

## **CORPORAL PUNISHMENT IN DISCIPLINING CHILDREN**

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### ***Introduction***

Punishment is a negative consequence of any wrongdoing or offence, it is a part of child discipline and even criminal law. Corporal punishment in children specifically deals with physically punishing children mostly in the context of disciplining; caning or flogging or causing any physical pain in any form – which is a in practice in Sri Lanka.

Bringing an end to cruelty against children was to be achieved after Sri Lanka ratified the United Nations Convention on the Rights of the Child in 1991. However, in reality, corporal punishment is still permitted by law and there has been no end to this cruelty. The legal framework intends to give what is in the best interest of the child but does it really cater to it in terms of legality and implementation? From legislation enacted by Parliament to the delegated legislature of ministerial instructions do they all align with what is best for the child?

Corporal punishment makes children vulnerable in places where they should feel safe and secure. Schools of the education system are the places that mentor and define a child but they turn out to be unsafe. Nowhere is it written to corporally punish children but it is conventionally followed in schools in the context of disciplining. This detrimentally affects children's growth in their formative years.

Studies and research have proven that corporally punishing children affects them in the long run and has negative effects on their personalities. Corporally punishing children has no positive impact on their development. It is not a constructive mechanism to help children learn what is right and what is not. This merely creates fear and at times restrains them from doing it again and mostly makes them

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rebellious and stubborn. It instills in children at a very young age that violence is acceptable. It is an ineffective method of disciplining; it creates the idea that you can get things done by people through violent coercive methods. When a child sees that an adult can intentionally inflict physical pain on a child and has no guilt, no wonder the child turns to be violent in<sup>2</sup> the future or unempathetic.

Teachers or personnel in charge of children in educational institutions use this method with a short-term outcome in mind. They fail to see that the child is going to be part of their system for nearly 13 years hence sustainable methods should be implemented. A child is a human being not a human to be. In their eyes, the child is something under their control and full of faults; teachers place themselves in a glorious place where they can make any change coercively. They fail to see that children are little humans and all they have in addition is a few years of experience walking this earth. The adults put themselves in some powerful place and fail to feel the child or at a minimum remember themselves as children. This all begins when people have no basic respect for co-existence.

### ***Corporal punishment and its effects***

People who are in charge are now the people who have been part of the same system, they have been made to believe that this is an effective method but it is not. Because the study by Gershoff & Grogan-Kaylor (2016) has proven that children who grow up with corporal punishment end up being aggressive and violent. Further the following studies establish grounds for the negative implications inflicted among children who grow up in an environment with corporal punishment: Baumrind (1996), Cognitive and Academic Problems Gershoff & Bitensky (2007), Deterioration of Parent-Child Relationships - A study by Lansford et al. (2010), Long-Term Effects on Adult Behavior - Lansford et al. (2004), and Physiological Effects - A study by Brady et al. (2004).

### ***Other Effective Methods***

There exist effective methods of discipline; clear communication, positive reinforcement, modeling desired behavior, teaching problem-solving skills, using time in instead of time out, logical consequences,

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<sup>2</sup> News Room, 'Corporal punishment and health'(2021) World Health Organization <<https://www.who.int/news-room/fact-sheets/detail/corporal-punishment-and-health>>.

providing choices, focusing on empathy, establishing routines, ignoring minor misbehavior (which discourages such behavior), and building strong-relationships. Singapore emphasizes socio-emotional learning and restorative practices in its education system to promote positive discipline. The Philippines has integrated positive discipline into its educational system, especially following the enactment of the Anti-Bullying Act (2013) and efforts by the Department of Education (DepEd) to promote child-friendly schools.<sup>3</sup> Indonesia has adopted positive discipline strategies through policies and training programs for teachers under the framework of the Child-Friendly Schools Initiative by UNICEF. Vietnam has implemented reforms under the Child Law (2016) and associated programs to reduce violence against children, focusing on teacher training and community engagement. The above-mentioned East Asian countries set a precedent that it is possible to discipline children through positive mechanisms thus ensuring the well-being of the child.

### ***Legal establishments in Sri Lanka***

Sri Lanka is not at the start. In terms of legislation it has: the National Child Protection Authority (NCPA)<sup>4</sup> and the Stop Child Cruelty Trust (SCCT)<sup>5</sup> which works towards ensuring child protection. However, this doesn't stop the people in charge from using corporal punishment.

The Education Ministry has issued directives prohibiting corporal punishment in schools, the Education Ministry Circular No. 12 of 2016 is an example of a regulation that was created to protect children against corporal punishment in schools but it remains ineffective.

Discussions were made with school teachers about the practice of corporal punishment.<sup>6</sup> The following were identified as key reasons for holding on to the unhealthy practice.

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<sup>3</sup> Philippines Government, *Child Rights Policy: Adopting the Rights-Based Education Framework in Philippine Basic Education* (gov.ph,2022).

<[https://www.deped.gov.ph/wp-content/uploads/2022/06/DO\\_s2022\\_031.pdf](https://www.deped.gov.ph/wp-content/uploads/2022/06/DO_s2022_031.pdf)>

<sup>4</sup> National Child Protection Authority Act, 1998

<<https://childprotection.gov.lk/images/pdfs/acts-guidelines/National%20Child%20Protection%20Act,%20No.%2050%20of%201998.pdf>>

<sup>5</sup> Stop Child Cruelty Trust, Universal Periodic Review (2022).

<sup>6</sup> A google form was circulated among undergraduates, teachers and parents regarding corporal punishment to assess the level of social awareness and acceptance.

*1. Social Acceptance.*

Corporal punishment is deeply rooted in the culture of Sri Lanka, where physical discipline is often seen as a necessary method to discipline children. Many teachers and parents believe that corporal punishment is a normal or even beneficial part of child-rearing, creating endless use across generations. Some parents condone or even encourage corporal punishment, reinforcing its use by teachers. In some areas, communities do not view corporal punishment as a problem, reducing the likelihood of complaints against its use.

*2. Lack of Awareness, Training and Resources*

Teachers may not be trained in positive discipline techniques or aware of effective non-violent methods of managing classroom behavior. Teachers also don't have the patience to go through the process of these positive discipline techniques, they are more time-consuming than hitting a child in a matter of seconds. The education system does not always prioritize or provide adequate training on child psychology and rights-based approaches to discipline. Large class sizes and resource constraints make it difficult for teachers to manage behavior effectively, leading some to resort to physical discipline out of frustration. High workload and pressure to meet academic targets also contribute to teachers' reliance on quick punitive measures. The academic system gives prominence to creating competition among children over ensuring every child's active participation.

*3. Fear of losing authority and inadequate regulations*

Teachers might feel that without corporal punishment, they will lose authority over students, especially in cases of serious misbehavior and in getting things done. Some educators believe that physical punishment is more effective than other disciplinary methods in the short term which is an undeniable misconception. Despite policies banning corporal punishment, there is often a lack of monitoring and enforcement mechanisms to hold teachers accountable. They are only held accountable in worst cases when a child is physically impaired or a loss that cannot be compensated occurs thus creating a loophole for all the existing corporal punishment.

While corporal punishment is prohibited under directives from the Ministry of Education, there is no explicit criminal law provision directly penalizing such acts unless they amount to child abuse under

the Penal Code. It is also made lawful through the Penal Code article 82.

Article 82 of the Penal Code states “Nothing, which is done in good faith for the benefit of a person under twelve years of age, or, of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offense by reason of any harm which it may cause/or be intended by the doer to cause, or be known by the doer be likely to cause, to that person....”.

As far as the Penal Code gives blanket protection to people who engage in corporal punishment of children, a ministerial directive (circular) is not going to bring the change we intend. It's essential to start off by strengthening the legislation by explicitly criminalizing corporal punishment. This should be backed up by monitoring through mechanisms in which cases of corporal punishment in schools could be reported and addressed.

### ***Way forward***

Where does the problem really lie? It is in the society's deeply rooted acceptance which validates corporal punishment. Therefore, creating awareness about the harmful effects of corporal punishment and the benefits of positive discipline among teachers, parents, and communities is vital. Parallely teacher training and regular workshops on child rights and positive behavioral management techniques must be conducted. These long-term efforts would aid and lead to a change in societal attitudes toward non-violent parenting and teaching methods which will help us move towards a corporal punishment-free nation.

Coercively disciplining our children isn't the real goal, it is to inculcate self-discipline in them. As plain as a pikestaff we all know how today's children define tomorrow and investing in their well-being is obligatory. Corporal punishment should be as painful and humiliating for the one who gives it as for the one who receives it. It is our responsibility to create a happy and safe environment for every child to prosper by bringing an end to corporal punishment. Every child's pain and tears are clear evidence of a failed legal system, society, and humanity at large.