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# Corporal Punishment against Children in India

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## ABSTRACT

*Corporal punishment is a form of physical punishment inflicted on children as a way of disciplining them. It entails striking, spanking, slapping, or any other physical harm that might have long-term psychological impacts on kids. In India, using physical punishment is a regular practice in homes, schools, and even some places of worship. The Indian government has, however, taken steps to forbid corporal punishment and support constructive discipline techniques. Every child has the right to receive education in India that is both secure and caring, as education is considered as a fundamental right in India. The Right to Education Act of 2009 forbids the use of corporal punishment and psychological bullying against students.*

*Any action that produces pain or suffering, such as beating, slapping, or caning, is considered physical punishment according to the statute. Anyone found in violation of this law faces fines or imprisonment. The use of corporal punishment on minors is prohibited by the Indian Penal Code (IPC). According to Section 323 of the IPC, anyone who injures a child may be sentenced to up to one year in prison, a fine, or both. A person who strikes a child or uses unlawful force against them is also subject to a fine or imprisonment for up to three years under Section 352 of the IPC. The use of corporal punishment is still common in some areas of India notwithstanding these rules. Some parents and educators think that using physical punishment to control children and instill good behaviour in them is vital. However, studies have demonstrated that corporal punishment can negatively impact kids' emotional and mental health, resulting in anxiety, sadness, and hostility.*

**Keywords:** IPC, Doli Incapax, NCPCR, Juvenile Justice, Fundamental Rights.

## I. INTRODUCTION

It's been ages which had witnessed the practice of physical punishments given to the children not only in India but all over the world. It was previously considered and still it is considered as one of the ways to reform a child and refrain from his/her bad habits. Physical punishment as well as mental harassment is considered as corporal punishment and few examples of these can be hitting children with different objects, making them run for a long, too many sit ups,

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humiliating them in front of people, etc. All of these are almost evil practices that proves harmful to the overall development of a child who is trying to gain some qualities in the age which is vulnerable.

Just for the sake of punishment one(child) should not undergo through such a brutal condition as it may led to several mental illness and may lead to several permanent/temporary disorder or it can be physical also at times. However to put an end to all of these crisis we have well established laws for the protection of corporal punishment he goes through. Getting known about the consequences of corporal punishments becomes our responsibility and duty after we come to know what exactly is meant by the corporal punishments. Its types/forms are variable from person to person, its grievousness or brutality may differ person to person and hence may lead to mishappenings and damages to the young minds internally as well as externally.

## **II. MEANING OF CORPORAL PUNISHMENT**

**CORPORAL PUNISHMENT-** Corporal means any physical pain that one undergoes assisted by a dominating/higher authority. Corporal punishments are those which are given as a method of reformation or rehabilitation but proves more harmful if it is given to children.

In olden days, corporal punishments were amongst the common practices in which children were tried under for their mistakes. Whereas, in recent times, the concept of CORPORAL PUNISHMENT is now being looked into deeply for its nature and it's adverse effect upon the young minds. If we partially focus upon the physical punishment the results can be different according to the age groups. E.g.: Be it mental or physical, Corporal Punishments are harmful to a young group of children. Whereas it is necessary to be given for a group of adults who have committed a crime.

Even though giving corporal punishment is necessary to adults, but still it has a designated authority who can handle this type of people and not any random person can give punishment to criminals. We shall be well known to the fact that civil wrong does not compromise of the punishments but it can be compensation whereas, in criminal wrongs, corporal punishment is a part of reformative ways. But it is high time to bring to our CHILDREN CANNOT BE GIVEN corporal punishments as they might equally be treated as criminals if such punishments are given without thinking or even after thinking given without thinking or even after thinking CHILD cannot be treated as a criminal in any matter as he/she gets a provision from Indian Constitution which is nothing but "PRESUPTION OF INNOCENNCE" until he/she attains 18 years of the age.

In order to play a role of backbone, we have 'Right To Education Act, 2009' saying or

prohibiting corporal punishments amongst the corporal punishments amongst the young age group. In various places like schools, hostels, dormitories, orphanages, etc the corporal (physical and mental) punishments have been strictly prohibited by this Act and have also non-compliance of the same.

### III. CONCEPT OF DOLI INCAPAX

It is a legal maxim (Latin term) which means deemed incapable of forming the intent to commit a crime or tort, especially by the reason of age (under 10 years old).

Illustrates that a child is Doli Incapax, because committing a wrong is not an intention of a minor as he/she is unaware of results and hence the concept of **presumption of innocence**.

#### *Principles of Doli Incapax:*

- i. Person is liable only when intention to commit a crime is proved.
- ii. Child below 7 years of age lacks mens rea and consequences of his actions to hold him guilty.
- iii. A child needs to be protected from rigors at his tender age.

### IV. CONSEQUENCES OF CORPORAL PUNISHMENTS

- i. When it comes to corporal punishment, we reasonably know that sometimes for the reformation of child but moreover it is all about the anger of the person who gives punishment.
- ii. That anger is an aggression induced upon the child resulting into adverse physical psychological and educational outcomes which includes increased aggressive and destructive behavior in the classroom, vandalism, poor school achievement, poor attention span, increased dropout rate, school avoidance, school phobia, low self esteem, anxiety, traumatic complaints, depression, suicide and retaliation against teachers that emotionally scar the children for life.
- iii. It was according to the Ministry of Human Resource Development, Government of India decided on 26 March 2014 and had ordered to all the state governments to put an end to the corporal punishments in all the educational institutions. Reason being the dropout rate of the children was on the rise and if the conditions do not improve, the mindset of children and parents would stay reluctant creating a question on the safety of their subjects.
- iv. Subtle and overt forms of discriminations are proved to have a negative effect on the

emotional and intellectual health of children.

- v. It also appears to us that corporal punishment is not keeping with child's dignity

## **V. PENALTIES FOR CORPORAL PUNISHMENTS**

- Corporal punishments are nothing but physically hurting someone and voluntarily causing hurt can be a provision booked for a person which is an offence under sec. 323 and 325 of Indian Penal Code.
- It may also lead to assault or criminal force under section 352 of IPC.
- There are certain cases when a child is being humiliated to such an extent that he becomes unsuccessful in preventing himself from committing suicide. This may ultimately lead to abetment to commit suicide of child under sec 305 of IPC.
- Penalties for corporal may be dynamic depending upon the nature of punishment a child undergoes which is up to 5 years of imprisonment and fine up to 5 lakh rupees. But heinous crimes may extend the period of imprisonment up to 10 years in which punishment were such that it resulted into permanent damage to child or his mental health.

## **VI. NCPCR: STEPS TO STOP CORPORAL PUNISHMENT/RESOLVE ISSUES AT SCHOOL LEVEL**

- National Commission for Protection Of Child Rights works for the betterment of Children and their overall development.
- Topic of Corporal punishments being chosen we must highlight that NCPCR has issued guidelines to eliminate all types of corporal punishments in the institutions or organizations or even at home where normally corporal punishments has its dominance.
- Drop boxes are facilitated in every institution wherein the complaints can be dropped in thereby maintaining privacy of the child and hence effective solutions being promoted over their issues.
- NCPCR has also set a CORPORAL PUNISHMENT MONITORING CELL in every school for a quick resolution of issues on the school level itself.
- This cell consists of : 2 Teachers, 2 parents, 1 doctor, 1 lawyer(nominated by DLSA), A counselor and 2 senior students from that school.
- By assigning different authorities at different level for the inspection of corporal

punishments, the child will be able to open up themselves to the person who he/she is comfortable and hence the issues can be thereby resolved time to time for whatever crisis they are going through or had been through.

## VII. CASE LAWS

### *Hansmukhbhai Golakdas Shah vs. State of Gujrat (NOV. 2008 Gujrat HC)*

In the above mentioned case facts and issues were deeply given a thought and later came to a conclusion that corporal punishments are not recognized by law. Hence in my opinion just because a child does obey to a set of rules or misbehaves or any sort of act done by him can definitely be wrong that shall not amount to crime.

### *S.Jai Singh vs State Rep.By on 4 March, 2021*

In the above case the student was made to do a duck walk because he was late to the school. The allegations were that the death was a result of the torture caused by the punishment that was imposed upon the child. However the facts and the reports of Post mortem were such that it could not establish the connection between the death and the kind of punishment that was imposed. It was concluded that it was a natural death. Not satisfying to the parents of deceased it was a great loss of them to loose their child at such a tender age and court mentioned that they were liable for the moral obligations and hence compensation of 10,00,000 rupees was imposed which was to be given to the parents of deceased.

## VIII. CONCLUSION

As time passes we will still be researching for the reformative ways for children and hence as of now it will not be appropriate on our part to practice corporal punishment and hence to put an end to the practices , we need to take roles of a responsible citizens and make everyone aware that such physical/mental pain will not have any adventitious effect on children but will ruin them. It is always advisable to the mankind that corporal punishments are just painful and not effective means of reformation when it comes to children. The impact seen on young minds are not appropriate rather disheartening because of the phobia that gets stuck in the mind of that child. Let the child be treated in a way such that it understands and learns his/her mistakes because a society with damaged mindset may still have a wrong impact on future and a chain of corporal punishments will not come to an end.

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