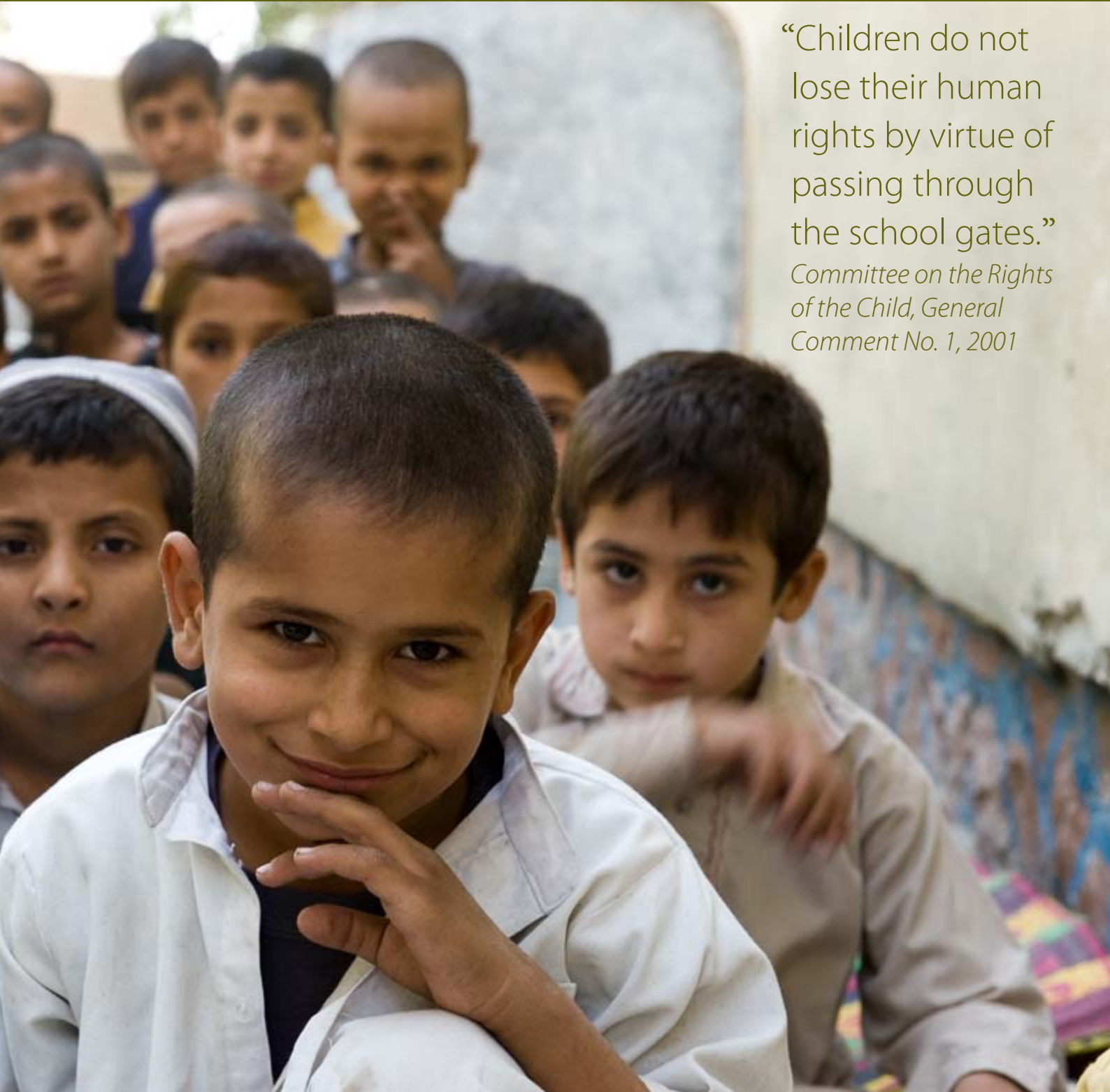


Prohibiting all corporal punishment in schools: Global Report 2011



“Children do not lose their human rights by virtue of passing through the school gates.”
Committee on the Rights of the Child, General Comment No. 1, 2001

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Front cover: Outside classrooms in Mia Omar High School in Jalalabad (Afghanistan), selected for a violence-free schools pilot project with Save the Children.

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Children’s right to legal protection from corporal punishment



Spectators at a community march against child abuse, Zambia

Corporal punishment of children – wherever it occurs and whoever the perpetrator – breaches their fundamental rights to protection from all forms of violence and to respect for their human dignity. Its legality breaches their right to equality under the law. When it happens in schools, corporal punishment also violates children’s right to education. It is shocking that decades since the Convention on the Rights of the Child confirmed that human rights belong to children as to all other people, children continue to be assaulted in the name of “discipline” in homes, schools and other settings, and that adults responsible for educating children still attempt to justify the infliction of pain on the developing bodies and minds of those in their care. The contradictions are obvious. Hitting children teaches violence not peace, disrespect not respect, conflict not resolution. Laws which condone corporal punishment reflect the low status of children in society, not a commitment to their equal status as human beings symbolised by almost every states’ ratification of the Convention on the Rights of the Child.

It is time to put things right, and to give children the legal protection from assault that other people have long benefited from. Prohibiting corporal punishment is an obligation under international human rights law, not a voluntary gesture based on good-will. This report is a call to action. It describes what needs to be done to achieve prohibition and the progress made so far in prohibiting corporal punishment in schools, and points to useful resources to support the promotion of law reform.

Under international human rights law, children must be protected from all forms of corporal punishment in all settings and governments have an obligation to prohibit and eliminate corporal punishment through legislative reform and full implementation and enforcement of the law.

The Convention on the Rights of the Child

The Convention on the Rights of the Child – ratified by all states except the US and Somalia – puts an obligation on governments to take “all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence ... while in the care of parent(s), legal guardian(s) or any other person who has the care of the child” (article 19(1)). Specifically in relation to education, governments must “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 28(2)). The Convention emphasises that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment” (article 37(a)).



“Compliance with the values recognized in article 29 (1) clearly requires that schools be child-friendly in the fullest sense of the term and that they be consistent in all respects with the dignity of the child.”

Committee on the Rights of the Child, General Comment No. 1, para. 8

In monitoring implementation of the Convention, the Committee on the Rights of the Child has consistently interpreted these provisions as requiring explicit prohibition of corporal punishment in all settings – in the home, schools, penal system and alternative care settings – and made recommendations to states parties to enact legislation to achieve this. In 2001, the Committee adopted its first General Comment, on “The aims of education (article 29(1))”, which stresses that realising a child’s right to education must entail ensuring there is no corporal punishment (para. 8):

“... efforts to promote the enjoyment of other rights must not be undermined, and should be reinforced, by the values imparted in the educational process. This includes not only the content of the curriculum but also the educational processes, the pedagogical methods and the environment within which education takes place, whether it be the home, school, or elsewhere. Children do not lose their human rights by virtue of passing through the school gates. Thus, for example, education must be provided in a way that respects the inherent dignity of the child and enables the child to express his or her views freely in

accordance with article 12 (1) and to participate in school life. Education must also be provided in a way that respects the strict limits on discipline reflected in article 28 (2) and promotes non-violence in school. The Committee has repeatedly made clear in its concluding observations that the use of corporal punishment does not respect the inherent dignity of the child nor the strict limits on school discipline. Compliance with the values recognized in article 29 (1) clearly requires that schools be child-friendly in the fullest sense of the term and that they be consistent in all respects with the dignity of the child. The participation of children in school life, the creation of school communities and student councils, peer education and peer counselling, and the involvement of children in school disciplinary proceedings should be promoted as part of the process of learning and experiencing the realization of rights.”

The obligation to ensure that prohibition is enshrined in law was confirmed by the Committee in General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19, 28, para. 2 and 37, inter alia)”. The Committee adopts a comprehensive definition of corporal punishment (see box opposite), emphasising that all forms of corporal punishment and other humiliating and degrading punishment must be prohibited in order to comply with the Convention. Some who support the use of corporal punishment in schools argue that the Convention does not explicitly refer to corporal punishment. This resistance is addressed directly by the Committee (paras. 20, 21 and 22):

“Article 19 and article 28, paragraph 2, do not refer explicitly to corporal punishment. The travaux préparatoires for the Convention do not record any discussion of corporal punishment during the drafting sessions. But the Convention, like all human rights instruments, must be regarded as a living instrument, whose interpretation develops over time. In the 17 years since the Convention was adopted, the prevalence of corporal punishment of children in their homes, schools and other institutions has become more visible, through the reporting process under the Convention and through research and advocacy by, among others, national human rights institutions and non-governmental organizations (NGOs).

Once visible, it is clear that the practice directly conflicts with the equal and inalienable rights of children to respect for their human dignity and physical integrity. The distinct nature of children, their initial dependent and developmental state, their unique human potential as well as their vulnerability, all demand the need for more, rather than less, legal and other protection from all forms of violence.

The Committee emphasizes that eliminating violent and humiliating punishment of children, through law reform and other necessary measures, is an immediate and unqualified obligation of States parties....”

“The Committee 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. Most involves hitting (‘smacking’, ‘slapping’, ‘spanking’) children, with the hand or with an implement – a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children’s mouths out with soap or forcing them to swallow hot spices). In the view of the Committee, corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment that are also cruel and degrading and thus incompatible with the Convention. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.”

(Committee on the Rights of the Child, General Comment No. 8, para. 11)

Other international and regional human rights treaties

Other international human rights monitoring bodies have confirmed that compliance with their respective treaties requires prohibition in law of corporal punishment of children, including in homes and schools. Such recommendations have been made to states by the UN Human Rights Committee, the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women and the Committee on Economic, Social and Cultural Rights. Recommendations to prohibit have repeatedly been made to states during their Universal Periodic Review by the Human Rights Council.

The consensus on prohibition also involves regional human rights instruments. For example, following a series of judgments by the **European Court of Human Rights** in cases involving the UK, legislation was reformed to prohibit corporal punishment in schools. In *Campbell and Cosans v UK*, 1982, two mothers alleged that the corporal punishment used in their sons’ schools breached article 3 of the European Convention on Human Rights (protection from inhuman or degrading treatment or punishment). This allegation was rejected by the Court because the boys themselves had not received corporal punishment. However, the Court found that the UK had breached the parents’ rights in failing to respect their philosophical convictions against corporal punishment (article 2 of Protocol 1 of the Convention). It also found that one of the boys, who had been suspended when he refused to accept corporal punishment, had been denied his right to education. The judgment was followed by more than 20 applications to the Court concerning school corporal punishment in the UK. Most were resolved through “friendly settlements”. These decisions eventually led to law reform to abolish corporal punishment in schools. In 2000, in *Philip Williamson and Others v UK* (Application No. 55211/00) the Court unanimously rejected (declared inadmissible) an application by individuals associated with a group of Christian private schools in the UK who alleged that implementation of the prohibition of corporal punishment in schools breached parents’ rights to freedom of religion and respect for family life.

In 2008, the **Inter-American Court of Human Rights** confirmed that its jurisprudence in relation to the American Convention on Human Rights together with the obligations arising from international treaties ratified by states in the region are clear that corporal punishment should be prohibited in all settings. The Court stated that children “have rights and are not just an object of protection”, and protecting these rights in the public and private spheres requires legislative as well as other measures. The Special Rapporteur on the Rights of the Child in the Inter-American Commission on Human Rights (IACHR), Professor Paulo Pinheiro, published the *Report on Corporal Punishment and Human Rights of Children and Adolescents* asserting that the duty of member states of the Organisation of American States to respect the rights of the child “requires the adoption of legislative measures

that explicitly prohibit the corporal punishment of children and adolescents in the home, at school, and in institutions responsible for their care” (para. 116).

The **African Charter on the Rights and Welfare of the Child** requires states to ensure that discipline by parents and at school respects the child’s human dignity (articles 11 and 20) and that children are protected from all forms of torture and inhuman treatment by parents and others caring for the child (articles 16 and 17). Monitoring implementation of the Charter, the African Committee of Experts on the Rights and Welfare of the Child has since 2009 addressed the issue of corporal punishment in its examination of a number of state party reports.

In 2009, the **Organisation of the Islamic Conference** (OIC) confirmed the obligation of member states to “prohibit all corporal punishment and other cruel or degrading forms of punishment or treatment of children, in all settings including within schools and within the family” (Cairo Declaration on the Convention [on the Rights of the Child] and Islamic Jurisprudence).

The human rights standards provide states with a clear obligation to prohibit corporal punishment. They are supported by arguments based on logic. When corporal punishment is lawful in any setting – including the home and in schools – the work of child protection is undermined because messages about the unacceptability of violence against children are contradicted by laws which condone it. No state can claim to have an effective child protection system while its laws authorise violent punishment of children.



Paulo Sérgio Pinheiro in Mali Classroom

“The IACHR therefore calls on OAS member States to act immediately on the problem of corporal punishment by placing explicit and absolute legal bans on its use in all contexts and, in parallel, by adopting such preventive, educational, and other measures that may be necessary to ensure the eradication of this form of violence, which poses a serious challenge to the wellbeing of children in the Hemisphere.”

Inter-American Commission on Human Rights, Report on Corporal Punishment and Human Rights of Children and Adolescents

“Where it is legal, considered acceptable and perhaps even commendable for men to control women, and the wealthy or privileged to control the poor and disadvantaged, and parents to control children through violence and the threat of violence, then it is likely to be legal, considered acceptable and perhaps even commendable for both adults and children to use similar methods in schools. By being victims, perpetrators and witnesses of violence, children learn that violence is an acceptable way for the strong and aggressive to get what they want from the comparatively weak, passive or peaceful.”

Schools are uniquely placed to break the patterns of violence by giving children, their parents and communities the knowledge and skills to communicate, negotiate and resolve conflicts in more constructive ways.”

“Governments have the obligation to explicitly prohibit violence against children by law, and to ensure the implementation of related policies and procedures at the school level – specifically putting a stop to corporal punishment and other humiliating or degrading treatment, bullying and other sexual and gender-based violence.”

(Paulo Sérgio Pinheiro, 2006, *World Report on Violence Against Children*, pp. 112, 154. In 2006, the UN Study on Violence Against Children recommended explicitly that all corporal punishment should be prohibited in all states in all settings.)

Research on corporal punishment in schools

The following snapshot of national research findings in all regions illustrates the extent of corporal punishment of children in schools. It also reveals that children suffer not only strictly regulated forms of corporal punishment, but are subjected to a wide range of punitive assaults, from pinching and ear pulling to severe beatings. Law reform must prohibit all corporal punishment and other cruel and degrading punishment, and the prohibition must be effectively implemented and enforced. For further information on these studies, including full references, see the research pages at www.endcorporalpunishment.org.

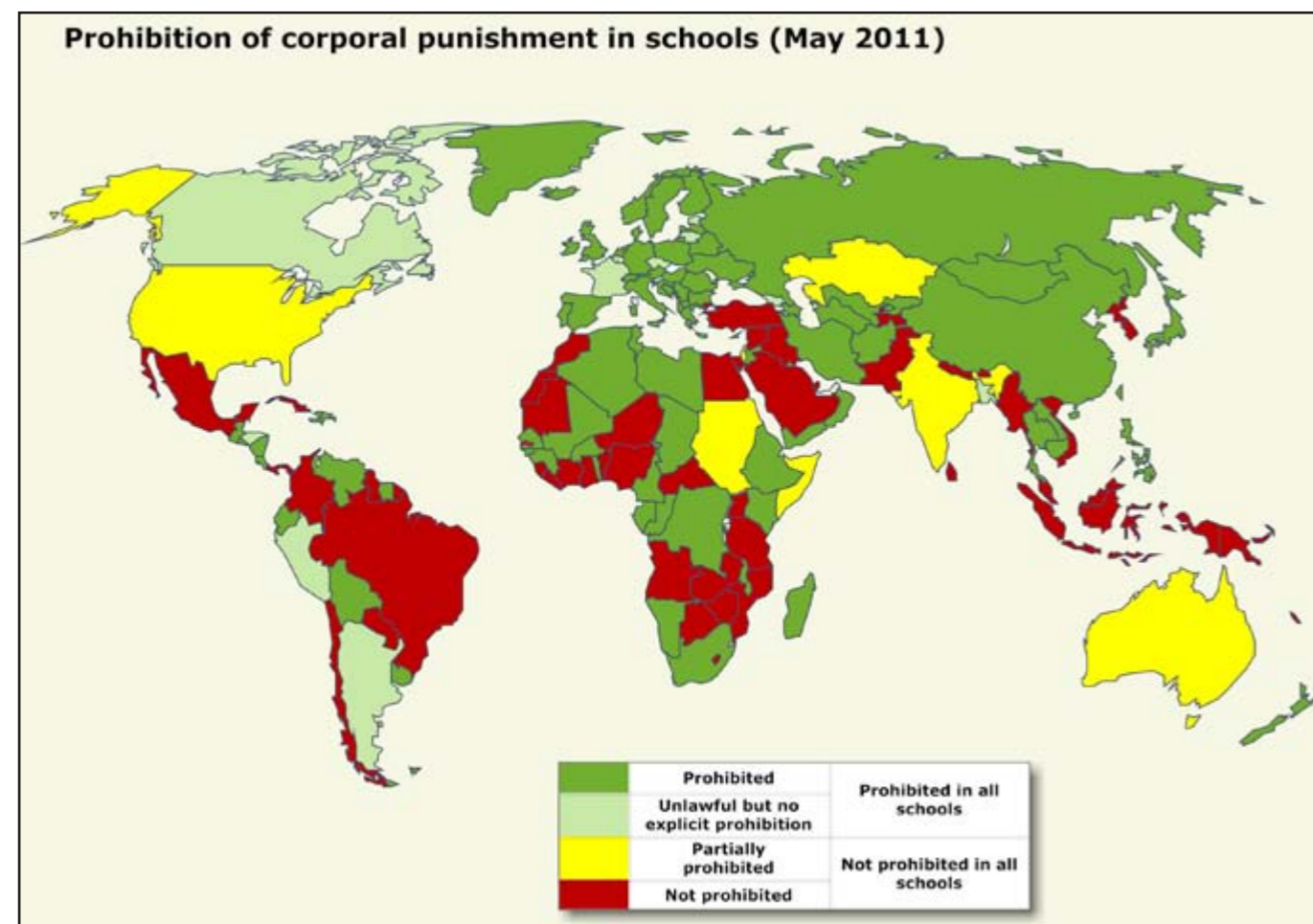
Africa	
Botswana	92% beaten (Baseline Study in Ngami region, 2007)
Djibouti	27.6% hit with object, 19.5% forced to kneel, 14.1% pinched/ears pulled (Revue de Recherches en Éducation, 2006)
Egypt	80% of boys physically punished, 67% girls (UN Study on Violence against Children, 2006)
Ethiopia	34% physically punished (Save the Children Denmark, 2008)
Malawi	48% whipped/caned (USAID, 2008)
Mozambique	40% hit with object (Save the Children Sweden, 2009)
Swaziland	28% hit with hand, 59% beaten with object (Save the Children Sweden, 2005)
Togo	88% girls subject to physical violence, 87% boys (Plan Togo, 2006)
Zambia	32% hit with hand, 38% with object (Save the Children Sweden, 2005)
East Asia and Pacific	
Cambodia	24.1% girls beaten, 34.7% boys (Tearfund, 2005)
Philippines	18% pinched, 13-16% spanked with hands or object (Plan Philippines, 2009)
Taiwan	65.1% physically punished (Humanistic Education Foundation, 2005)
Thailand	38% physically punished (UNICEF, 2008)
Timor Leste	67% beaten with stick, 39% slapped on face (UNICEF, 2006)
Viet Nam	93% physically/emotionally punished (Save the Children Sweden/Plan in Vietnam/ UNICEF, 2005)
Europe and Central Asia	
Albania	38.5% ears pulled, 36.9% pinched, 51.8% hit with object, 34.3% smacked on body, 35.6% smacked on head (Human Development Centre, 2006)
Georgia	32% physically punished (Red Cross Committee of Georgia/UNICEF, 2000)
Serbia	32% subjected to violence (UNICEF, 2006)
Latin America and the Caribbean	
Guyana	56.1% whipped, 18% forced to kneel, 20.2% shaken, 26.3% slapped (University of Guyana, 2000)
Jamaica	74% subject to minor violence, 75.4% severe violence (University of West Indies, 2004)
Peru	59.3% punished with belts, sticks, cords, 40% punched, pinched, pushed (MIMDES, 2004)
Middle East	
Jordan	57% hit with object/bitten/burned, 50% slapped, pinched, hair pulled (UNICEF, 2007)
Lebanon	40% physically punished (Save the Children Sweden, 2008)
Occupied Palestinian Territories	50% beaten (Treatment and Rehabilitation Center for Victims of Torture and Organized Violence, 2005)
North America	
US	More than 223,000 children “paddled” in 2006-7 (official figures cited by Human Rights Watch, 2008)
South Asia	
Bangladesh	91% physically punished (UNICEF, 2009)
India	59% caned in Andhra Pradesh (Child Rights Advocacy Foundation-Vijayawad, 2006)
Nepal	82% physically punished (The Rising Nepal, 2006)

In making visible the nature and prevalence of corporal punishment in schools, research such as this supports efforts to promote prohibition and provides a useful baseline for measuring the effectiveness of implementation of prohibition. And while the human rights imperative to prohibit corporal punishment is fundamental, other studies support additional arguments for ending this form of adult violence against children. For example, research has repeatedly shown the negative effects of corporal punishment of children on individuals and societies: the emotional and physical effects on children hinder their ability to learn, undermining the very purpose of education (for a fuller discussion see the Global Initiative/Save the Children Campaigns Manual and other resources listed on page 15).

Worldwide progress towards prohibition

Considerable progress has been made in prohibiting corporal punishment in schools worldwide. As at June 2011, corporal punishment is unlawful in schools in 117 states, although in only 29 of these are children protected from violent punishment wherever they are, including at home. All regions have made significant advances towards ensuring non-violent education for children: corporal punishment is unlawful in schools in 43% of states in Africa, 52% in East Asia and the Pacific, 96% in Europe and Central Asia, 46% in the Americas and the Caribbean, 57% in the Middle East and 25% in South Asia. But these figures show there is also a great deal still to be done: 80 states across all regions have yet to complete law reform in their schools system.

The following map illustrates progress towards prohibition in schools worldwide. In many states the law explicitly prohibits corporal punishment in all schools. In others, the illegality of corporal punishment is based on criminal laws on assault and the absence of a legal defence (e.g. a “right of correction”, see page 12), together with other laws protecting children in schools, relevant case law, etc, or on high-level court rulings which have yet to be confirmed in legislation. Similarly, there are states which clearly do not prohibit corporal punishment in schools and those which explicitly authorise its use, but there are also states which have prohibited it in some schools but have yet to achieve law reform in relation to all education settings. The map indicates some of the complexity involved in making a definitive global assessment; the tables on pages 9 to 11 provide more detail. For full details see the individual country reports at www.endcorporalpunishment.org; to provide us with further information please email info@endcorporalpunishment.org.



Progress towards prohibiting corporal punishment in schools – state by state analysis (June 2011)

Please note: The following information has been compiled from many sources, including reports to and by the United Nations human rights treaty bodies. Some information has yet to be confirmed. We are very grateful to government officials, UNICEF and other UN agencies, NGOs and human rights institutions, and many individuals who have helped to provide and check information. Please let us know if you believe any of the information to be incorrect: info@endcorporalpunishment.org.

Corporal punishment prohibited in schools and all other settings

The following states have prohibited corporal punishment in all settings, including schools:

Austria, Bulgaria, Costa Rica, Croatia, Cyprus, Denmark, Finland, Germany, Greece, Hungary, Iceland, Israel, Kenya, Latvia, Liechtenstein, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Moldova, Romania, Spain, Sweden, Tunisia, Ukraine, Uruguay, Venezuela

Corporal punishment prohibited in all schools

The following states have prohibited corporal punishment in all schools but children may lawfully be subjected to corporal punishment in the home and, in some states, in other settings outside the home (for details see www.endcorporalpunishment.org).

Afghanistan	Prohibited in Education Act (2008)	DR Congo	Prohibited in Ministerial decision No. MINEPSP/CABMIN/00100940/90 (1990) establishing internal regulations for students
Albania	Prohibited in Fundamental Normative Provision based on Law No. 7952 “For the Pre-University Educational System” (1995)	Ecuador	Prohibited in Childhood and Adolescence Code (2003)
Algeria	Prohibited in Law No. 08-04 (2008)	El Salvador	Prohibited in General Law on Education and Law for the Integral Protection of Children (2009)
Andorra	No explicit prohibition, but education law and regulations recognise dignity of the child	Estonia	But no explicit prohibition
Argentina	But no explicit prohibition	Ethiopia	Prohibited in Constitution (1995)
Armenia	Prohibiting law unidentified	Fiji	Unlawful under 2002 High Court ruling, not yet confirmed in legislation
Azerbaijan	Prohibiting law unidentified	France	Criminal assault laws apply to schools and government circulars state corporal punishment must not be used but courts have allowed a “right of correction” for teachers
Bahrain	Prohibited in Code of School Discipline (1992)	Gabon	Prohibiting law unidentified
Bangladesh	Unlawful under 2011 Supreme Court ruling, not yet confirmed in legislation	Georgia	But no explicit prohibition
Belarus	But possibly no explicit prohibition	Guatemala	But no explicit prohibition
Belgium	But no explicit prohibition	Guinea	Prohibiting law unidentified
Belize	Prohibited in Education and Training Act (2010)	Guinea-Bissau	Prohibiting law unidentified
Bolivia	Prohibited in Supreme Decree No. 212414 (1993) and Children and Adolescents Code (1999)	Haiti	Prohibited in Law Against Corporal Punishment of Children (2001)
Bosnia & Herzegovina	Prohibited in Framework Law on Primary and Secondary Education (2003)	Honduras	Prohibited in Public Education Code (1923), General Public Education Act and Code on Children and Adolescents (1996)
Burkina Faso	Prohibited in Decree No. 289 bis/PRES/AN (1965)	Iran	Prohibiting law unidentified
Cambodia	Prohibited in Education Law (2007)	Ireland	Prohibited in Offences Against the Person (Non Fatal) Act (1997)
Cameroon	Prohibited in Law of Cameroon National Educational Guidelines No. 98/004 (1998)	Italy	Prohibiting law unidentified
Canada	Unlawful under 2004 Supreme Court ruling, not yet confirmed in legislation relating to private schools, or to any schools in Alberta and Manitoba	Japan	Prohibited in 1947 School Education Law but 1981 Tokyo High Court judgment stated some physical punishment may be lawful
Chad	Prohibited in Law No. 016/PR/06	Jordan	Prohibited in School Discipline Regulation, Instruction No. 4 on School Discipline (1981)
China	Prohibited in Law on the Protection of Minors (2006) and other laws	Kiribati	Statutory provisions allowing for corporal punishment repealed but no explicit prohibition
Congo, Republic of	Prohibition unconfirmed	Kuwait	Prohibiting legislation unidentified
Cook Islands	Prohibited in Education Act (2009)	Kyrgyzstan	Prohibited in Law on Teachers’ Status (2001) and Law on Protection and Advocacy of the Rights of Minors (1999)
Czech Republic	But no explicit prohibition		
Djibouti	Prohibition unconfirmed		
Dominican Republic	Prohibited in Education Act (1997, amended 2007) and Code for the System of Protection of the Fundamental Rights of Children and Adolescents (2003)		

Lao PDR	Prohibition unconfirmed
Libyan Arab Jamahiriya	Prohibited in School Discipline Ordinance for Schools, Regulations concerning Primary and Preparatory (Basic) Education, Regulations concerning Secondary (Intermediate) Education (1979) and Regulation concerning Student Discipline (1983)
Lithuania	But no explicit prohibition
Madagascar	Prohibition unconfirmed
Malawi	Prohibited in Constitution (1994)
Mali	Prohibited in internal regulations No. 94-4856/MEB-CAB of 8 April 1994 (fundamental schools), No. 94-4999/MEB/CAB (special education institutions) and No. 94-5000 of 15 April 1994 (kindergartens)
Malta	But no explicit prohibition
Marshall Islands	Prohibited in Rules and Regulations of the Ministry of Education (1992)
Mauritius	Prohibited in Education Regulations (1957)
Micronesia, Fed. States	Prohibition unconfirmed
Monaco	But no explicit prohibition
Mongolia	Prohibited in Education Law (amended 2006)
Montenegro	Prohibited in General Law on Education
Namibia	Prohibited in Education Act (2001)
Nicaragua	Prohibited in General Education Law
Oman	Prohibited in Organisational Statutes of the General Education Schools
Peru	But no explicit prohibition
Philippines	Prohibited in Family Code (1987), confirmed in Public Schools service Manual (1992) and Manual of Regulations for Private Schools (1992)
Russian Federation	But possibly no explicit prohibition
Samoa	Prohibited in Education Act (2009)
San Marino	Prohibited in General Provisions on Education, Law No. 21 (1998)
Sao Tome & Principe	Prohibition unconfirmed

Senegal	Prohibited in Decree No. 72.11.65 (1972)
Serbia	Prohibited in Law on Secondary Schools (1992), Law on Elementary Schools (1992) and Law on the Bases of the System of Education and Upbringing (2003, 2009)
Slovakia	Prohibited in Act No. 245/2008 Coll. on Upbringing and Education
Slovenia	Prohibited in School Inspectorate Act (1996) and Regulations on the Rights and Duties of Primary and Secondary School Pupils
South Africa	Prohibited in South African Schools Act (1996), National Education Policy Act (1996) and Further Education and Training Colleges Act (2006)
Suriname	Prohibition unconfirmed
Switzerland	Prohibited by federal law pursuant to cantonal legislation; 1991 Federal Court ruled it permissible in certain circumstances, but this considered impossible under current legislation
Taiwan	Prohibited in Fundamental Law of Education (amended 2006)
TFYR Macedonia	Prohibited in Law on Elementary Education (1995) and Law on Secondary Education (1995)
Thailand	Prohibited in Regulation on Student Punishment (2005) and Regulation on Working Procedures of Child Protection Officers Involved in Promoting Behaviour of Students (2005)
Togo	Prohibited in Children's Code (2007)
Tonga	Prohibited in Education (Schools and General Provisions) Regulations (2002)
Turkey	But no explicit prohibition
Turkmenistan	<i>Prohibiting law unidentified</i>
UK	Prohibited in state schools in 1986, extended to private schools in England and Wales in 1998, Scotland in 2000 and Northern Ireland in 2003
United Arab Emirates	Prohibited in Ministerial Decision No. 454 (1998), but no explicit prohibition in private schools
Uzbekistan	<i>Prohibiting law unidentified</i>
Vanuatu	Prohibited in Education Act (2001)
Yemen	Prohibited in Regulations governing School Punishment (2001)

DPR Korea	Policy states corporal punishment should not be used, but no prohibition in law (information unconfirmed)
Egypt	Ministerial directive states corporal punishment should not be used but no prohibition in law (information unconfirmed)
Equatorial Guinea	Laws protect dignity but do not prohibit corporal punishment
Eritrea	Policy states corporal punishment should not be used, but no prohibition in law
Gambia	Lawful under Education Regulations
Ghana	Lawful under Education Code of Discipline for second cycle school. Ministerial directive advises against corporal punishment (information unconfirmed), but no prohibition in law
Grenada	Lawful under Education Act (2002), Act No. 11 (2003) and Criminal Code
Guyana	Lawful under Criminal Law (Offences) Act (1894) and Summary Jurisdiction (Offences) Act (1894)
India	Prohibited only for children aged 6-14; not prohibited in Jammu and Kashmir
Indonesia	Laws protect from abuse but do not explicitly prohibit corporal punishment
Iraq	Reportedly prohibited in regulations, but Penal Code confirms right to discipline
Jamaica	Prohibited in schools for children up to age 6; prohibition in all schools under discussion (2010)
Kazakhstan	Prohibited in regular schools but not in military schools
Lebanon	Lawful under Penal Code; Ministerial guidance against corporal punishment but no prohibition in law
Lesotho	Education Bill would prohibit (2009)
Liberia	<i>No details of legislation</i>
Malaysia	Lawful under Education Regulations (Student Discipline) (2006) and Penal Code (1936)
Maldives	Ministry of Education advises against corporal punishment but no prohibition in law; draft legislation would confirm right to use force in disciplining children
Mauritania	Ministerial Order states corporal punishment should not be used, but no prohibition in law
Mexico	Laws protect dignity but do not prohibit corporal punishment
Morocco	Ministerial direction advises against corporal punishment, but no prohibition in law
Mozambique	Government directive advises against corporal punishment, but no prohibition in law
Myanmar	Government directive advises against corporal punishment, but no prohibition in law
Nauru	Lawful under Criminal Code
Nepal	2005 Supreme Court ruling removed legal defence from Children Act but not from Civil Code
Niger	<i>No details of legislation</i>
Nigeria	Lawful under Criminal Code (South) and Penal Code (North)
Niue	Laws protect from abuse but do not prohibit corporal punishment
Pakistan	Draft legislation which would prohibit under discussion (2010)
Palau	Corporal punishment discouraged but not prohibited in law
Palestine	Prohibited in UNRWA schools and in East Jerusalem; in public schools, Ministerial direction advises against corporal punishment, but no prohibition in law
Panama	Law prohibits only punishment causing injury

Papua New Guinea	Lawful under Criminal Code (1974)
Paraguay	Law protects dignity but does not prohibit corporal punishment
Qatar	Ministerial Decree states corporal punishment should not be used, but no explicit prohibition in law
Republic of Korea	Recent law reform unclear; prohibition still being debated (2011)
Rwanda	Draft legislation which would prohibit under discussion (2010)
Saint Kitts & Nevis	Lawful under Education Act (2005) and Corporal Punishment Act (1967)
Saint Lucia	Lawful under Education Act (1999) and Children and Young Persons Act (1972)
Saint Vincent & Grenadines	Lawful under Juveniles Act and Education Act (2005)
Saudi Arabia	Ministerial circulars advise against corporal punishment but no prohibition in law
Seychelles	Policy states corporal punishment should not be used but no prohibition in law
Sierra Leone	Lawful under Prevention of Cruelty to Children Act (1926) and Child Rights Act (2007)
Singapore	Lawful under Schools Regulation Act (1957)
Solomon Islands	Lawful under Penal Code
Somalia	Prohibited in Somaliland (information unconfirmed)
Sri Lanka	Lawful under Penal Code (1883); Ministerial circular states corporal punishment should not be used but no prohibition in law
Sudan	Prohibited in Southern Sudan; in Northern Sudan 2010 Child Act prohibits cruel punishment but not explicitly all corporal punishment
Swaziland	Lawful under Education Act (1982), Education Rules (1977) and Constitution (2005)
Syrian Arab Republic	Lawful under Penal Code; Ministry of Education advises against corporal punishment but no prohibition in law
Tajikistan	Law protects dignity but does not prohibit corporal punishment
Timor-Leste, DR	<i>No details of legislation</i>
Trinidad & Tobago	Lawful under Children Act (1925); amendments which would prohibit not yet in force
Tuvalu	Lawful under Education Act (1976) and Penal Code
Uganda	Draft legislation which would prohibit under discussion (2011)
United Republic of Tanzania	Lawful in mainland Tanzania under National Corporal Punishment Regulations (1979); laws in Zanzibar protect from abuse but do not explicitly prohibit corporal punishment
USA	Prohibited in some but not all states
Viet Nam	Laws protect dignity but do not prohibit corporal punishment
Western Sahara	<i>No details of legislation</i>
Zambia	Draft legislation which would prohibit under discussion (2011)
Zimbabwe	Lawful under Criminal Law (Codification and Reform) Act (2004), Constitution (amended 1990), Children's Act (1972) and Education Act (2004)

Corporal punishment not prohibited in all schools

In the following states, corporal punishment is not prohibited in all schools. It is lawful in the home and, in some states, in the penal system and/or alternative care settings (for details, see www.endcorporalpunishment.org).

Angola	<i>No details of legislation</i>
Antigua & Barbuda	Lawful under Education Act (1973) and Juvenile Act (1951)
Australia	Prohibited in some but not all states and territories
Bahamas	Lawful under Penal Code (1873)
Barbados	Lawful under Education Regulations (1983) and Prevention of Cruelty to Children Act (1904)
Benin	Government circular advises against corporal punishment, but no prohibition in law
Bhutan	Code of Conduct and ministerial directive state corporal punishment should not be used but no prohibition in law
Botswana	Lawful under Education Act (1967), Education (Corporal Punishment) Regulations (1968), Education (Government and Aided Secondary Schools) Regulations (1978), Education (Primary Schools) Regulations (1980), Education (Private Primary Schools) Regulations (1991) and Children's Act (2009)

Brazil	Draft legislation which would prohibit under discussion (2011)
Brunei Darussalam	<i>No details of legislation</i>
Burundi	<i>No details of legislation</i>
Cape Verde	Ministry of Education guidelines advise against corporal punishment, but no prohibition in law
Central African Republic	Laws protect from abuse but do not prohibit corporal punishment
Chile	Law prohibits only punishment causing injury
Colombia	Law prohibits only punishment causing injury
Comoros	Lawful under Penal Code
Côte d'Ivoire	Ministerial circular states corporal punishment should not be used, but no prohibition in law
Cuba	Regulations prohibit ill-treatment but not all corporal punishment
Dominica	Lawful under Education Act (1997) and Children and Young Persons Act (1970)

Understanding prohibition

Effectively prohibiting corporal punishment in schools, as in other settings, means ensuring legislation states clearly that corporal punishment is unlawful and that the law does not include any provisions which authorise, or could be construed as allowing, any form of violence in the name of discipline or correction. Ministerial advice, policies and guidance may state that corporal punishment should not be used but they do not amount to prohibition and ultimately cannot be enforced; they are virtually meaningless when the law itself provides for corporal punishment or includes legal defences for the use of force by parents and others. The only way prohibition is achieved is through law reform.

In some states there have been high-level court rulings against corporal punishment in schools. They are not sufficient in themselves to prohibit corporal punishment – there is always the possibility that future rulings will reach different conclusions – but they can play a significant role in moving towards law reform to enact explicit prohibition. The issuing of a high-level court judgment against corporal punishment provides a strong opportunity to promote changes in legislation, and sometimes the judgments themselves require law reform. Significant rulings concerning corporal punishment in schools have been made by high-level courts in Bangladesh (2011), Nepal (2005), Canada (2004), Fiji (2002), South Africa (2000), India (2000) and Namibia (1991). For further information, see www.endcorporalpunishment.org.

Key elements of law reform to prohibit corporal punishment in schools

- Repeal all legal defences for the use of corporal punishment by teachers and others responsible for the care and education of children. When legal provisions which confirm a right or duty to inflict “reasonable chastisement” or to use “reasonable” force for purposes of “correction”, etc are removed from legislation the criminal law on assault applies equally to any assault on a child, including by teachers.
- Repeal all laws or regulations authorising corporal punishment in schools and other education settings.
- Enact explicit prohibition of corporal punishment and other cruel or degrading punishment in legislation applicable to all education settings – state-run and private schools, full- and part-time education provision, faith-based education, preparatory/nursery schools, primary schools, secondary schools, military schools, etc.
- Ensure prohibition covers all forms of corporal punishment and other cruel or degrading punishment (see Committee on the Rights of the Child definition, page 5). In some states, corporal punishment in schools is considered synonymous with a particular form of punishment (such as caning in Malaysia, or paddling in the US) but research shows children are subjected to a wide range of assaults by teachers (see page 7). Prohibition must also cover non-contact physical punishments (punitive physical exercises, forced positions, etc).
- When provisions allowing protective restraint of students by teachers in exceptional circumstances are considered necessary, ensure they strictly limit the use of force and cannot be construed as justification for punitive/disciplinary assaults on children.

No opportunity to achieve prohibition of corporal punishment in schools should be missed – for example, if other legislation affecting the education system is being changed then prohibition of corporal punishment should be included in the reform. But human rights require that children are protected from corporal punishment in all settings of their lives, including the home and family. This is an immediate obligation and efforts to achieve prohibition in schools should be made alongside promotion of prohibition in the home and other settings.

“The details of some of the incidents [that we have considered] have stirred our conscience and left us feeling distraught at the thought of parents allowing their children to be beaten and teachers mercilessly beating their pupils for small indiscretions... There cannot be any doubt that corporal punishment is detrimental to children’s well-being and has serious physical, psychological and emotional effects, as well as causing truancy and dropping out of school. This in turn exacerbates the cycle of illiteracy and poverty... Article 28 of the Convention [on the Rights of the Child] is relevant to the issue before us and we have no hesitation to hold that in the light of the Convention corporal punishment upon the children must be prohibited in all settings including schools, homes and work places.”

Bangladesh Supreme Court, Writ Petition No. 5684, 2011

Laws which prohibit – and those which do not

Laws prohibiting corporal punishment in schools

Teaching methods and discipline in educational institutions shall respect the rights and guarantees of children and young persons and shall exclude all forms of abuse, ill-treatment and disrespect, and, accordingly, any form of cruel, inhuman or degrading punishment. Educational institutions are:

1. *Prohibited from using corporal punishment;*
2. *Prohibited from using psychological punishments that offend the dignity of children and young persons.* (Ecuador, Childhood and Adolescence Code 2003, articles 40 and 41)

Children and adolescents have a right to receive counselling, education, care and discipline from their mother, father or tutor, as well as from their caretakers or the personnel from educational and health centres, shelters, youth detention or any other type of centres, that in no way represents an authorisation of any sort to these parties for the use of corporal punishment or degrading treatment...

(Costa Rica, Code on Children and Adolescents 1998 amended 2008, article 24bis)

1. *No person may administer corporal punishment at a school to a learner;*
2. *Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence which could be imposed for assault.* (South Africa, Schools Act 1996, article 10)

Laws allowing corporal punishment in schools

1. *No person shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment.*
2. *No person shall subject a child to correction which is unreasonable in kind or in degree relative to the age, physical and mental condition of the child and which, if the child by reason of tender age or otherwise is incapable of understanding the purpose and fairness thereof.*
3. *The provisions of this section shall not be construed as prohibiting the corporal punishment of children in such circumstances or manner as may be set out in this Act or any other law...* (Botswana, Children’s Act 2009, article 61)

1. *In the enforcement of discipline in public schools, assisted private schools and private schools degrading or injurious punishment shall not be administered.*
2. *Corporal punishment may be administered where no*

other punishment is considered suitable or effective, and only by the principal, deputy principal or any teacher appointed in writing by the principal for that purpose, in a manner which is in conformity with the guidelines issued in writing by the Chief Education Officer.

3. *Whenever corporal punishment is administered an entry shall be made in a punishment book that shall be kept in each school for such purpose with a statement of the nature and extent of the punishment and the reasons for administering it.*
4. *A person other than those mentioned in subsection (2) who administers corporal punishment to a child on the school premises is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.* (Dominica, Education Act 1997, article 49)

1. *If any person who has attained the age of fifteen years and has the custody, charge or care of any child or young person under that age, wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb or organ of the body, and any mental derangement), that person shall be guilty of a misdemeanour, and shall be liable to imprisonment for five years...*
4. *Nothing in this section shall be construed as affecting the right of any parent, teacher, or other person, having the lawful control of a child or young person to administer reasonable punishment to him.* (Solomon Islands, Penal Code 1963, article 233)

Laws protecting from violence but not prohibiting corporal punishment

In many states, laws protect children in schools from violence and abuse, or state that relations between pupils and teachers should be based on mutual respect or that children’s honour and dignity should be respected, but they do not explicitly prohibit all corporal punishment (see table on page 10). Sometimes these provisions exist alongside legal defences for the use of “reasonable” punishment/correction of children. These defences must be repealed. In other states, laws explicitly prohibit only corporal punishment which causes harm or injury. As the Committee on the Rights of the Child underlines, the law must be clear that all corporal punishment is prohibited, however light (see page 5).

Key elements of implementing and enforcing prohibition in schools

Implementing prohibition of corporal punishment in schools is not only about promoting positive, non-violent discipline, although that is an important part of it. To be effective, implementation requires a comprehensive range of measures aimed at preventing the use of corporal punishment, equipping teachers with the necessary positive, non-violent disciplinary techniques and responding appropriately when the prohibition is breached.

When corporal punishment is prohibited in schools and all legal defences and authorisations for its use are repealed, children in schools will be protected by the criminal laws on assault. This should mean teachers and other adults involved in education can be prosecuted for assault if they inflict corporal punishment on learners: they and school students and their parents need to know the law and its implications. But prevention of corporal punishment is better than prosecution after a child has suffered. The following measures will support implementation of prohibition and non-violence in education:

- Conduct widespread public education and awareness raising, among adults and children, about the law change and the reasons for it.
- Establish a range of appropriate responses and sanctions to address the continued use of corporal punishment by teachers – for example, make compliance with prohibition a condition of employment and breaching the prohibition punishable as misconduct; place responsibility on school administrations and head teachers for ensuring corporal punishment is not used.
- Monitor compliance with prohibition through school inspection mechanisms, including confidential interviews with staff and children with all necessary safeguards.
- Establish independent complaints procedures for children, staff and other adults, ensuring protection for those who report the use of corporal punishment.
- Ensure clear direction and training for all providers of education at all levels (school heads/principals, teachers, assistants, volunteers and other adults who come into contact with children), through initial and in-service training on the law and on positive, non-violent disciplinary strategies, to support and enforce prohibition.

The overall aim is to stop corporal punishment being inflicted on children, in schools and wherever else they may be. Achieving prohibition in schools will have a greater impact (and be easier to enforce) when prohibition is also being promoted in the home, giving a clear and consistent message to all adults that hitting children is wrong.



Children in Zanzibar

“Where, despite prohibition and positive education and training programmes, cases of corporal punishment come to light outside the family home – in schools, other institutions and forms of alternative care, for example – prosecution may be a reasonable response. The threat to the perpetrator of other disciplinary action or dismissal should also act as a clear deterrent. It is essential that the prohibition of all corporal punishment and other cruel or degrading punishment, and the sanctions that may be imposed if it is inflicted, should be well disseminated to children and to all those working with or for children in all settings. Monitoring disciplinary systems and the treatment of children must be part of the sustained supervision of all institutions and placements which is required by the Convention. Children and their representatives in all such placements must have immediate and confidential access to child-sensitive advice, advocacy and complaints procedures and ultimately to the courts, with necessary legal and other assistance. In institutions, there should be a requirement to report and to review any violent incidents.”

Committee on the Rights of the Child, General Comment No. 8, para. 43

Resources to support the promotion, enactment and implementation of prohibition

General Comments adopted by the Committee on the Rights of the Child, at www2.ohchr.org/english/bodies/crc/comments.htm in English and other languages:

- No. 1 (2001) on *The aims of education (article 29(1))*
- No. 8 (2006) on *The right to protection from corporal punishment and other cruel or degrading forms of punishment (articles 19, 28(2) and 39, inter alia)*
- No. 13 (2011) on *The right of the child to freedom from all forms of violence*

Resources published by the Global Initiative to End All Corporal Punishment of Children, at www.endcorporalpunishment.org:

- *Campaigns Manual: Ending corporal punishment and other cruel and degrading punishment of children through law reform and social change*, published jointly with Save the Children Sweden (2010)
- *Ending Corporal Punishment of Children: A handbook for working with and within religious communities*, published jointly with Save the Children Sweden & Churches' Network for Non-violence (2011)
- *Prohibiting all corporal punishment of children: Frequently Asked Questions* (2009) – available in adult and child-friendly versions, in English, French and Spanish
- *Prohibiting corporal punishment in schools: Positive responses to common arguments* (2009)
- *Prohibiting corporal punishment of children: A guide to legal reform and other measures* (2009) – available in English, French and Spanish
- *Ending legalised violence against children: Global Report 2010*, published jointly with Save the Children Sweden (2010)
- *Guide to children and young people's participation in actions against corporal punishment* (2011)
- *Legal Reform Briefings* (2009) – a series of seven short briefings on various aspects of law reform to achieve prohibition: (1) *Understanding the need for prohibition*, (2) *Reviewing current law*, (3) *Drafting prohibiting legislation*, (4) *Building a national strategy*, (5) *Working with Government and Parliament*, (6) *Using legal action and regional and international human rights mechanisms*, (7) *Key resources to support campaigning*, available in English, French and Arabic
- Bi-monthly global e-newsletter – to subscribe email info@endcorporalpunishment.org
- Website www.endcorporalpunishment.org – individual country reports, information on human rights standards and treaty body recommendations, examples of laws and non-legislative measures to support law reform, and much more

Other useful resources:

- Inter-American Commission on Human Rights, Rapporteurship on the Rights of the Child, *Report on Corporal Punishment and Human Rights of Children and Adolescents* (2009), at www.cidh.oas.org in English, French, Spanish and Portuguese
- *World Report on Violence Against Children* (2007), at www.unviolencestudy.org
- *Learn Without Fear: The global campaign to end violence in schools*, published by Plan (2008), available at <http://plan-international.org/learnwithoutfear>
- *Alternatives to Corporal Punishment: The learning experience*, published by the South African Department of Education (2000), available at www.endcorporalpunishment.org
- *Never Violence: Thirty Years on from Sweden's Abolition of Corporal Punishment*, published by Government Office of Sweden & Save the Children Sweden (2009), at www.endcorporalpunishment.org
- Website of Parents and Teachers Against Violence in Education (PTAVE) in the US, www.nospank.net
- Website of the Center for Effective Discipline in the US, www.stophitting.com
- *Eliminating Corporal Punishment: The way forward to constructive child discipline*, written by S. Hart et al, published by UNESCO (2005), see <http://publishing.unesco.org>
- Save the Children Resource Centre, <http://resourcecentre.savethechildren.se>

Hitting people is wrong – and children are people too. Corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity. Its legality breaches their right to equal protection under the law. Corporal punishment in schools breaches the right to education. Urgent action is needed in every region of the world to respect fully the rights of all children – the smallest and most fragile of people.

This report reviews progress towards prohibition of corporal punishment in schools and describes the actions that need to be taken to ensure that children’s rights to protection from all forms of corporal punishment and to non-violent education are enshrined in national laws.

The Global Initiative was launched in Geneva in 2001. It aims to act as a catalyst to encourage more action and progress towards ending all corporal punishment in all continents; to encourage governments and other organisations to “own” the issue and work actively on it; and to support national campaigns with relevant information and assistance. The context for all its work is implementation of the Convention on the Rights of the Child. Its aims are supported by UNICEF, UNESCO, human rights institutions, and international and national NGOs.



Global Initiative to End All Corporal Punishment of Children:

www.endcorporalpunishment.org • email: info@endcorporalpunishment.org

“End physical and psychological/emotional punishment and promote love and affection for children: governments should create national laws against physical and psychological punishment and make systems to implement and properly monitor these. Teachers should behave lovingly and affectionately towards children. Governments should ensure that laws are widely known by everybody. Teachers should be given proper teachers’ training and training on positive discipline and parents on parental education. There should be mechanisms in school and out of school where children can complain about severe punishment.”

Children’s recommendation at the South Asia Regional Consultation for the UN Study on Violence Against Children