

Exploring Corporal Punishment Laws

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Publication history: Received on 14th January; Revised on 31st January; Accepted on 3rd February

Article DOI: 10.5281/zenodo.10631742

Abstract:

When physical force is employed to discipline or penalize an individual, such as through spanking or paddling, it is termed as corporal punishment, typically involving children. Opinions vary widely regarding the effectiveness and ethical implications of this controversial practice. Advocates of mild corporal punishment argue that it can enhance a child's well-being and deter misbehavior, while critics contend that it is a time-consuming and ineffective means of behavior correction. The American Academy of Pediatrics, among other child development organizations and experts, promotes positive disciplinary approaches emphasizing understanding, communication, and guidance over physical punishment. The historical relationship between physical punishment and criminal behavior has been scrutinized, with traditional customs often maintaining a loose semblance of discipline and order in ancient societies. As societal perspectives have evolved, human rights are more widely recognized, leading to a shift away from severe physical punishment, particularly in the 20th and 21st centuries. Legal frameworks in many countries restrict physical punishment in institutions like prisons and schools. Some argue that children subjected to severe physical punishment may be more inclined towards antisocial behavior due to heightened stress and resorting to violent coping mechanisms. The aim of this review is to analyze the historical, ethical, and societal implications of corporal punishment, examining its efficacy in behavior correction and its impact on individuals' well-being

Keywords: Human Rights; Abuse Prevention; Parental Rights; Psychological Impact; Education System

1. Introduction

Throughout the annals of history, individuals have faced various forms of punishment, either aimed at behavior correction or as consequences for violating specific laws. Corporal punishment, involving physical harm inflicted as a disciplinary measure, is employed by authorities for various purposes, including disciplining misbehaving children and administering penalties under criminal codes. The science of psychology deals with the study of human and animal behavior, encompassing conscious and unconscious phenomena, as well as mental processes such as motivations, emotions, and thoughts. Extending beyond the boundaries of social and natural sciences, psychology constitutes a vast academic domain. Biological psychologists, by integrating neuroscience, seek to grasp the underlying dynamics of brain function. Psychologists aim to understand individual and group behavior as social scientists.[1]

Corporal punishment remains a prevalent disciplinary method among parents and educators, applied within respective student communities. Judicial corporal punishment is also practiced by certain legal systems worldwide. It entails causing physical harm to an individual in retribution for an offense. This term broadly encompasses physical correction of children at home and in educational institutions.[2]

The Committee primarily defines corporal punishment as physical acts like smacking, slapping, spanking, or using implements such as whips, belts, or wooden spoons. It can also encompass actions like kicking, shaking, biting, pinching, or forcing uncomfortable positions, among others. Non-physical forms of punishment, often coexisting with and reinforcing physical punishment, include denigrating sanctions, threats, ridicule, and scapegoating. Throughout recorded history, societies have commonly employed physical penalties like brandings, mutilations, and floggings, although such practices are increasingly condemned in Western societies due to the rise of humanitarian principles post-Enlightenment [3]. By the latter part of the 20th century, the legal frameworks of most developed nations had abolished corporal punishment. Presently, various jurisdictions maintain distinct laws dictating the circumstances under which corporal punishment is permissible. The relationship between criminal activity and corporal punishment is influenced by a myriad of interconnected and intricate factors. Historical context, cultural norms, and perspectives on discipline

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have historically played a role in the utilization of corporal punishment. Conversely, social, economic, and psychological factors such as deprivation, lack of education, or mental health issues can contribute to criminal behavior. It is imperative to acknowledge the multitude of environmental and upbringing factors that can influence the intricate dynamics between criminal activity and the application of corporal punishment. The aim of this review is to analyze the historical, ethical, and societal implications of corporal punishment, examining its efficacy in behavior correction and its impact on individuals' well-being. Pain or discomfort can be inflicted through a variety of corporal punishment techniques. Physical punishment most frequently takes the following forms [4]:

Table 1 Examples of Corporal Punishment

Corporal Punishment and Criminal Activity	Definition
Caning	A person who has been caned is struck repeatedly on the body with a rattan, bamboo, or sugar cane cane.
Spanking	A spanking is hitting someone's behind with your hand several times.
Flogging	Flogging is the act of repeatedly beating someone with a leather or rubber whip.
Stocks	Making someone endure an uncomfortable situation for a long time in a public setting.

2. Background

2.1. History of corporal punishment

According to author Jared Diamond, hunter-gatherer societies historically employed less corporal punishment compared to agricultural and industrial societies. Diamond suggests that this might be attributed to the fact that misbehavior among children in such societies wouldn't typically result in damage to others' property, as hunter-gatherers generally possessed fewer valuable possessions. Observations among the Parakanë and Ju/'hoansi peoples, as well as some Aboriginal Australians, have documented the absence of physical discipline towards children. Robert McCole Wilson suggests that this attitude likely stems from the patriarchal structure of society, where maintaining authority is crucial for social stability. However, these sentiments have been exploited by Christian communities to justify and mandate physical discipline on children for centuries, despite some dissenting voices emerging over the past two centuries. Ancient civilizations like Egypt, China, Greece, and Rome employed corporal punishment for judicial and educational purposes. In Sparta, harsh penalties were used as part of a disciplinary system aimed at fostering physical and mental resilience.[5]

Opposition to physical punishment was expressed by figures like Quintilian and Plutarch, who argued for the use of encouragement and reasoning rather than blows or ill-treatment. In medieval Europe, criminals and rivals of emperors were often blinded or mutilated by the Byzantine Empire, while flagellation was prevalent in regions influenced by the Catholic Church's views on the human body. Saint Anselm criticized the excessive use of corporal punishment in child rearing as early as the eleventh century. During the fifteenth and sixteenth centuries, Reformation theologians such as Luther, Calvin, and Knox advocated for severe punishment and discipline for minors. Corporal punishment for minor offenses was legalized in England under King Henry VIII's Whipping Act of 1530. However, nobles were exempted from such punishment under the Nobility Charter signed by Queen Catherine II in 1785. In ancient India, legal texts like the Manusmriti and Dharmasastra prescribed corporal punishment only for criminal offenses, with its usage prevalent during the Mughal and Sultanate eras. Additionally, the British-administered Whipping Act of 1909 authorized whipping as a form of punishment under the Indian Penal Code [6].

2.2. Evolution

The global advancement of human rights law has spurred a growing movement aimed at prohibiting corporal punishment both as a form of child discipline and as a method of state punishment. The last instance of public whipping being authorized for physical punishment in Delaware dates back to 1952, with the dismantling of the same public whipping post occurring in 1972. The *Jackson v. Bishop* case (1967) marked the initial prohibition of corporal punishment in Arkansas state prisons, effectively ending the practice in US correctional facilities. India's Whipping Act of 1909 was essentially repealed by the Abolition of Whipping Act of 1955, and subsequent amendments to the 1898 Code of Criminal Procedure led to the complete outlawing of whipping. In the United Kingdom, the Criminal Justice Act of 1948 prohibited the use of physical punishment by judges, yet flogging persisted as a component of prisoner discipline, contravening Section 65 of the Criminal Justice Act of 1967. Poland became the first country to outlaw the physical punishment of minors in 178, while Sweden followed suit in 1979 by banning physical punishment by parents

through amendments to the Parenthood and Guardianship Code. By 2022, 64 countries worldwide had enacted legislation prohibiting physical punishment of children, including within the home. An additional 28 countries are poised to implement comprehensive bans on corporal punishment through legislative amendments. The End Corporal Punishment initiative, introduced in 2016 by the UN Secretary-General under the Global Partnership and Fund to End Violence against Children, notes that while 29 states still legally recognize corporal punishment, 15 countries maintain partial bans on its use [7].

3. Types of corporal punishment

Flagellation, also known as flogging, is a physical punishment involving repeated striking of the victim, typically on the back. It is alternatively referred to as "whipping" or "caning." Physical punishment, including flagellation, has historically been a prevalent method to enforce discipline in various settings such as homes, schools, prisons, and military institutions, as well as an administrative penalty. Implements like whips, canes, rods, sticks, straps, lashes, and others are commonly used during flagellation. *Batinado*, commonly known as "foot whipping," involves striking the bare sole of the victim's foot with cane strokes, and it has been associated with dominance and slavery, particularly when performed with whips or lashes. [8]

Beatings, another common form of corporal punishment, involve forceful blows delivered to the victim. There are various methods of beating, including slapping, pinching, pulling, or striking with any solid object.

Human branding, or stigmatization, is a form of physical punishment that leaves a visible mark permanently etched on the offender's body. Historically, several European nations utilized this tactic to regulate criminal law, slaves, and livestock. Although legalized in England by the Vagabonds Act of 1572, it was later outlawed by parliamentary act and was widely employed by the first colonial settlers in North America. [9]

Blinding, a physical punishment that led to complete or total blindness, was practiced in societies like the Byzantine, Greek, and Roman empires as a form of punishment.

Mutilation, once a common form of physical punishment, has been discontinued due to its extreme cruelty. It aimed to inflict severe discomfort, humiliation, and permanent damage to specific body parts. Judges in England and America utilized mutilation as a form of punishment until the 17th century. [10]

Amputation, the physical removal of a body part, was a penalty for crimes involving such actions. This practice dates back to ancient times and was prevalent in societies like Greece, Rome, and ancient India, where thieves could have their hands or fingers severed depending on the seriousness of the offense. Additionally, female offenders could undergo rhinotomies for adultery and sexual offenses, while male offenders might be castrated. The use of amputations as punishment was common in Denmark, England, and several other European nations until the sixteenth century. [11]

4. Laws pertaining to corporal punishment

4.1. International laws

It is widely acknowledged that both inflicting physical harm on children and violating their physical and human dignity contravene international human rights law. According to the United Nations Convention on the Rights of the Child (UNCRC), various articles outline the obligations of State parties regarding corporal punishment. Article 28(2) specifies that States must oversee and regulate school discipline to ensure it upholds the child's human dignity and aligns with the Convention. Article 29(1)(b) underscores that education's primary aim should be to foster respect for human rights and fundamental freedoms, in accordance with the Convention's principles. Article 37(a) mandates that States ensure no child is subjected to torture or any cruel, inhuman, or degrading punishment. Article 19 emphasizes the responsibilities placed on States, advocating for comprehensive measures—legislative, administrative, social, and educational—to be taken to safeguard children's rights. In Sweden, a significant legislative milestone occurred in 1966 when it became the first nation to outlaw physical punishment of minors. This prohibition was established by replacing the law permitting parents to use physical punishment with an amendment to the Swedish Penal Code, classifying such acts as assault. Furthermore, physical punishment was prohibited in schools as early as 1958. [12] Amendments to the Children and Parents Code emphasized children's entitlement to care, security, and a nurturing upbringing, integrating the belief that no child should be subjected to physical punishment into the broader assault criteria, thus reframing it as a matter of general legal principle rather than a separate legal issue. In Australia, while corporal punishment is deemed acceptable within the home as long as it is administered in moderation, its use is illegal in educational settings nationwide except for Queensland, where it is permitted with limitations. However, any physical discipline must result in only minor injuries, and striking a child's head or neck is expressly prohibited. In England, although common assault and battery are explicitly prohibited under criminal law, there are no legal prohibitions against the use of physical punishment in general. However, the English Children Act of 2004 prohibits the use of justifications that result in serious injuries or actual bodily harm and stipulates severe penalties for offenders. An overview of nations

that have prohibited the beating of children underscores the imperative of treating children with respect for their individuality and uniqueness, discouraging the use of corporal punishment or any form of humiliating treatment. Globally, progress has been made, with 67 countries banning corporal punishment within the home, 130 countries in schools, 156 countries in criminal sentencing, 117 countries in disciplinary measures, and 39 countries in optimal care settings. However, significant challenges persist, as 131 countries still allow corporal punishment in homes, 68 in schools, 41 in criminal sentencing, 77 in disciplinary measures, and 159 in optimal care settings. Despite these disparities, ongoing efforts emphasize the necessity of protecting children's rights and promoting their well-being [13, 14]

4.2. Indian laws

The Indian Constitution outlines provisions relevant to corporal punishment, particularly in Articles 21 and 39. Article 21 delineates the "right to life and dignity," encompassing the "right to education" for children up to the age of 14. In the landmark case of *Unni Krishnan v. State of Andhra Pradesh* (1993), the Indian Supreme Court affirmed the implicit right to basic education under Article 21 and the Directive Principles of State Policy (DPSP) on education in Article 41. Physical punishment, often employed in educational settings, poses a significant barrier to a child's right to education by instilling fear, potentially leading to school avoidance or dropout. Article 39(e) mandates the State to prevent the abuse of young children, while Article 39(f) requires progressive measures to provide children with opportunities and resources conducive to their holistic and healthy development, safeguarding them from exploitation and neglect. [15]

5. Effects of corporal punishment

Corporal punishment offers several advantages, including the potential for rapid outcomes, the use of intimidation to impact behavior, and the ability to serve as a warning to others. However, there are significant disadvantages to consider. [16] These include the risk of jeopardizing students' physical and mental well-being, undermining the relationship between instructors and students, the possibility of incorrect execution, guiding students toward harmful personal development paths, neglecting to address underlying causes of improper behavior, fostering an environment conducive to extreme behavior, provoking resistance, and detrimentally affecting the learning environment for students. [17]

6. Conclusion

To conclude, despite evidence indicating a correlation between physical punishment and an increased likelihood of criminal behavior, it is crucial to approach this matter with caution. Factors such as family dynamics, socioeconomic status, and overall parenting approach are just a few of the myriad variables that can influence outcomes. The primary focus of prevention programs should be to promote positive parenting practices, education, and support systems to cultivate nurturing environments. Addressing the potential negative repercussions of corporal punishment and its association with criminal involvement requires a comprehensive approach that considers both individual and societal factors. Initiatives led by organizations like the World Health Organization and the United Nations aim to implement parenting programs that discourage the use of corporal punishment by parents, challenging cultural norms surrounding its acceptability as a disciplinary method. These efforts add complexity to the issue. The United Nations Convention on the Rights of the Child emphasizes the necessity of ending all forms of violence against children, including parental use of corporal punishment. While there may not be sufficient evidence to justify the use of physical punishment universally, its effects can vary depending on the context. Therefore, it is imperative for societies worldwide to ban physical punishment and all other forms of violence against minors, prompting changes in legislation and policy.

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