

# Laws on protecting children against corporal punishment

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**In news**– Three private school teachers in Pune have been booked under the Juvenile Justice Act over allegedly thrashing three Class 10 students, and threatening to grade them poorly in internal assessments.

## What is corporal punishment?

- By definition, **corporal punishment means punishment that is physical in nature.** While there is no statutory definition of 'corporal punishment' targeting children in the Indian law, the **Right of Children to Free and Compulsory Education (RTE) Act, 2009** prohibits 'physical punishment' and 'mental harassment' under Section 17(1) and makes it a punishable offence under Section 17(2).
- According to the **Guidelines for Eliminating Corporal Punishment in Schools** issued by the **National Commission for Protection of Child Rights (NCPCR)**, physical punishment is understood as any action that causes pain, hurt/injury and discomfort to a child, however light.
- **Examples include hitting, kicking, scratching, pinching, biting, pulling the hair, boxing ears,** smacking, slapping, spanking, hitting with any implement (cane, stick, shoe, chalk, dusters, belt, whip), giving electric shock and so on.
- **It includes making children assume an uncomfortable position** (standing on bench, standing against the wall in a chair-like position, standing with school bag on head, holding ears through legs, kneeling, forced ingestion of anything, detention in the classroom, library, toilet or any closed space in the school.
- **Mental harassment, meanwhile, is understood as any non-physical treatment that is detrimental to the academic and psychological well-being of a child** including

sarcasm, calling names and scolding using humiliating adjectives, intimidation, using derogatory remarks for the child, ridiculing or belittling a child, shaming the child and more.

### **Laws/guidelines against corporal punishment-**

- **Section 17 of the Right to Education Act, 2009, imposes an absolute bar on corporal punishment.**
- **It prohibits physical punishment and mental harassment to children** and prescribes disciplinary action to be taken against the guilty person in accordance with the service rules applicable to such person.
- **Section 75 of the Juvenile Justice Act prescribed punishment for cruelty to children.**
- Whenever a child is assaulted, abused, exposed or neglected in a manner to cause physical or mental suffering by any person employed by or managing an organisation, which is entrusted with the care and protection of the child, the punishment would be **rigorous imprisonment upto five years and fine up to Rs 5 lakh.**
- If the child is physically incapacitated or develops a mental illness or is rendered mentally unfit to perform regular tasks or has risk to life or limb, then imprisonment may extend upto ten years.
- **While Section 23 is likely to be applied most often to personnel in childcare institutions regulated by the JJ Act, it arguably applies to cruelty by anyone in a position of authority over a child,** which would include parents, guardians, teachers and employers.
- **Meanwhile, the RTE Act does not preclude the application of other legislation that relates to the violations of the rights of the child,** for example, booking the offences under the IPC and the SC and ST Prevention of Atrocities Act of 1989.

- **While a parent or caregiver can take the protection of the IPC and the JJ Act to file a police complaint in cases of corporal punishment,** there are relevant authorities earmarked to ensure the protection of children in schools.
- **Under Section 31 of the RTE Act, the NCPCR** and the State Commissions for Protection of Child Rights (SCPCRs) have been entrusted with the task of monitoring children's right to education.
- The state governments under their RTE rules have also notified block/district level grievance redressal agencies under the RTE Act.
- **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 still accepted socially at several places.
- **Several provisions of the Indian Penal Code (IPC) relating to varying degrees of physical harm and intimidation can be used to prosecute perpetrators of corporal punishment against children** in an institutional setting, depending on the situation and extent of the crime/act, including Section 305 pertaining to abetment of suicide committed by a child, **Section 323 pertaining to voluntarily causing hurt or Section 325 which is about voluntarily causing grievous hurt, and so on.**
- The Affiliation Bye Laws of the Central Board of Secondary Education (CBSE) empower the School Managing Committee to place an employee under suspension if charged with cruelty with any student or employee of the school.

- CBSE has also issued guidelines to schools for ensuring an atmosphere free from fear in each affiliated school.

### **The NCPCR guidelines for eliminating corporal punishment-**

- The National Commission for Protection of Child Rights (NCPCR) guidelines for eliminating corporal punishment against children **require every school to develop a mechanism and frame clear cut protocols to address grievances of students.**
- **Drop boxes** are to be placed where the aggrieved person may drop his complaint and anonymity is to be maintained to protect privacy.
- **Every school has to constitute a 'Corporal Punishment Monitoring Cell'** consisting of two teachers, two parents, one doctor, one lawyer (nominated by DLSA), counsellor, an independent child rights activist of that area and two senior students from that school.
- This CPMC shall look into complaints of corporal punishments.