

Corporal Punishment to Children, for whose crime?¹

(1) A Class 6 student from Sonkauchh tehsil in Dewas district of Madhya Pradesh testified at a NCPCR-organized public hearing in Bhopal in February 2009 that teachers in his school discriminated against students on the basis of their caste and practiced untouchability. He said that his midday meal rotis were thrown at him from a distance. Psychological and Emotional torture is a form of corporal punishment.

(2) Eleven years old Premlata of Khajuria village in Sagar district of Madhya Pradesh did not commit such a heinous crime by giving wrong answer to her teacher's (Ramsingh Ahirwar) question that she was beaten up so badly to death on 1st November.

(3) This case followed another painful incident on 5th November, when a six year old small kid Anmol Kushwaha studying in KG-II was beaten up, that caused elbow dislocation and pus formation in his arm. He was punished by his teacher because he made a crime of writing incorrect English alphabets. These just a few cases, most cases don't get registered, as parents and child has to go to school regularly. They can't make enemies, so they accept violation of Child rights as a part of the process.

Corporal punishment to children is becoming a very frequent and integral part of behavior and system. In present education system, teachers and teaching policy designers usually believes that punishment is one of the essential means on controlling student's errant behavior and learning capacities. They have very little faith in the scientific and social fact that Corporal Punishment severely affects the human dignity of the child, and then by reducing his/her self confidence and self esteem. Premlata and Anmol were not able to learn alphabets, was it their fault, or teachers and education system had to make efforts to comprehend the needs of these children. In fact these

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cases could have come out of the curtain; there is no management information system to monitor such incidents in Madhya Pradesh.

Corporal punishment also has serious implications on right to education, as after facing such experiences, decision the escape punishment may lead to school dropout and serious personality problem. We need to accept the fact that teachers have been trained to be judgmental about children and their learnings that they need to be controlled.

We have a national charter for Children (2003) saying "The State shall ensure that school discipline and matters related thereto do not result in physical, mental, psychological harm or trauma to the child." While Constitution of India mentions that "children are given the 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." Simultaneously National Policy on Education advocates for a warm, welcoming and encouraging approach, in which all concerned share solicitude for the needs of the child, is the best motivation for the child to attend school and learn" but evidences show that there is reluctance in accepting constitutional and policy frameworks to abandon corporal punishment from children's life within the adult centric system and society. Even the biggest discrepancy lies in our legal system, as Section 323 (that has been applied on recent cases also) of Indian Penal Code constitutes "hurt" caused by an act to the body and to the mind is an offence, but such an offence to a child does not constitute an offence. The Section 88 and 89 of IPC provides immunity to a person causing hurt to a child if the act is "done in good faith" and by consent whether expressed or implied. This is the worst example that legitimizes corporal punishment and causing serious physical injuries, mental traumas and even deaths in some cases.

It's a living fact that we have been advocating that best interests of the children should not be decided by the adults as a principal. Then only we will be able to show our intention for giving space for children to breathe in their own way. We are in desperate need to take steps for ensuring child participation in the social and political process and break the myth that children are not capable enough to take decisions or advice to the policy makers at all levels of life cycle. It is clearly mentioned by the Committee on Rights of the Child That Children do not lose their rights by virtue of passing the school gates, but in Madhya Pradesh we have banned corporal punishment but not made rules and systems mandatory to follow. National Commission for the Protection of Child Rights way back on 9th August 2007 asked state government to make system for safeguarding children from punishment and make society (including children) aware about it and again wrote on 26th May 2009. It is clear that very non-serious measures have been taken up by Madhya Pradesh Government and no derive has been moved by the concerned department. It requires serious participatory intervention because one will also have to work on changing mindset that punishment is essential for child development.

Madhya Pradesh - No Actions to Prevent Corporal Punishment in Schools

World is celebrating the 20th anniversary of the UN Convention of Child Rights (CRC) and India is also commemorate it as an International day for children as it has also who agreed to rectify the provisions of CRC in 1992. But it is very unfortunate that Madhya Pradesh, a heart of India failed even to protect its children from corporal punishment in schools. The corporal punishment is a regular affair in thousands of schools in the state.

Corporal punishment in school is a state when students are punished by teachers or school administrators. Corporal punishment is the deliberate infliction of pain as retribution for an offence, or for the purpose of disciplining or reforming a wrongdoer, or to deter attitudes or behaviour deemed unacceptable. Children not only carry overload of text books and note books on their tender backs, but bear the brunt of canes for silly reasons like shoes not properly polished or lace not being property knotted or not able to speak English in school. But it is barely neglected by the State & actions are taken against the school administration only when some serious accident toke place.

Corporal punishment is a form of child abuse. Child abuse has serious physical and psycho-social consequences which adversely affect the health and overall well-being of a child. A study on child abuse reveals that 65% of school going children in India reported facing corporal punishment i.e. two out of three children were victims of corporal punishment. And 62% of the corporal punishment was in government and municipal school².

² Study on Child Abuse India 2007 by Ministry of Women & Child Development, India

Rapping on the knuckles, kneeling down or standing up for long hours, sitting like a chair, pinching and slapping, locking the students in classrooms and making children run around the school grounds are most common forms of corporal punishment in schools. Corporal punishment violates children's right to freedom, participation & development to a fuller extent. Corporal Punishment not only results in physical injuries but it also has serious implications of mental growth & development of the child in long term. These include loss of self-esteem, increased anxiety and fear, feelings of helplessness and humiliation, stifled relationships with others, aggressive and self-destructive behavior and limited attention span, all of which may lead to deficient academic performance.

All forms of corporal punishment are fundamental breach of child rights. But corporal punishments are not considered as offence under Indian Penal Code (IPC). However, Supreme Court of India have banned corporal punishment for children on 1st Dec'2000 when it directs the state to ensure "that child are not subjected to corporal punishment in school & they receive education in an atmosphere of freedom & dignity, free from free".

Keeping the spirit in view National Commission for the Protection of Child Rights (NCPCR) through its letter dated 9th Aug 2007, directs the education departments of all States to ensure building up of an atmosphere to prevent corporal punishment in schools. It further guides that every school should have including hostels, JJ homes, shelter homes must have forum & drop box to receive the complaints against corporal punishment both from parents & children. And it also stress on strengthening on PTAs to take immediate actions on any complaint of corporal punishment in schools.

In response to the NCPCR directions, 10 States & Union Territory responded with their suggestive measures to minimize corporal punishment in schools. It includes Haryana, Delhi, Andhra Pradesh, Himachal Pradesh, Tripura, Gujrat, Nagaland, Pondicheery, Goa and Tamil Naidu. They have issued instructions & circulars to ensure prevention of corporal punishment. Goa is the only state to ban corporal punishment in schools under the Goa children's Act, 2003. But Madhya Pradesh does not revert back with any actions as recourse to prevent corporal punishment.

The NCPCR decided to hold public hearing at Satna & Bhopal after receiving large number of complaints for the violation of child rights from across the State in 10th & 11th Jan'09. During Bhopal public hearing number of testimonial regarding corporal punishment were also presented. But still State administration remains silent on the issue of corporal punishment in schools.

Therefore NCPCR again on May 26, 2009 issued additional guidelines to all States & Union Territories to end corporal punishment of children once & for all and to treat children as equal human being with rights & dignity. NCPCR directs all the District Collectors/District Magistrates to conduct block wise meetings in all schools to convey that serious actions against the school would be taken in case of any complaint on corporal punishment. District /Block education officer would also be held accountable for any violation of child rights & corporal punishment.

In-spite of orders of apex court & repeated guidelines from NCPCR, no constructive actions seems visible to ban corporal punishment in Madhya Pradesh. The only actions that have taken in case of corporal punishments are just to suspend a concerned teacher found involved, that too only media highlights the incident. But no course of action had even been taken on the whole school administration nor upon

the block/district Education officers concerned. And private schools are totally put aside on a safer side with no action, unless & until parents directly lodge complaints against the school authority. Even if parents alleged the school authority for corporal punishment to their little kids, the school management either tries to manipulate the facts or just agreed to pay off small compensation. But no actions are taken to develop child friendly ways of learning. The high incidence of corporal punishment in schools is a clear indicator of the absence of use of positive disciplining techniques by teachers. It is a high time has come to re-examine the saying 'spare the rod and spoil the child'.