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An Empirical Research on the Reasonable Limits of Teacher Discipline in Primary and Secondary School in China - Focusing on Corporal Punishment

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Abstract

With the promulgation of the Rules on Educational Discipline for Primary and Secondary School Teachers (for Trial Implementation), China has initially established a four-tier educational disciplinary system. The disciplinary power is a natural and legitimate power of teachers, and discipline is a necessary means and statutory function for teachers to carry out their educational management duties, while the current operation of the disciplinary power in China shows a trend of polarisation. Corporal punishment, an important part of Chinese traditional education system, is still used by teachers today, but there is a lack of written regulations to define its form and judge its reasonableness. In order to achieve a rational return to corporal punishment and discipline, it is necessary to further refine the relevant legal policies and build a better educational disciplinary system, as well as to strengthen the guidance of ideas and public opinion, so as to build a favourable social environment for teachers to implement corporal punishment and discipline within reasonable limits.

Keywords

Teacher's disciplinary power, Corporal Punishment, Reasonable Limits

1. Introduction

Strengthening basic education is a fundamental project for the great rejuvenation of the Chinese nation. China's development must give priority to education, accelerate the modernisation of education, and provide education that satisfies the needs of the citizens. Discipline is an indispensable element in education. On 23 September 2020, the Ministry of Education issued the Rules for Discipline in Primary and Secondary Education (for Trial Implementation) ("Rules"), which stipulates that primary and secondary schools and teachers have the authority to discipline in education, and that they may

discipline students for misbehaviour. At the same time, the Rules also make it clear that teachers are not allowed to use corporal punishment or corporal punishment in disguise that infringes on the rights of students.

Corporal punishment has a long history in China. The oracle bone character for "teaching" is a pictogram of a teacher holding a whip and urging students to learn to count, so education and corporal punishment have been linked since the early days of Chinese civilisation. The core feature of traditional education is the use of corporal punishment to promote learning. Whether it is in private schools or in the government school, the ruler is one of the necessary tools for teachers to use in teaching. The idea that "strict teachers raise outstanding students" has long influenced the Chinese people, and to some extent still influences the behavioural choices of some teachers when they exercise their authority to discipline. In practice, teachers often find it difficult to distinguish the boundaries between reasonable discipline and vicious corporal punishment, leading some teachers to shy away from this in their teaching practice, and the authority to education and discipline is therefore rendered null and void.

2. Literature Review

The academic community has long been engaged in the examination of the issue of corporal punishment in education. In recent years, research within this contentious domain has primarily concentrated on the following three areas:

2.1 The Concept and Value of the Authority to Discipline in Education

Studies of this nature endeavor to undertake an analysis of the intrinsic value of disciplinary authority in education. These studies initiate their inquiry by considering the complexity of its power. From a constitutional perspective, they elucidate that this authority is fundamentally designed to ensure the proper execution of education and is imbued with administrative law implications that enhance the advantages of the right to education. Consequently, it is posited that the implementation of disciplinary authority in education must operate within the comprehensive framework of education, yielding substantial influence on educational practices and bestowing tangible benefits upon recipients of education. Moreover, certain scholars, commencing their analysis from the nature of disciplinary actions, assert that disciplinary actions exhibit two distinct characteristics: an educative dimension and a dimension of justice. Accordingly, disciplinary actions are deemed to possess virtuous motives and proper outcomes, thus rendering them legitimate. However, in practical implementation, educators often tend to prioritize the pursuit of justice in corporal punishment, occasionally neglecting the fundamental purpose of such actions, which is to foster the well-being of the recipients of education. Furthermore, it is noted that theoretical idealized models may face limitations in providing effective guidance within the context of complex educational scenarios.

2.2 The Extent of the Authority to Discipline in Education and the Practical Modalities for Implementation

Research within this category offers varying perspectives, with the majority predominantly originating

from an exploration of the inherent nature of disciplinary authority in education. The central endeavor is to investigate the internal boundaries of disciplinary authority in education and its interplay with external rights, coupled with attempts to establish a comprehensive operational framework for the execution of disciplinary authority in education. Rights associated with disciplinary authority in education can broadly be categorized into two distinct groups: those associated with the realm of education, predominantly represented by the right to education, and those extending beyond the educational sphere, primarily manifesting as personal liberty rights, human dignity rights, and physical health rights.

It is acknowledged that there exists the potential for internal boundary crossings within disciplinary authority in education. This potential includes complexities in the relationships among various implementing bodies of disciplinary authority, the ambiguity surrounding the rights involved, and the vertical interference of educational administrative powers in disciplinary authority. Simultaneously, disciplinary authority in education is susceptible to external boundary crossings, which may encroach upon the rights of students. Inadequacies in post-remedial measures could also lead to students and parents pursuing legal action, resulting in potential harm to the legitimate rights of schools and educators. With regard to the purpose of disciplinary measures, it is paramount to underscore that disciplinary actions target the problematic behavior of students, rather than the students themselves. In the context of educational practice, teachers are tasked with determining the appropriate disciplinary measures based on the nature and severity of three distinct categories of misbehavior: academic misconduct, disruptive conduct, and rights violations. Furthermore, a focus on moral education is emphasized, facilitating tailored and appropriate responses to the specific behavioral issues exhibited by students.

Additionally, some studies enumerate and further analyze external rights associated with disciplinary authority in education, along with different manifestations of boundary crossings. These studies place particular emphasis on an analysis of post-remedial measures from a prospective legislative standpoint, thereby providing guidance to various stakeholders in addressing the challenges posed by disciplinary authority in education. However, it is important to note that, in terms of preventive measures, these studies may face limitations in offering clear guidelines for defining the boundaries between disciplinary actions and corporal punishment in current primary and secondary education settings, especially in the context of providing guidance for teachers.

2.3 Case Studies from Other Jurisdictions

This segment of research primarily focuses on the experiences of constructing disciplinary systems in the United States, with particular emphasis on regulations pertaining to more severe forms of discipline, such as corporal punishment. Two specific areas of investigation warrant further scrutiny: firstly, the development of concrete and explicit policy formulation, and secondly, the establishment of procedures for the just and reasonable exercise of discipline.

Taking New York State law as an example for the policy formulation, at the level of state education law,

it is mandated that, initially, at the level of each school district, the school district board of education and the cooperative educational service board should establish and enforce a written code of conduct. This code is designed to maintain order in schools and safeguard school property. The content of the code of conduct is also subjected to detailed provisions, which stipulate the following: a. The code should regulate the behavior of students, teachers, other school personnel, and visitors; b. The code of conduct should be developed in collaboration with students, teachers, school administrators, parent organizations, school safety personnel, and other school personnel. It must be approved by the board of education or another governing body; c. There should be at least one public hearing where school personnel, parents, students, and any other stakeholders can participate before the code of conduct is adopted. This regulation, at the level of policy standards, underscores the supervisory and review responsibilities of district governing bodies regarding the content and formulation procedures of the code of conduct within the district's schools. In addition to district-level regulations, New York State education law places more precise and explicit requirements on school rules and codes of conduct. It imposes stringent requirements on the establishment of regulations related to both district policies and school-level rules and codes of conduct. The United States, by mandating various forms of corporal punishment and other disciplinary measures with varying degrees of severity to be established in written form, provides a legislative precision that allows courts to have sufficient standards of reference to assess specific corporal punishment actions when they occur and to analyze their reasonableness.

In terms of the procedural aspect, the United States Supreme Court first affirmed in the 1960s, in the case of *Tinker v. Des Moines Independent Community School District*, that minor students enjoy constitutional rights equivalent to those of adults. It explicitly stated that all public primary and secondary schools in the United States are special government entities and that teachers, as special public servants, have the authority to act in loco parentis in place of students' parents, and they are granted other powers to constrain and manage students. Given that the authority of teachers for disciplinary actions affects various aspects of students' civil rights, it is subject to federal constitutional constraints. Furthermore, the exercise of this authority must adhere to the due process principles recognized by the federal constitution.

Corporal punishment involves different aspects of citizens' rights, and as a result, the procedures in individual cases can vary considerably. Courts generally tend to analyze the specific circumstances on a case-by-case basis, determining the specific elements based on the particulars of each situation, rather than employing rigid thinking to seek universally applicable procedures.

It can be observed that academic research predominantly focuses on specific aspects of disciplinary authority in education, with limited discussions, especially on corporal punishment as a form of disciplinary action. Therefore, several pressing issues remain to be addressed:

1. What are the specific forms and defining criteria for corporal punishment, particularly as it is explicitly prohibited by the "rules," and how is it delineated within the context of the disciplinary authority?

2. Is there a disjunction between the judicial status quo and legal provisions? How do the courts assess the reasonableness of corporal or other disciplinary actions?
3. What criteria does the court employ to determine whether corporal punishment and other disciplinary actions are within reasonable limits or have a legitimate basis?

Clarity on these matters is essential to enable teachers to differentiate between reasonable disciplinary actions and abusive corporal punishment, establish the boundaries of their disciplinary authority, and provide students with reasonable and effective educational guidance.

3. Methodology

The introduction of a more lenient educational approach from Western countries has clashed with China's deeply rooted cultural tradition of "Respecting Teachers and Valuing Ethics." This impact becomes particularly pronounced when students commit serious violations or disruptive actions that have a negative influence. In such cases, due to emotional impulses and the urgency of the situation, teachers often find it challenging to impose appropriate disciplinary actions according to the stipulations in Article 10 of the "Rules." Consequently, they may resort to the use of violence or verbal attacks, which are not the ideal methods but can appear to be the most effective ways to swiftly address misconduct. The immediacy of corporal punishment in terms of its behavioral and outcome effects has made it a relatively common form of disciplinary action employed by teachers in Chinese educational practice.

Existing research on disciplinary authority in education has traditionally adopted two main approaches: legal and theoretical analysis from a jurisprudential perspective and the introduction of foreign experiences and educational theories. These studies, however, fall short in providing systematic empirical support for theory validation and the establishment of regular empirical foundations for educational practice. In this context, the introduction of quantitative research on corporal punishment has become a logical choice. Most of the related quantitative studies have relied on questionnaires administered to various stakeholders involved in disciplinary authority in education. However, these studies are relatively dated, and they primarily surveyed students' parents. This limited perspective makes it difficult to fully represent the positions and circumstances of teachers and students who stand at the two ends of the disciplinary authority spectrum. Additionally, during that period, relevant laws and regulations were not as well-developed, and the number of cases was limited, which posed challenges for meeting the typical requirements of quantitative research. As a result, there have been few quantitative analyses of corporal punishment cases.

This study has implemented the following improvements in terms of sampling and data analysis:

Firstly, a total of 1044 cases, including both civil and criminal cases, were selected from the judicial case database in PKULAW, all of which contain the terms "teacher, corporal punishment, student." This selection process was conducted to further refine the sample frame, thereby reducing the likelihood of incomplete case coverage resulting from improper sampling methods.

Secondly, in addition to several forms of corporal punishment not explicitly listed in the "Rules," the study has expanded the scope of analysis to include court evaluations of teachers' corporal punishment actions. This expansion aims to provide a comprehensive and objective presentation of judicial practice concerning the assessment of corporal punishment and other disciplinary actions in terms of their forms and criteria for reasonableness. This approach acknowledges the relatively large discretionary scope of judges in their evaluations.

4. Findings

4.1 *The Polarised Situation of the Implementation of Teachers' Disciplinary Authority in China*

In the daily educational management processes within schools and among educators, "discipline" is an educational management method that holds an equal status to "reward." However, in practical educational settings, there are instances of extreme applications of disciplinary authority by schools and educators. Some schools and educators either "dare not" or "are unwilling" to address students' deviant behaviors. Simultaneously, there is a recurring phenomenon of overusing the power of educational discipline. Overall, the exercise of disciplinary authority in Chinese education exhibits a dichotomous trend of being both "reluctantly employed" and "excessively applied." External factors such as family structure and public opinion further exacerbate this trend.

Corporal punishment is one manifestation of teachers exercising their educational disciplinary authority over students. The excessive use of disciplinary authority often manifests as severe corporal punishment, resulting in physical and psychological harm to the students. In reality, the severity of disciplinary actions, such as running laps of less than 1000 meters or short-term standing stills, is often overlooked by public opinion, which tends to equate these milder disciplinary actions with more severe punishments, like running laps exceeding 10,000 meters or day-long standing still. The issues of disparate forms of teacher discipline and unclear boundaries of their reasonableness have become increasingly prominent, and the challenges associated with their exercise urgently need to be addressed.

4.1.1 The Deferred Disciplinary Authority

In December 2019, a social survey conducted by the China Youth Daily Social Survey Center revealed that out of 2005 surveyed student parents, 74.3% expressed the opinion that schools should implement an educational disciplinary system. In a national parental questionnaire survey commissioned by the Ministry of Education and conducted by the Chinese Academy of Educational Sciences, a total of 123,820 valid responses were received. An overwhelming 84.13% of the participating parents expressed their approval for the enactment of policies and laws related to educational discipline at the national level. However, in the aftermath of implementing disciplinary measures, students frequently communicate with their parents about the matter, and teachers inevitably face criticism from the parents of the students involved. Frontline educators in various regions have reported that they are hesitant to discipline students who display inappropriate behavior.

Simultaneously, many educators struggle to delineate the boundaries between reasonable disciplinary

action and abusive corporal punishment. Corporal punishment, in terms of its severity and societal perception, is more contentious than conventional disciplinary measures. Consequently, educators face an increased risk of negative evaluations when employing corporal punishment as a form of discipline. To avoid potential risks associated with facing parental scrutiny and the possibility of excessive reactions from the disciplined students after exercising disciplinary authority, some educators opt to refrain from disciplining students altogether in order to protect their own interests. This has led to a constriction of the exercise of reasonable disciplinary authority in practice.

4.1.2 The Consequences of Excessive Discipline

While it is common to find instances where the exercise of educational disciplinary authority is withheld in practice, it cannot be denied that when educators actively employ this authority, it often leads to its excessive use. When educators make decisions to utilize their disciplinary authority over students and these actions exceed reasonable bounds in form and extent, it constitutes an inappropriate form of discipline. Examples of such inappropriate disciplinary actions include requiring middle school students to write over 5,000 words as punishment, instructing students to do 300 squats due to incomplete homework, or imposing nearly half a day of standing still as a result of classroom hygiene or discipline checks leading to point deductions. Parents and society often categorize such disciplinary actions collectively as "severe corporal punishment." Therefore, cases retrieved with "corporal punishment" as a central element of search terms reflect the prevalence of inappropriate disciplinary behaviors in the majority of educational practices. An examination of judicial cases indicates that these inappropriate disciplinary actions are not uncommon in the context of educational practices in China. Such acts that restrict or even deprive students of their right to education clearly surpass the reasonable limits of the exercise of disciplinary authority.

Following a refined selection process of 1044 disciplinary dispute judgments from the PKULAW case database containing the keywords "teacher, corporal punishment, student," 112 cases pertained to labor disputes between teachers and schools arising from corporal punishment, 77 cases were associated with reputation disputes, and an additional 75 criminal cases unrelated to teacher corporal punishment were excluded from the study sample. The remaining 780 cases were individually investigated, categorized, and subsequently, 256 judgments were confirmed by the courts as instances where teachers had imposed "corporal punishment" on students. The resulting harm inflicted upon the students is summarized in Figure 1.

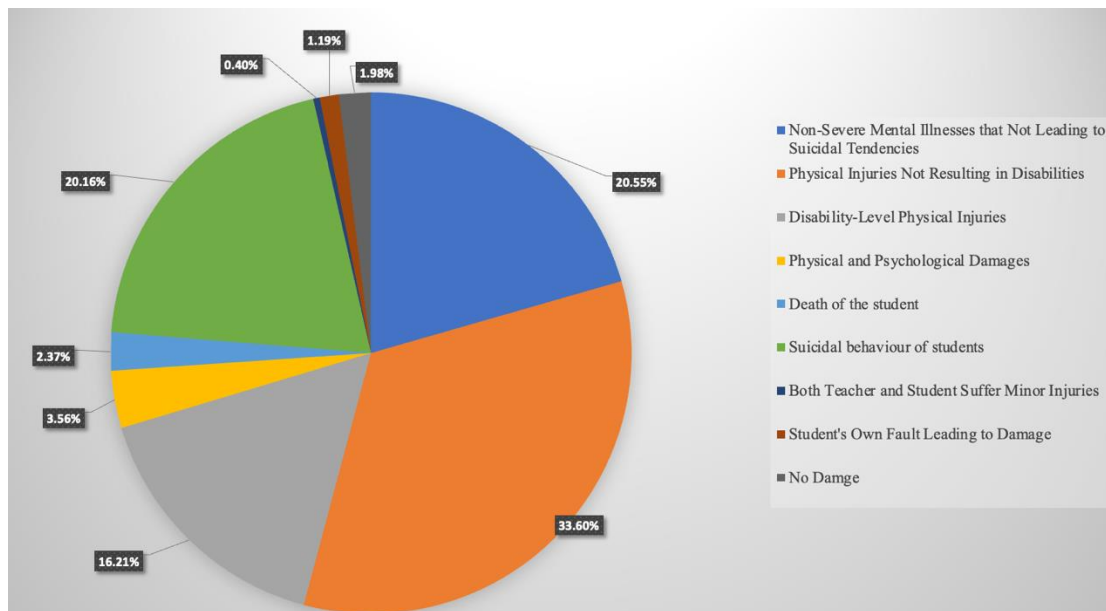


Figure 1. The Harm Outcomes Experienced by Students Due to 'Corporal Punishment' Imposed by Teacher in Judgements

As depicted in the pie chart above, upon examining these 256 cases, it is observed that only 1.98% of the disciplinary incidents did not result in any harm. In 20.16% of the events, there were instances of students engaging in suicidal behaviour following their punishment, and even 2.37% of the cases involved the unfortunate death of students subjected to punishment. Nearly one-fourth of the judicial precedents recorded cases in which the affected students developed various degrees of mental illnesses. Although corporal punishment is not a common practice in routine educational management activities, there are still instances where some educators abuse their disciplinary authority to inflict severe corporal punishment on students, leading to significant adverse outcomes. These cases, due to their societal impact, stigmatize reasonable and minor disciplinary actions, and render the assessment of the legitimacy of teachers' disciplinary actions a challenging issue for the judicial authorities.

4.2 The Specific Forms of Disciplinary Behaviour of Teachers

In 1983, the term "corporal punishment" appeared for the first time in Chinese normative documents. Among the 52 laws, regulations, and other normative documents subsequently introduced concerning corporal punishment, the legal content of corporal punishment and its periphery remained primarily focused on the prohibitive descriptions of corporal punishment and its disguised forms. It was only in 2020 when the "Rules" were introduced by the Ministry of Education, which delineated a "red line" and provided a list of seven prohibited behaviors for teachers in the process of teaching and administering educational discipline. However, the Rules lacked a more detailed description of teachers' responsibilities and specific forms of corporal punishment and other forms of inappropriate discipline. Furthermore, although the Rules mentioned the compensation for unreasonable corporal punishment causing harm and the school's methods of disciplining teachers, these provisions were overly general,

affording schools substantial discretion. To safeguard the legitimate rights and interests of students and teachers, the definition of corporal punishment should be further clarified.

Through the compilation of 256 existing cases, apart from 9 cases that did not specify the particular disciplinary methods, local courts, in the absence of specific regulations concerning the forms of teacher discipline, generally categorized the forms of teacher discipline into 13 main types and other forms (as shown in the table below). These 13 principal types can be further classified into three major categories: corporal punishment that directly causes physical pain, indirect corporal punishment causing physical and psychological harm, and other disciplinary methods.

Table 1. Forms, Number and Percentage of Teacher Discipline Behaviour in Judgments

<i>Form</i>		<i>Number</i>	<i>%</i>	
Corporal punishment that directly causes physical pain (Decreasing intensity from top to bottom)	Physical assault	87	33.98%	48.83%
	Slap on the face	23	8.98%	
	Pulling and shoving violently	12	4.69%	
	Prick with a needle	3	1.17%	
Indirect corporal punishment causing physical and psychological harm	Excessive exercise	21	8.20%	14.06%
	Long-time standing still	12	4.69%	
	Isolate deliberately	3	1.17%	
	Criticising parents of students	2	0.78%	
	Public reviewing	7	2.73%	
	Criticising students	13	5.08%	
Other punishments	Not allowing students to attend classes	5	1.95%	33.59%
	Verbal abuse of students	3	1.17%	
	Slightly hit	6	2.34%	
	Other forms	50	19.53%	
	Unspecified	9	3.52%	
Total		256	100%	

Based on the statistics from the table above, it can be observed that approximately one-third of the cases actually fall under the category of "other forms of punishment." However, due to the lack of specific regulations at the time and the use of the term "corporal punishment" in the plaintiff's complaint to the court, these forms of punishment were also considered as corporal or indirect corporal punishment. The court's logic essentially classifies all three forms of punishment mentioned above under the broad category of "corporal punishment." In this article, when discussing the forms of "corporal punishment" and the standards of reasonableness, we also consider the broad category of "corporal punishment" as the subject of discussion. This includes not only corporal and indirect

corporal punishment but also other forms of punishment, which are included in the scope of our discussion.

From Table 1, it is evident that nearly half of the cases involving teacher discipline use "Corporal punishment that directly causes physical pain." Among the physical punishments employed by teachers, "Physical assault" and "Slap on the face," which have the potential to cause severe physical and psychological harm to students, account for 88% of all cases categorized as "Corporal punishment that directly causes physical pain." In the cases reflected by judicial judgments, the form of "Pulling and shoving violently" is not very common, and the only three cases involving "Prick with a needle" occurred in kindergarten education. In "Indirect corporal punishment causing physical and psychological harm" cases, "Excessive exercise" and "Long-time standing still" make up the majority, accounting for 8.20% and 4.69% of all cases, respectively. In "Indirect corporal punishment" cases, these forms constitute 53.85% and 30.77% of the cases, respectively.

In the subset of other forms of punishment represented in available judgments, some are considered mild forms of punishment, such as "Criticizing parents of students," "Public reviewing," and "Criticizing students." These cases also make up 12.89% of all cases. Such forms of punishment are not typically classified as corporal punishment in the public's perception, and courts often clarify in their rulings that these forms of punishment can be accepted by students, parents, or the public.

Among the 256 judgments examined, there are cases where the consequences of corporal punishment are minimal, such as "No harm caused" or "Causing slight injuries." Hence, it can be reasonably speculated that corporal punishment forms that have not entered the litigation process may also be included in this set of 13 specific forms.

4.3 Inconsistent Criteria for Defining Corporal Punishment

Through the examination of all cases, it can be observed that there are differing judicial assessments regarding the nature of some forms of corporal punishment. This is primarily evident in cases involving "Excessive exercise" and "Long-time standing still," both of which are considered forms of indirect corporal punishment. Additionally, it extends to cases involving other punishment forms, namely, "Criticizing parents of students," "Public reviewing," and "Criticizing students." The following sections will discuss each of these individually.

Firstly, among the 21 cases involving "Excessive exercise," the main forms of punishment include running laps, frog jumps, squats, and push-ups. Out of these cases, two were not evaluated by the court. In four cases, the courts determined that these actions were merely "improper behavior" and did not rise to the level of constituting corporal punishment. In three cases, the courts found that the actions were justified and did not constitute corporal punishment. In these three cases where the courts deemed the punishment "justified," one even resulted in the student's death. However, the court, after thoroughly investigating all aspects of the case, concluded that this form of punishment was part of the teacher's collective teaching approach, targeting the group of students rather than an individual student. The teacher was found to be without fault in the teaching process, leading to the final judgment of the

punishment being justified.

Secondly, concerning the punishment form of "Long-time standing still," different courts have varied interpretations. In nine cases, the courts considered this as an inappropriate educational management method but did not classify it as corporal punishment. In three cases, the courts regarded standing still as a legitimate practice, asserting that it did not exceed the necessary boundaries of educational management. Some courts also included the duration of standing still as a criterion to determine whether this form constituted corporal punishment. If the standing still punishment lasted for more than one class period (45 minutes), they considered it as constituting corporal punishment.

Thirdly, some courts argued that public reviewing was an inappropriate educational method due to the young age and emotional immaturity of the students, emphasizing the need for teachers to consider students' emotions and not subject them to excessive psychological pressure. However, other courts regarded public reviewing as a legitimate educational method, emphasizing that students had the cognitive ability to understand the consequences of their actions. A significant proportion of cases involving public reviewing (58.33%) resulted in students attempting suicide. Most courts believed that unreasonable public reviewing imposed excessive psychological pressure on students who were in their minority and had limited judgment capacity, making it a direct trigger for students attempting self-harm, such as jumping off buildings or into rivers.

Fourthly, regarding the form of Criticising parents of students, the majority of courts in judicial precedents considered this as a legitimate educational behavior, approximately 66.7%. Some courts did not provide a clear definition but expressed doubts. In cases related to Criticising parents of students, there was one instance where a student attempted suicide by jumping off a building after the teacher criticized the student and the student's parents. Although the court determined that the teacher's punitive behavior was inappropriate, the court's judgment placed significant emphasis on the student's family education. This was used to underscore the importance of family education in a child's growth compared to school education and to remind the student's parents to take the student's self-harming behavior very seriously and seriously reflect on the inadequacies and shortcomings in their family education. The final responsibility allocation by the court was 20% on the school and 80% on the student's family, indirectly reflecting the impact of the serious consequences of the student's suicide behavior on the court's judgment.

Fifthly, in practice, the boundary between "criticising students" and "Verbal abuse of students" is not very clear and is often distinguished through the discretionary judgment of judges. Although there are no specific judgments explaining the definition of "criticising students," compared to "Verbal abuse," courts generally view "criticising students" as a relatively civilized form of direct conversation intended to point out students' mistakes. Most courts believe that constructive criticism falls within the reasonable scope of a teacher's punitive authority. Some courts also hold that when "criticising students," teachers should pay attention to the psychological changes of the students being addressed, and base their judgment on whether the "criticising" that leads to more serious harm results is

inappropriate educational behavior. Based on existing judicial precedents, it appears that instances of "criticising students" occurring at the primary school level result in less severe consequences, while similar punishments occurring at the secondary school level consistently led to students attempting suicide. In these cases, the court's judgment invariably emphasized the emotional instability and excitability of students in adolescence. Overly harsh words and actions by teachers could damage students' self-esteem, making excessive "criticising" a form of corporal punishment.

Furthermore, there is also controversy surrounding "Physical assault" and "Slightly hit" in certain cases. Among the 256 cases available for examination, the courts identified multiple forms of physical assault. These included situations where teachers directly physically assaulted students, instructed one student to physically assault another student, or used tools to physically assault students. The judgment of "Slightly hit" typically refers to instances where teachers used small wooden or bamboo sticks to strike students on their palms or other parts of their bodies. However, in the 29 cases involving teachers using tools to physically assault students, there were instances where teachers used sticks to strike various parts of the students' bodies. A comparison reveals that if this striking action results in physical or psychological pain for the students, the courts generally classify it as "Physical assault." If the physical and psychological harm to the students is within a controllable range, the courts would classify it as "Slightly hit." Striking students with sticks on their bodies is similar to the traditional Chinese practice of using a ruler to strike students on their palms. In practice, society to some extent accepts this form of punishment, with the condition that teachers control the force of the strikes and consider the students' tolerance.

From the above analysis, it is evident that court judgments regarding corporal punishment do not have a consistent approach to whether they lean more towards an "actus reus" or a "resulting crime" perspective. Some courts consider whether the punishment's impact is assessed to determine whether it qualifies as corporal punishment, while others simply classify these actions as "corporal punishment" without further analysis. Acts of violence such as "Physical assault" and "Slap on the face" with evident high intensity generally do not face dispute. However, the criteria for defining lower-intensity punitive actions are vague, leading to widespread cases of "the same offense but different judgments." In the discussion of these controversial forms of punishment, it can be observed that students' age and psychological condition, the extent of deficiency in family education, and the severity of the resulting harm have become criteria for the court to define corporal punishment. In the absence of specific regulations, judges consider these factors to assist in determining whether an action qualifies as corporal punishment. This reflects that the judiciary, when handling education discipline cases, takes into account the full context of the events, encompassing the nuances of the situation and the moral implications from various perspectives, including the student's background, family care, and societal influence.

4.4 The Assessments of the Reasonableness of Teacher Disciplinary Actions from Chinese Courts

The acts of imparting knowledge and guiding the students are both school's responsibility and a part of

its social duty. Addressing students' misbehavior through criticism and education is a reasonable requirement for teachers in fulfilling their roles as authorized by the school. If judicial authorities excessively scrutinize teachers' educational methods, unreasonably increasing the civil liability of the school, it will inevitably lead to a situation where teachers become reluctant to enforce discipline and manage students' behavior, which could compromise the effectiveness of the educational process. Over the 23-year period from 1999 to 2022, among the 256 judicial cases available for analysis, 23 cases were classified by the courts as "legitimate and reasonable" instances of "corporal punishment," accounting for 8.98% of all cases.

In cases of teacher disciplinary actions where there is a lack of clear standards for evaluating their reasonableness, the underlying logic of the judges is often reflected in the rationale of their judgments. In all available cases, most judges focused on analyzing the reasons behind the disciplinary actions and the resulting harm when determining the reasonableness of the discipline. When plaintiffs brought cases to court, they generally considered the student's discipline to be corporal punishment, and the courts usually accepted this characterization. Analysis in the court's rationale revolved around the method of corporal punishment, the reasons behind it, the resulting harm, and the relationship between the latter two. When considering the nature of the cases, 92.6% were civil liability cases, where the courts mainly emphasized the analysis of the method of corporal punishment, the reasons behind it, the resulting harm, and the relationship between the latter two when making their judgments. The few cases that were criminal (13 cases) and administrative (6 cases) in nature followed a similar analytical framework to civil cases. The method of corporal punishment, the reasons behind it, the resulting harm, and the relationship between them correspond to the four elements required for analyzing the general liability of wrongdoing: behavior, fault, the fact of harm, and causation. In the context of criminal law, analyzing the method of corporal punishment is a consideration of the objective aspect to assess the nature of the harmful act. Analyzing the reasons behind the corporal punishment is crucial for determining the elements of the subject and the subjective aspects when assigning guilt. Analyzing the resulting harm and its relationship to the reasons for corporal punishment is essential for judges to determine the harm and the existence of a causal link. It is evident that Chinese courts often base their judgment of the reasonableness of corporal punishment on these four factors. The analysis of the reasons for corporal punishment can help judges determine the appropriateness of applying corporal punishment under the circumstances. The resulting harm reflects the extent of the student's injury. If it is determined that corporal punishment was necessary and the method was appropriate, and if the student's injuries were within an acceptable range, the judges generally rule that the corporal punishment was within reasonable limits. The question of necessity, the appropriateness of the corporal punishment method, and the acceptability of the student's injuries all provide judges with significant discretionary authority.

In the 23 cases where the courts deemed the teacher's disciplinary actions as "reasonable," there were five cases where the punishment was due to incomplete assignments. Among these, one case involved

indirect corporal punishment through excessive exercise, two cases involved physical hitting, and two cases involved calling parents or preventing the students from attending classes as forms of punishment. The intensity of these disciplinary methods was not high, yet in these five cases, there were instances of two student deaths and one student's suicide by jumping off a teaching building. However, the courts, after analyzing the circumstances, determined that the teacher's disciplinary actions were merely part of their teaching duties. These actions were considered legitimate forms of educational management and were not causing psychological harm to students. The courts noted that while using corporal punishment had its shortcomings, it could still be accepted by students, parents, and the wider society, and thus, the implementation of corporal punishment was within the reasonable limits of teacher discipline. It's worth noting that there were a total of 68 cases stemming from academic problems. Among them, there were five cases similar to the two cases where physical hitting was deemed "reasonable," yet the courts ruled that corporal punishment was not justified in these instances. Upon comparison, it becomes apparent that the courts tend to exercise restraint when dealing with disciplinary actions related to less severe academic issues, such as unfinished assignments. For the courts to determine the reasonableness of such actions, it must be evident that the teacher implemented the disciplinary measure for the purpose of educational management and without any malicious intent or factors beyond management-related disciplinary action.

Among the 103 cases where teacher discipline resulted from disciplinary issues, the courts deemed 14 of them as "reasonable." Except for one case involving "physical assault," which is a high-intensity form of corporal punishment, the other cases primarily involved low-intensity forms of indirect corporal punishment like making students stand or engaging in verbal reprimands and educational criticism, which are relatively accepted forms of mild discipline. The courts tend to exercise more caution when making reasonable judgments on corporal punishment cases stemming from disciplinary problems. The main reason for this is the varying severity of disciplinary issues.

In the body of legal cases, there were instances of relatively minor problems such as students sleeping in class or being disruptive, as well as more serious violations like staying out late in internet cafes, skipping classes, starting fires on school property, and theft of school property. When the severity of the corporal punishment reasons is relatively low, the courts tend to find the punishment unreasonable in cases where teachers employed high-intensity physical punishment like assault, leading to minor injuries or worse, or used forms of verbal abuse and excessive criticism that created significant psychological pressure, leading to traumatic stress disorders, especially in students whose mental development is not yet fully mature and whose psychological tolerance is relatively poor. Such cases could also result in extreme reactions like suicide by jumping off buildings. For the four cases involving severe disciplinary violations, three of them were found by the courts to have justified corporal punishment, with one case being the exception. In that exceptional case, the student engaged in nighttime theft of school property, leading to a severe incident where the school principal, dormitory supervisor, and duty teacher took turns physically assaulting the student. In this instance, the extent of

physical and psychological harm to the student, as well as the damage to the image of the teachers involved, was far beyond what is typically seen in corporal punishment cases.

In all the cases analyzed, there were also two cases where teachers resorted to physical assault after being insulted by students. The courts found that, while it is improper for students to insult teachers, as it goes against the traditional respect for educators and basic moral conduct, teachers physically assaulting students to establish authority contradicts their professional integrity and ethics in teaching. Such behavior is considered malicious harm, and the courts ultimately determined that the teachers' corporal punishment was unreasonable.

In conclusion, although there are no legislative regulations in China specifying the reasonable limits of teacher discipline, a common set of judgment criteria has emerged from the courts' long-term judicial practice. This set of judgment criteria is similar to the analysis of the elements constituting general tort liability, where the courts typically consider four dimensions: (1) the reason for disciplining the student; (2) the harm suffered by the student; (3) the relationship between the reason for the discipline and the resulting harm; and (4) whether the disciplinary measures taken by the teacher are generally accepted as part of standard educational management or if they are motivated by malice and aimed at causing harm.

5. Discussion

The forms of corporal punishment have long been an integral part of China's traditional education system, exerting a profound influence on the country's educational landscape. From the practical perspective of judicial practice, it is imperative to establish legislative standards for the reasonableness of teacher discipline. Although Chinese courts have developed a model of reasonableness assessment akin to the "shock the conscience" principle in the United States over extended judicial practice, the absence of codification in the form of statutory law or guiding precedents allows significant discretion to judges in cases where legal foundations are unclear. This discretion has led to divergent verdicts, thereby potentially undermining the credibility of judicial decisions, as evidenced by the frequent occurrence of "divergent judgments on similar cases" in the 256 court rulings considered.

Specifically, beyond consolidating China's judicial experience into a codified framework, it is crucial to delineate the reasonable limits of common disciplinary forms. Among these disciplinary methods, "Criticizing parents of students," "Criticizing students," and "Not allowing students to attend classes" – three relatively common mild disciplinary measures – have been endorsed by "Rules," which also recognizes written reflection as an acceptable disciplinary tool. From a value judgment perspective, the existing regulatory system largely categorizes most mild disciplinary measures outside the realm of abusive corporal punishment. While there may not be specific regulations distinguishing "Slightly hit" from "Physical assault" at present, inferences can be drawn from the court's judgments. For instance, light tapping on a student's palm with a small wooden stick around five times, without causing significant physical or psychological harm to the student, is generally deemed to be a reasonable

disciplinary action.

Moreover, it is imperative to establish clear and reasonable limits for "Excessive exercise" and "Long-time standing still," two prevalent forms of disguised corporal punishment in educational management practices. According to the "Regulations," standing still in the classroom for up to one class hour is considered a reasonable disciplinary measure for students with minor infractions. Integrating the value orientation of the "Regulations" with existing case law experience, it is reasonable to infer that, for students with minor disciplinary infractions, in addition to standing still in the classroom for one class hour, the following disciplinary actions are within reasonable limits: for middle school students, performing up to 20 squats, up to 10 push-ups, or running without a time limit up to 1500 meters; for primary school students, performing up to 10 squats, up to 5 push-ups, or running without a time limit up to 800 meters. Conversely, for students with more significant disciplinary infractions, with prior parental notification, disciplinary actions such as standing still in the classroom for two to three class hours combined with appropriate criticism, or for middle school students, performing up to 50 squats, up to 30 push-ups, or running without a time limit up to 3000 meters; for primary school students, performing up to 20 squats, up to 10 push-ups, or running without a time limit up to 1500 meters, would also be considered disciplinary actions within reasonable limits.

In contrast, punishments such as "Isolate deliberately" and "Verbal abuse of students," which clearly inflict severe psychological stress on students, as well as physical punishments like "Physical assault" and "Slap on the face," which directly cause physical pain, are evidently unacceptable to society. These forms of corporal punishment often result in more severe harm, requiring a case-specific analysis that adheres strictly to the four dimensions of the reasonableness assessment standards in order to make a prudent judgment.

Formally establishing the standards of reasonableness for corporal punishment as written law is essential to differentiate malicious corporal punishment from disciplinary actions by teachers. This process clarifies that reasonable corporal punishment is premised on not harming the physical and mental well-being of students and is intended as an educational method aimed at preventing, correcting inappropriate behavior in students, and helping them rectify their mistakes. Simultaneously, this approach is conducive to creating a rational and inclusive public opinion environment, guiding and fostering a more moderate and inclusive societal assessment and public environment for educational discipline. It empowers teachers to actively exercise their disciplinary authority. Moreover, it helps dispel the inherent impression that "corporal punishment equals malicious discipline." To some extent, this addresses the issue of teachers being hesitant to discipline students and encourages the general public to maintain an independent and rational perspective. It prevents individuals from falling into preconceived stereotypes about students' vulnerability and teachers' authority and succumbing to undue influence from public opinion. This, in turn, prevents irrational attacks on teachers who have implemented reasonable disciplinary actions while positioning themselves on a moral high ground.

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