Ambika S. Nagal Vs State of Himachal Pradesh, 2020***, the State High Court held that "whenever a ward is sent to school, the **parents must have said to give an implied consent on their ward being subjected to punishment and discipline.**"
- In a case against the State of Kerala, the Kerala High Court in 2014 titled ***Rajan Vs Sub-Inspector of Police, upheld the infliction of Corporal punishment*** holding that it was **beneficial to the child** even in cases where the consequences were extreme, as the teacher has a judging authority whether or not to inflict the punishment.

▪ **Constitutional Provisions relating to Protection of Child Rights:**

- **Article 21 A:** Provision for compulsory education in the age group of 6-14.
- **Article 24:** It prohibits child labour in hazardous work until the age of 14.
- **Article 39 (e):** It is the duty of the state to ensure that children of tender age are not abused due to economic disparity.
- **Article 45:** It is the duty of the state to provide for the care of children in the age group of 0-6.
- **Article 51A(k):** The fundamental duty of parents is to ensure that their child receives education for the age group of 6 to 14.

▪ **Statutory Bodies:**

- **National Commission for Protection of Child Rights (NCPCR):** The NCPCR guidelines for **eliminating corporal punishment** against children require every school to develop a mechanism and frame clear-cut protocols to address the grievances of students.
 - **Every school** has to constitute a **'Corporal Punishment Monitoring Cell'** consisting of two teachers, two parents, one doctor, and one lawyer (nominated by District Legal Service Authority (DLSA)).

▪ **International Laws:**

- **Article 19** of the **UN Convention on the Rights of Child 1989 (UNCRC)** declares that any form of discipline involving violence is unacceptable.
- It lays down that children have the right to be protected from being hurt and mistreated, physically or mentally.

What is the National Commission for Protection of Child Rights?

- NCPCR is a statutory body set up in March 2007 under the Commissions for Protection of Child Rights (CPCR) Act, 2005.
- It is under the administrative control of the Ministry of Women & Child Development.
- The Commission's mandate is to ensure that all laws, policies, programs, and administrative mechanisms are in consonance with the child rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child.
- It inquires into complaints relating to a child's right to free and compulsory education under the Right to Education Act, 2009.
- It monitors the implementation of the [Protection of Children from Sexual Offences \(POCSO\) Act, 2012](#).

Drishti Mains Question:

Q. Discuss the issue of corporal punishment mentioning the related constitutional and legal provisions.

Prelims:

Q. Other than the Fundamental Rights, which of the following parts of the Constitution of India reflect/reflects the principles and provisions of the Universal Declaration of Human Rights (1948)? (2020)

1. Preamble
2. Directive Principles of State Policy
3. Fundamental Duties

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 2 only
- (c) 1 and 3 only
- (d) 1, 2 and 3

Ans: (d)

Q. Consider the following: (2011)

1. Right to education
2. Right to equal access to public service
3. Right to food.

Which of the above is/are Human Right/Human Rights under “Universal Declaration of Human Rights”?

- (a) 1 only
- (b) 1 and 2 only
- (c) 3 only
- (d) 1, 2 and 3

Ans: (d)

Mains:

Q. Though the Human Rights Commissions have contributed immensely to the protection of human rights in India, yet they have failed to assert themselves against the mighty and powerful. Analysing their structural and practical limitations, suggest remedial measures. **(2021)**