

Advisory for Eliminating Corporal Punishment in Schools under Section 35 (1) of the RTE Act, 2009.

1. Background:

1.1 Children are at times, subject to corporal punishment in schools; institutions meant for care and protection of children. A study ‘Child Abuse in India – 2007’, by the Ministry of Women and Child Development, Government of India, found that every two out of three school children reported facing corporal punishment.

1.2 A study on the “Inclusion and Exclusion of Students in the Schools and Classrooms in Primary and Upper Primary Schools” commissioned by the Ministry of Human Resource Development and conducted in the rural areas of six states in 2011 revealed that being poor, poorly dressed, frequent absenteeism, sitting at the back and coming from deprived social groups are elements that converge to exclude some children from activities in the schools. Discrimination against Scheduled Caste children was more palpable. However, where SC children were in majority, no overt discrimination was found in the school. Gender and caste play significant role in assigning cleaning duties, fetching water, making tea etc. in the schools. Instances of teachers’ scolding/punishing children and use of derogatory words for children tended to follow caste, occupation and gender stereotypes. Discrimination in eating varied from children of well to do homes going home for lunch, girls refraining from food due to social taboos and some community eating school meals only if the cook was from the same community.

1.3 Documentary evidence points to the persistence of discrimination based on social, economic, linguistics and religious identities inside the school. Discrimination based on disability and illness/disease has also been reported. It is reported that psychological aggression (i.e., controlling or correcting behavior that causes the child psychological pain) is more pervasive than physical punishment.

2. RTE Act, 2009

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:

- *Section 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 the local authority to “ensure that the child belonging to weaker section and the 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, for example, booking the offenses under the IPC and the SC and ST Prevention of Atrocities Act of 1989.

3. Perceptions on Corporal Punishment

Punishing children is regarded as normal and acceptable in many settings – including in educational institutions. It is often considered necessary to help children grow up to be competent and responsible persons. It is widely used by teachers regardless of its evident lack of effectiveness and potentially damaging side-effects. The justification for corporal punishment is so pervasive that a child may not think her/his rights have been infringed when subjected to corporal punishment. Even if the punishment hurts, the child does not feel the need to report the incident.

4. Long term consequences of corporal punishment

It is now globally recognised that punishment in any form or kind in school comes in the way of the development of the children. When adults use corporal punishment it teaches their children that hitting is an acceptable means of dealing with conflict and may lead to adverse physical, psychological and educational outcomes - including increased aggressive and destructive behaviour, increased disruptive behaviour in the classroom, vandalism, poor school achievement, poor attention span, increased drop-out rate, school avoidance/ phobia, low self-esteem, anxiety, somatic complaints, depression, and retaliation against teachers – that emotionally scar the children for life. A chronic pattern of psychological maltreatment destroys a child’s sense of self-esteem and personal safety. Subtle and overt forms of discrimination are also known to have a negative effect on the emotional and intellectual health of children.

5 Definition of Corporal Punishment

5.1 At present, there is no statutory definition of corporal punishment of children in the Indian law. Definition of corporal punishment can at best be only indicative. In keeping with the provisions of the RTE Act, 2009, corporal punishment could be classified as (a) physical punishment, (b) mental harassment and (c) discrimination. *Corporal punishment will also include all forms of sexual offences as per the Protection of Children from Sexual Offences Act, 2012.*

5.2 Physical punishment: The United Nations Committee on the Rights of the Child defines “corporal” or “physical” punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Examples of physical punishment include but are not restricted to the following:

- a. Causing physical harm to children by hitting, kicking, scratching, pinching, biting, pulling the hair, boxing ears, smacking, slapping, spanking with or without any implement (cane, stick, shoe, chalk, dusters, belt, whip, giving electric shock etc.);
- b. Making children assume an uncomfortable position (standing on bench, standing against the wall in a chair-like position, standing with schoolbag on head, holding ears through legs, kneeling etc.);
- c. Forced ingestion of anything (for example: washing soap, mud, chalk, hot spices etc.);
- d. Detention in the classroom, library, toilet or any closed space in the school.

5.3 Mental harassment is understood as any non-physical treatment that is detrimental to the academic and psychological well-being of a child. It includes but is not restricted to the following:

- a) Sarcasm that hurts or lowers the child’s dignity;
- b) Calling names and scolding using humiliating adjectives, intimidation;
- c) Using derogatory remarks for the child, including pinning of slogans;
- d) Ridiculing the child with regard to her background, status, parental occupation, caste or with regard to her health status or that of the family – especially HIV/AIDS and tuberculosis;
- e) Belittling a child in the classroom due to his/her inability to meet the teacher’s expectations of academic achievement;
- f) Using punitive measures to correct a child and even labelling him/her as difficult; such as a child with attention deficit hyperactivity disorder who may not only fare poorly in academics, but also pose a problem in management of classroom behaviour;
- g) ‘Shaming’ the child to motivate the child to improve his/her performance;

h) Ridiculing a child with developmental problems such as learning difficulty or a speech disorder, such as, stammering or speech articulation disorder.

5.4 Discrimination is understood as prejudiced views and behaviour towards any child because of her/his caste/gender, occupation and region or non-payment of fees or for being a student admitted under the 25% reservation to disadvantaged groups or weaker sections of society under the RTE, 2009. It can be latent or manifest and includes but is not restricted to the following:

- a) Bringing social attitudes and prejudices of the community into the school by using belittling remarks against a specific social group or gender or ability/disability;
- b) Assigning different duties and seating in schools based on caste, community or gender prejudices (for example, cleaning of toilets assigned by caste; task of making tea assigned by gender).
- c) Commenting on academic ability based on caste or community prejudices;
- d) Denying mid-day meal, library books, uniforms, sports facilities to a child or group of children based on caste, community, religion or gender;
- e) Deliberate neglect.

6. Legal basis for elimination of corporal punishment

6.1 International Law

- Article 28(2) of UN-CRC requires the State parties to “take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention.”
- Article 29(1) (b) of the Convention emphasises 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 the United Nations”.
- Article 37(a) of UN CRC requires States 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 abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”

- Article 19(2) lays down that—“Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore and, as appropriate, for judicial involvement.”

6.2 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 21A of the Constitution provides that “the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.” This fundamental right has been operationalised with the enactment of Right of Children to Free and Compulsory Education Act, 2009.
- Article 39(e) directs the State to work progressively to ensure that “... the tender age of children are not abused”. Article 39(f) directs the State to work progressively to ensure that “children are given 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.”

6.3 Indian Penal Code (IPC)

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. These include, *inter alia*:

- Section 305: Abetment of suicide committed by a child;
- Section 323: Voluntarily causing hurt;
- Section 325: Voluntarily causing grievous hurt;
- Section 326: Voluntarily causing hurt by dangerous weapons or means;
- Section 352: Assault or use of criminal force otherwise than a grave provocation;
- Section 354: Outraging the modesty of a woman;
- Section 506: Criminal intimidation;

- Section 509: Word, gesture or act intended to insult the modesty of a woman;
- Till recently, the provisions of Sections 88 and 89 of the IPC were invoked to explain the power teachers exercised when inflicting corporal punishment. These two provisions in the chapter on ‘General Exceptions’ cover harms that may be caused without penal consequence. Section 88 exempts an act from being treated as an offence when the harm was caused “to any person for whose benefit it is done in good faith”. Section 89 exempts acts “done in good faith for the benefit of a person under 12 years of age ... by or by consent, either express or implied, of the guardian or other person having lawful charge of that person.” However, contrary to Sections 88 and 89 of the IPC, the Gujarat High Court in its judgement *Hasmukhbhai Gokaldas Shah v. State of Gujarat*, 17 November 2008, has clearly stated that “corporal punishment to child in present days ... is not recognised by law”. Further, India is a State Party to the Convention on the Rights of the Child. The standard of ‘the best interests of the child’ is now a part of domestic law. In 2006, the Committee on the Rights of the Child explained this obligation further when it reiterated, in General Comment No. 8, “the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”.

6.4 The Juvenile Justice (Care and Protection of Children) Act, 2000

This is an important statute that criminalises acts that may cause a child mental or physical suffering.

- Section 23 of the JJ Act, 2000 states as follows: “Whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes or willfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both.”
- Section 23 covers the actions of anyone who has “actual charge or control over” a child. 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.

6.5 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 a scheduled caste or scheduled tribe child.

6.6 Protection of Civil Rights Act, 1955

Various provisions of the Protection of Civil Rights Act, 1955 can be used to prosecute a person/manager/trustee as well as warrant resumption or suspension of grants made by the Government to the educational institution or hostel on the ground of untouchability.

6.7 *The Protection of Children from Sexual Offences Act, 2012*

The act protects children from offences of sexual assault, sexual harassment and pornography and provides for establishment of special courts for trial of such offences and for matters connected with or incidental thereof.

7. Suggested Guidelines for affirmative action in schools towards positive development of children

7.1 Addressing difficult situations in schools

7.1.1 Children's temperament interacts with multiple environmental factors such as parenting style; disciplinary patterns at home and school; stress such as marital disharmony, domestic violence etc. Many children are not ready or prepared for the demands of the school in terms of academics, social and interpersonal relationships. It is therefore important to try and understand what could be causing the behaviour as underlying emotional problems often result in disruptive behavior in children. It is also necessary to provide opportunities for children from different backgrounds to learn psychosocial skills. When adults view problem behaviour of a child as a product of interaction of various psychosocial and biological factors it helps to understand that the child needs help rather than punishment.

7.1.2 Punishment is often justified as a 'last' resort in extreme situations for instance – bullying, causing physical harm, destruction of property, vandalism, sexual harassment, infringement of rules such as playing truant, carrying objects which are against school rules into the classroom, provocative/challenging behaviours etc. However, two children with the same problems may come from different backgrounds – one an indulgent family, which believes that a little exuberance is all right and another where the family is also at its wits' end. The contexts in which a child's behaviour takes place and how it comes to notice, lend themselves to child/classroom/school management/parents handling.

7.1.3 Sometimes behaviour of children is perceived by teachers as problematic and the prevalent practice is to respond with punishment of varying degrees. Some such situations that arise in schools that invite punishment are:

- (i.) Not keeping to time and cleanliness regulations – e.g., late to school, not coming in uniform etc.;
- (ii.) Academic related issues – e.g., incomplete home assignment, below expected academic performance, not taking a book to school, etc.;
- (iii.) Not meeting classroom expectations of school authorities – e.g., inattentive, talking in class, making noise in class, etc.;
- (iv.) Troublesome behaviour – e.g., disturbing other children in class, lying, stealing etc.;
- (v.) Offensive behaviour, causing hurt or injury to others – e.g., bullying, aggression towards peers, stealing (violating rights of others), vandalising, etc.

7.1.4 Situations (i) to (iii) should be within the scope of the concerned teacher to ‘handle’. For situations (iv) and (v) the school should have a clear protocol to guide teachers about how to tackle the situation with suitable interventions by her/head teacher and which ones need immediate intimation to higher authorities and the parents. If an attempt at resolving the problem is not satisfactory, parents could then be referred to a specialist (a child/ adolescent psychiatrist or a counsellor).

7.1.5 A protocol of response based on first versus repeated problems founded on a set of rules the school develops with children’s parents & teachers inputs would go a long way to democratise response dispositions. To this, an added component of preventive interventions, such as life-skills programme, increases overall effectiveness.

7.1.6 Some of the strategies that could be considered based on level of severity and frequency of problem behaviour are:

- i. **Levels 1–2:** Not keeping to time and cleanliness regulations and academic related issues:
 - Give the child an opportunity to explain.
 - Give opportunities for student to find solutions for the problem when he/she doesn’t meet expectations.
 - Give a warning and a chance before taking any further action.
 - When the frequency is more, involve family members who could supervise the student.
 - With older children work through the frustration about not achieving the goal and how to achieve it the next time.
- ii. **Level 3:** Not meeting classroom expectations of school authorities, e.g. inattentive, talking in class, making noise in class, etc.

- Set limits (in a clear tone without being angry) for mutually agreed behaviour in class.
- Strategies like seating in front to limit distractions, frequent one-to-one attention (every third task), buddy support (seating with another child who is of low risk for such behaviour), etc. should help younger children.
- Try managing a problem with minimal disruption to other children.
- A simple verbal warning e.g. just calling out the name of the child who is talking in the class or asking him/her question could help.
- With older children, humour could be used to get across the point.
- Use a time-out chair if behaviour continues, **only if it has been discussed** and agreed to by the children.
- Check for underlying causes such as learning difficulties, attention deficit and hyperactivity, difficult home environment, trauma.
- Consult the counsellor/ PT master to provide attention enhancing tasks/games.
- Discuss the problem with parents, the efforts made and give them the choice of consultation.

iii. *Levels 4–5:* Troublesome behaviour, causing hurt or injury to others- Not only teachers, but children also should have an idea of other children's right. When children violate the rights of others:

- Give the child an opportunity to explain his/her behaviour without threatening.
- Set clear limits and discuss the possible consequences of such behavior.
- Have a plan for dealing with violence that is also discussed with students.
- If the student regrets his action have the student visualise appropriate response to provocation (other than aggression).
- Clarify if the behaviour is recent or longstanding.
- Look for learning difficulty, underlying emotional disturbance/family situation that are contributing to the problem or conduct disorder or refer to counsellor for the same.
- For behaviour such as engaging in fighting/lying, when occasional , give assignments on writing down possible consequences of such behaviour, writing alternative solutions (with assistance from parents), and possible ways of dealing with anger-provoking situations.
- Involve parents early; explain what was tried at school and how this is affecting child's academic and social development and overall success. Prepare the parents before suggesting consultation with a specialist for guidance as to how the problem behaviour could be tackled by school authorities.

- When the issue is serious or acute – such as, unprovoked aggression, vandalising, disrupting the school routine – explain to the parents the need for immediate consultation with a child psychiatrist to prevent harm to the child and other children.
- For truancy, have parents feedback on when student leaves for school or not, check if child is avoiding any test/class due to learning disability or fear.
- Identify where school may contact the student if the student does not show up on time.

7.1.7 In handling difficult situations that arises in schools, school heads and teachers can bear the following in their mind:-

- i. Dealing with verbally confrontational students
 - Do not lose your temper, raise your voice, or use sarcasm.
 - Try to actively listen and allow the child to calm down, call the child later when he/she is calm to debrief.
 - Avoid involving other students.
 - If things escalate, call for additional assistance from school administration.
 - Meet the parents–Though some may not be receptive it is still important.
 - Address anger management issues.

- ii. Dealing with children who can get physically aggressive in class
 - Remain as calm as possible.
 - Call for assistance by another adult.
 - Have a student designated to get help from another teacher.
 - The safety of the other students is important, send the other students from the room if it appears they could get hurt.

iii. Handling disclosures:

School systems also need to be empowered to handle disclosure/detection in an appropriate way. When the child confides about being abused to the teacher, either in the school context or otherwise, it is important that the teacher is open and supportive of the child, does not undermine or doubt the child's information, does not blame the child and assures him/her of confidentiality and explains to the child that necessary help needs to be taken to prevent further abuse.

7.1.8 A difficult situation can also be resolved by a process of triangulation between the student/family, the teacher/school administration and a student council. A more difficult situation then may not be so much a discipline issue but a psychological one that needs professional attention and care.

7.1.9 There is a need for multi-disciplinary inputs and networking as no sector of child abuse can be treated as independent of other sectors. Psychologists, educationists, school teachers, parents, social workers, lawyers and children should be involved so as to improve their understanding and thereby increase their cooperation and participation towards the well-being and participation of the child.

7.1.10 **Some examples of positive engagement with children**

(i) Pay positive attention

- Notice children being good and appreciate them verbally
- Focus on the positives of every child, even the most difficult ones
- Identify good efforts even if ultimately unsuccessful
- Never compare performance with that of other children but refer to the child's own previous attempt
- Use motivational award chart (for younger children) or points or additional marks for good behavior.
- Award children for demonstrating values such as responsibility, honesty, caring, etc.
- Be accommodating of children who require additional time and input, while providing additional tasks to children who finish work earlier.

(ii) Ignore minor incidents or lapses

This is the best strategy; the situation may aggravate in the short-term but it disappears later.

(iii) Set clear limits:

- Explain clearly the classroom behaviour expectations that the children have framed together.
- Use 'I need you to ...' rather than 'You need to ...' statements.
- Give clear commands on what is expected, e.g., 'stay quiet' instead of 'be good'.
- Avoid 'Don't' commands.
- Enable children to set clear limits for themselves.
- Use a 'firm and calm' manner – avoid an angry tone.

(iv) If behaviour continues, take away privileges in consultation with the children (negative reinforcement – this encourages the child to follow good behaviour to keep his/her privilege, therefore it is not considered punishment)

- Do not give star/point/mark on his/her chart for the day or give negative point/marks.
- Take away 15 minutes of any privilege time (child and teacher mutually agree) for recurrent misbehaviours.
- Discuss the consequences well ahead with children so that there is consensus regarding plan of action when a particular behaviour occurs.
- The negative reinforcement should be appropriate and fair.
- It should be consistently employed.

7.2 Positive Engagements

7.2.1 Life skills education

- a) Life-skills education should be an essential part of school curriculum.
- b) Life-skills education should be used as a mode of healing. It helps children to improve their communication and interpersonal skills, builds empathy, decision-making and critical-thinking skills, coping as well as self-management skills. The interplay between the skills produces powerful behavioural outcomes, especially where this approach is supported by other strategies such as media policies and health services.
- c) Life-skills education should address issues of self-esteem, aggression, drug abuse, lack of active engagement in education, decision-making, problem-solving, coping with emotions, coping with stress, communication skills – negotiation/refusal skills, interpersonal skills, creative thinking, critical thinking, self-awareness skills – including awareness of rights, influences, values, attitudes, strengths and weaknesses.
- d) Appropriately implemented life-skills education should lead to improvements that have long-term effects on the behaviour of children.
- e) Experiential methodologies such as theatre, narratives, storytelling and artwork helps children learn better. It helps all children participate in and contribute equally to the production of knowledge, which is a continuous dialogue. The objective of the process is to liberate participants from both internal and external oppression, so as to make them capable of changing their reality, their lives, and the society they live in.

7.2.2 Empathy building

A simple story could be used to help children understand the meaning of empathy. Children can be asked to think if the characters acted responsibly. Children could then be asked if they have ever been in a situation where they could understand exactly how the other person felt, because they have had similar experiences. During the process children are helped to learn that empathy is to understand how the other person feels and that empathising makes a person treat others in a kind and respectful manner.

7.2.3 Coping with emotions and stress

Children often agree that verbal or physical aggression which results from anger is not acceptable and are willing to take help when offered. It is critical to assist children to become aware of their emotions and handle them before they escalate. Simple techniques such as: STOP and leave, drink water, count numbers, take deep breaths or even punch a pillow/punch bag in the playroom, could be suggested. Once the child is calm, problem-solving techniques could be employed. As school systems play an important role in the development of children it is important to bring about a balance between positive engagement and managing children with difficult behaviours through positive disciplining.

7.3 Role of school management/administration

7.3.1

- a) All staff associated with the school should be made familiar with such guidelines.
- b) All staff should ensure that all children enjoy their rights as per the RTE Act.
- c) All forms of interaction with children and amongst children should be geared towards ensuring this objective. All staff should ensure that the child is treated in a manner that encourages him or her to stay in school and learn to his or her potential.
- d) No physical punishment or mental harassment of any kind or any form of discrimination based on gender, caste, class, disability, etc., should be permitted.
- e) Any instance of corporal punishment, mental harassment or discrimination should be dealt with in a time-bound manner in such a way that implications for the child are minimised.
- f) It should be the responsibility of all staff to create an environment free of all forms of fear, trauma, prejudice and discrimination.
- g) The treatment of the child in the school should be such that the child feels included and secure.
- h) All children should be informed through campaigns and publicity drives that they have a right to speak against physical punishments, mental harassment and discrimination and bring it to the

notice of the authorities. They should be given confidence to make complaints and not accept punishment as a 'normal' activity of the school.

- i) The conduct of the teacher and administration should be such that it fosters a spirit of inclusion, care and nurturing.
- j) All school management and educational administration authorities should run regular training programmes to enable teachers and educational administrators to make a shift to a rights-based approach to education and abolish physical punishment, mental harassment and discrimination. The teachers should be trained in the skills required to positively engage with children who are different in order to understand their predicaments.
- k) All teachers working in any school – government run, aided or private – should provide a written undertaking to the management of the school and to the concerned district authority of the department of the government to which the schools normally report that they would not engage in any action that could be construed legally as amounting to 'physical punishment, mental harassment and discrimination'.
- l) The school management/administration should instruct every school headmaster/head teacher to hold a meeting with all parents of the school as well as the school management committees, the village education committees or parent-teacher associations on the guidelines and the procedures to be adopted for protecting children and their rights in schools.
- m) All schools should themselves conduct an annual social audit of physical punishment, mental harassment and discrimination. This should be made public and accessible to the authorities, the parents and to civil society.
- n) Guidelines in the school preferably be framed in consensus with children and can be upscaled by the school system. Involving the children in the processes of framing the regulations gives an opportunity for them to discuss their concerns, view the problems from different perspectives and generate a sense of commitment to follow the regulations rather than have the regulations imposed upon them.

7.3.2 A mechanism for children to express their grievances both in person and anonymously should be provided. Drop boxes for complaints should be placed in the school and a mechanism should be developed to address the same. Anonymity of the children/parents should be maintained while sharing the details of the complaints/grievances with other agencies such as the media in order to protect their privacy/confidentiality.

7.3.3 Formation of ‘class *bal sabha*’ may help children positively engage with democratic processes. Among its various functions the student council should also decide on a set of codes and rules that does not violate the rights of children and the right to education.

7.4 Role of School Management Committees

7.4.1 The School Management Committee should necessarily look into cases of corporal punishment.

7.4.2 The SMC’s role could be to:

- i.) hear grievances of corporal punishment, child sexual abuse, mental harassment and discrimination without any delay, as delay can result in intimidation of the child or tutoring of evidence;
- ii.) see as to whether adequate steps have been taken by the school management to prevent corporal punishment, child sexual abuse, mental harassment and discrimination;
- iii.) ensure that whenever such occurrences take place in a school, the ‘victim child’ is always protected and provided the best possible speedy care – medical and psychological;

7.5 State Governments / Appropriate Government:

7.5.1 An environment free of corporal punishment should be stipulated as one of the conditions for giving recognition/no-objection certificate (NOC) to a school by the State Government under the RTE Act and also as one of the conditions for giving affiliation to a school by the State Board.

7.5.2 It is essential to provide guidelines and assistance to school systems and empower them with effective strategies to prevent corporal punishment and such difficult situations. To this end, regular/periodic workshops are essential for teachers to share their experiences and learn from each other and from experts who could help them manage difficult situations. However, ending corporal punishment should be seen as an immediate obligation, with clear sanctions for non-compliance, and separated from the inevitably much longer process of transforming schools to rights-respecting institutions.

7.5.3 The schools should be helped to maintain the student-teacher ratio at the level prescribed under the RTE Act, 2009, in order to avoid overcrowding and unmanageable class, leading to the practice of corporal punishment.

8. **Accountability and Redressal Mechanisms:**

8.1.1 The RTE Act emphasizes the creation of a system for accountability and redressal of grievances. In order to ensure accountability, the mainstream mechanisms should also include redressal of grievances related to corporal punishment or discrimination and harassment of children.

8.1.2 As the SMC is the closest monitoring tier to the school and also has 75% parental representation, this would perhaps be the most effective local accountability mechanism to ensure that the school follows a child rights based approach.

8.1.3 The SMC: 75% of the SMCs members are drawn from parents of the children studying in the school with at least 50% women. Most of the States/ UTs have a two year term. Days could be earmarked in which the SMCs will hold an ‘open house’ in the school, with teachers, children and local community at large, to discuss the different aspects related to the school, including corporal punishment and discrimination issues. ‘Help desks’ as set up in schools of one southern State of India, where children can report grievances in drop boxes which are opened at regular intervals, can also be operationalized by other States/UTs for the SMCs and teachers. The capacity building of SMCs and giving them standardized procedures to follow up on their role in dealing with instances of corporal punishment, discrimination and measures for prevention should be included in the training programme for SMCs.

8.1.4 SMCs more familiar with their role of accountability, can set up a schedule for monitoring schools by members visits by rotation, to check randomly on functioning of the school and punishment / discrimination matters.

8.2.1 Decentralized grievance redressal mechanisms: The States under their RTE Rules have notified block/district level grievance redressal agencies under the RTE Act. This decentralized grievance redressal mechanism of each State/UT should be made publicly available and posted on all school, panchayat bulletin boards. One State of Western India has created a system that HM/principal

will register incident of corporal punishments and SMC will take action to redress it within 7 days; if the case remain unsolved then BEO is nominated as appellate authority.

8.2.2 The designated Local Authority for RTE Act in States/UTs must invariably fix days for meetings with the community on issues related to school education and prevention of corporal punishment. Institutionalized public meetings by the Local Authority will not only help monitor, but also address individual cases which will go a long way to change deep seated beliefs on the issue from within the community.

8.2.3 The Local Authority can also provide for a system of registering grievances related to corporal punishments at both the district and sub-district levels. One State of Northern India has notified a mechanism to register corporal punishments cases with the Education Committee of the Gram Panchayat, and where their Block Education Officer will organize a Shiksha Samvad (Education dialogue) on every 2nd Saturday of each month. One State of Eastern India has notified a toll free number help line, to establish accountability by a direct line for complaints at State level. This State through an MIS created from the grievances received through the toll free number, can do a trend analysis and compare improvements across districts over time.

8.3 Role of NCPCR and SCPCR

8.3.1 The National Commission for Protection of Child Rights (NCPCR) and the State Commissions for Protection of Child Rights (SCPCRs) have been entrusted with the task of monitoring children's right to education under Section 31 of the RTE Act, 2009, which reads as follows:

8.3.2 Section 31. *Monitoring of child's right to education –*

(1) The National Commission for Protection of Child Rights constituted under Section 3, or, as the case may be, the State Commissions for Protection of Child Rights Act, 2005 (4 of 2006), shall, in addition to the functions assigned to them under the Act, also perform the following functions, namely:-

- (a) examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;
- (b) inquire into complaints relating to child's right to free and compulsory education; and
- (c) take necessary steps as provided under Sections 15 and 24 of the said Commissions for Protection of Child Rights Act.

(2) The said Commissions shall, while enquiring into any matters relating to child's right to free and compulsory education under clause(c) of sub-section(1), have the same powers as assigned to them respectively under Sections 14 and 24 of the said Commissions for Protection of Child Rights Act.

(3) Where the State Commission for Protection of Child Rights has not been constituted in a State, the appropriate Government may, for the purpose of performing the functions specified in clauses (a) to (c) of sub-section(1), constitute such authority, in such manner and subject to such terms and conditions, as may be prescribed.

8.3.3 As per Section 31.1 of the RTE Act the NCPCR and SCPCRs are supposed to:

- (i) Examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;
- (ii) Inquire into complaints relating to child's right to free and compulsory education;
- (iii) Take necessary steps as provided under Sections 15 and 24 of the Commissions for Protection of Child Rights Act.

8.3.4 Under Section 32(3) and (4) of the RTE Act, the SCPCRs are the appellate authority to receive appeals from the aggrieved persons who would prefer such appeals when their grievances relating to children's right to education are not redressed by the designated local authorities under Section 32(2).

9.0 **Conclusion:** The RTE Act, 2009 prohibits physical punishment and mental harassment and makes it a punishable offence. Since provision of education is a compulsion on the State, the school system State Governments / UT Administrations including educational administrators, teachers, headmasters have to play an important role in ensuring an enabling and positive learning environment. Schools, parents, SMC members/Local Authority are important Stakeholders in ensuring that children do not face punitive measures. State Governments / UT Administrations must ensure that the process of grievance redressal is widely disseminated so that parents, community and others are aware of the provisions to address instances of punishment and discrimination. This advisory should be used by the State Governments / UT Administrations to ensure that appropriate State/school level guidelines on prevention of corporate punishment and appropriate redressal of any complaints, are framed, disseminated, acted upon and monitored.