

Prohibiting all corporal punishment of children: progress and delay

"... eliminating violent and humiliating punishment of children, through law reform and other necessary measures, is an immediate and unqualified obligation of States parties."
(Committee on the Rights of the Child, General Comment No. 8, 2006)

Briefing prepared by the
Global Initiative to End All Corporal
Punishment of Children
(www.endcorporalpunishment.org)
October 2012 edition



Global Initiative to
End All Corporal Punishment
of Children

PROGRESS

States meeting their obligations

The Committee on the Rights of the Child underlines states' immediate obligation to prohibit and eliminate all corporal punishment in its General Comment No. 8 (2006), which provides detailed guidance to states on fulfilling their obligation. The Committee has recommended prohibition to 170 states across all regions. Its recommendations are echoed by other UN human rights treaty bodies and by regional human rights mechanisms. During the first cycle of the Universal Periodic Review of states' overall human rights records by the Human Rights Council, corporal punishment was raised as an issue in relation to most states, and more than 50 accepted recommendations to prohibit it. To date, recommendations have been made to 12 states in the second cycle, accepted by nine.

Thirty-three states have achieved prohibition in all settings:

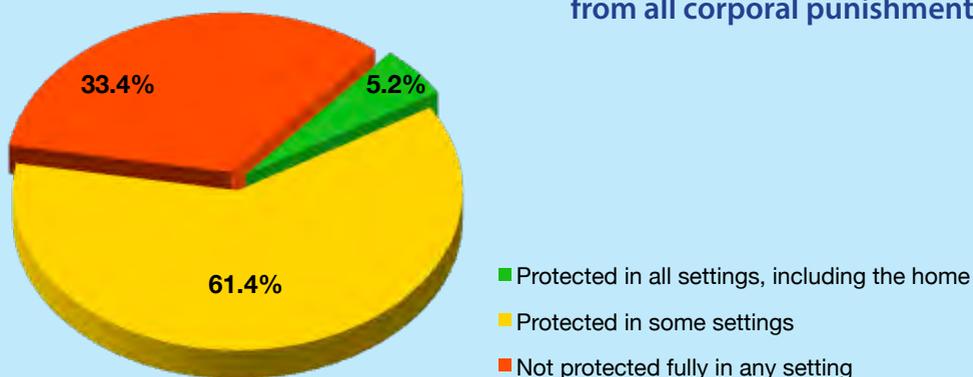
Albania	Luxembourg
Austria	Netherlands
Bulgaria	New Zealand
Congo, Republic	Norway
Costa Rica	Poland
Croatia	Portugal
Cyprus	Republic of Moldova
Denmark	Romania
Finland	South Sudan
Germany	Spain
Greece	Sweden
Hungary	Togo
Iceland	Tunisia
Israel	Ukraine
Kenya	Uruguay
Latvia	Venezuela
Liechtenstein	

"Joining hands together, we can build a world where all children, without discrimination of any kind, are protected by effective legislation and enjoy human rights in a violence free environment."
(Marta Santos Pais, Special Representative of the UN Secretary General on Violence against Children)

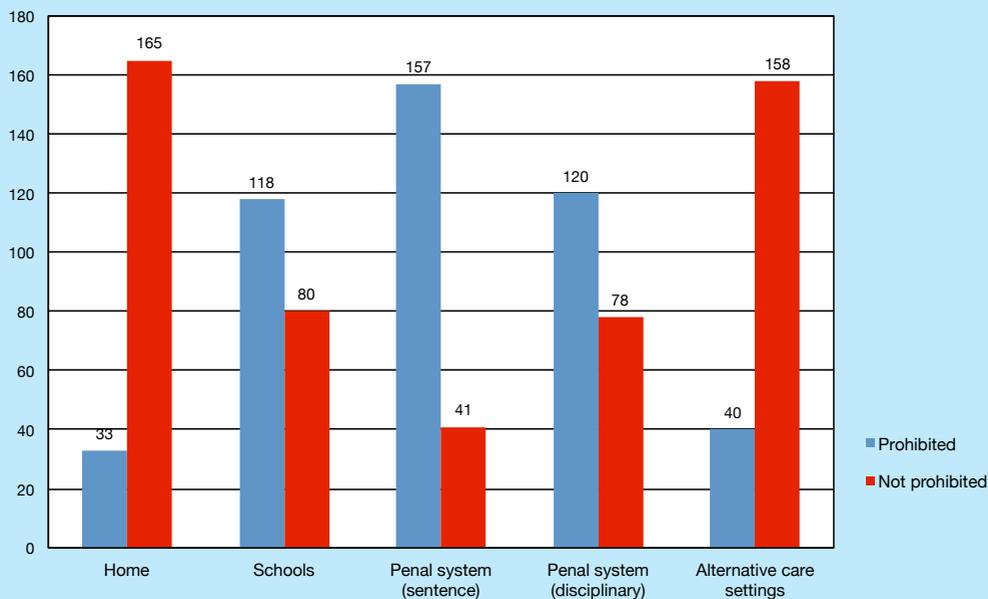


"The IACHR therefore calls on OAS member States to act immediately on the problem of corporal punishment by placing explicit and absolute legal bans on its use in all contexts and, in parallel, by adopting such preventive, educational, and other measures that may be necessary to ensure the eradication of this form of violence, which poses a serious challenge to the wellbeing of children in the Hemisphere."
(Inter-American Commission on Human Rights, 2008, Report on Corporal Punishment and Human Rights of Children and Adolescents)

Percentage of global child population legally protected from all corporal punishment



Number of states prohibiting corporal punishment of children in law



"All States have criminal laws to protect citizens from assault. Many have constitutions and/or legislation reflecting international human rights standards and article 37 of the Convention on the Rights of the Child, which uphold 'everyone's' right to protection from torture and cruel, inhuman or degrading treatment or punishment. Many also have specific child protection laws that make 'ill-treatment' or 'abuse' or 'cruelty' an offence. But ... such legislative provisions do not generally guarantee the child protection from all corporal punishment and other cruel or degrading forms of punishment."

(Committee on the Rights of the Child, General Comment No. 8, 2006)

DELAY

The worst offenders

The human rights imperative to enact legislation explicitly prohibiting corporal punishment of children, wherever they are, is clear. But there are individual governments which resist reform, ignoring repeated recommendations by treaty bodies, rejecting recommendations to prohibit made during the Universal Periodic Review, even openly defending the legality and use of corporal punishment.

In at least 24 states, corporal punishment is not fully prohibited in any setting

Antigua and Barbuda; Barbados; Botswana; Brunei Darussalam; Dominica; Eritrea; Grenada; Guyana; India; Indonesia; Malaysia; Maldives; Mauritania; Nigeria; Pakistan; Palestine; Saudi Arabia; Singapore; Somalia; St Kitts and Nevis; St Vincent and the Grenadines; Tuvalu; United Republic of Tanzania; Zimbabwe

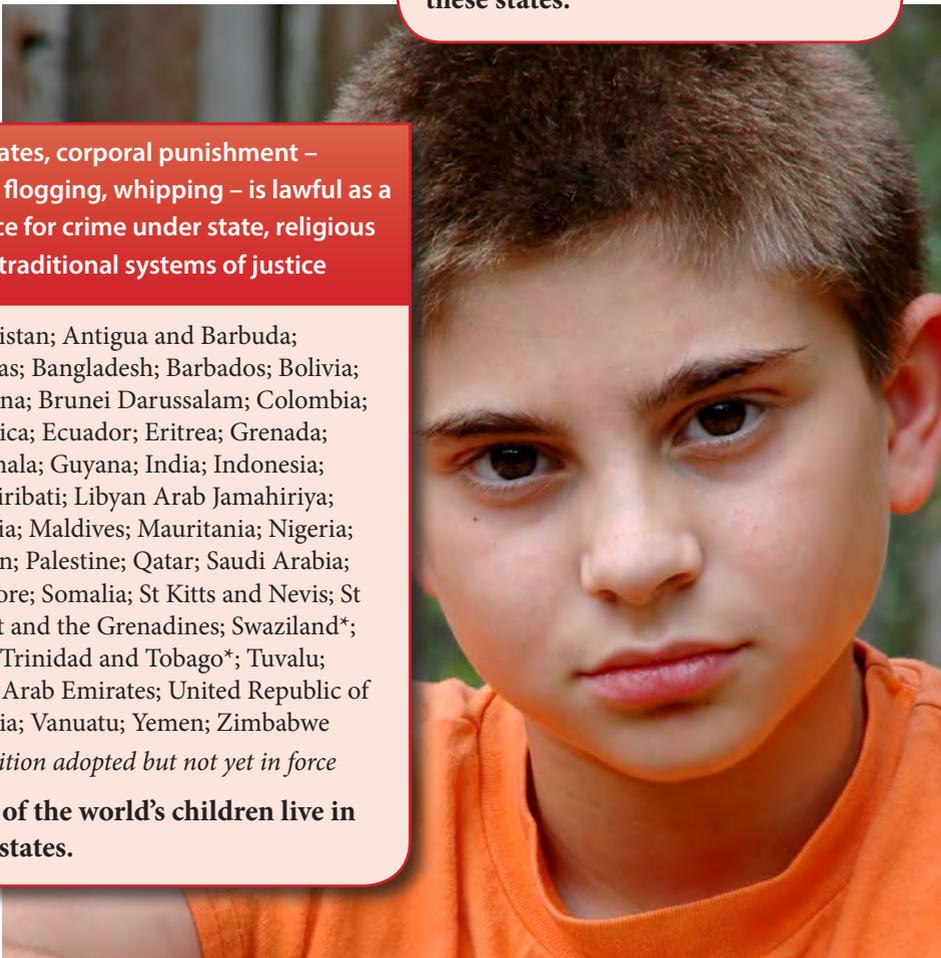
33.4% of the world's children live in these states.

In 41 states, corporal punishment – caning, flogging, whipping – is lawful as a sentence for crime under state, religious and/or traditional systems of justice

Afghanistan; Antigua and Barbuda; Bahamas; Bangladesh; Barbados; Bolivia; Botswana; Brunei Darussalam; Colombia; Dominica; Ecuador; Eritrea; Grenada; Guatemala; Guyana; India; Indonesia; Iran; Kiribati; Libyan Arab Jamahiriya; Malaysia; Maldives; Mauritania; Nigeria; Pakistan; Palestine; Qatar; Saudi Arabia; Singapore; Somalia; St Kitts and Nevis; St Vincent and the Grenadines; Swaziland*; Tonga; Trinidad and Tobago*; Tuvalu; United Arab Emirates; United Republic of Tanzania; Vanuatu; Yemen; Zimbabwe

** Prohibition adopted but not yet in force*

39.9% of the world's children live in these states.





The UN Committee on the Rights of the Child has made recommendations concerning corporal punishment three times to the following states, but they have not yet achieved prohibition in all settings

Algeria; Australia; Bangladesh; Belgium; Bolivia; Czech Republic; DPR Korea; Ethiopia; France; Georgia; Guatemala; Italy; Japan; Lebanon; Myanmar; Nigeria; Pakistan; Panama, Republic of Korea; Sri Lanka; Sudan; Syrian Arab Republic; Thailand; UK

27 states explicitly rejected recommendations to prohibit corporal punishment during the first Universal Periodic Review of their overall human rights record

Albania; Antigua and Barbuda; Australia; Bahamas; Barbados; Belgium; Botswana; Brunei Darussalam; Comoros; Dominica; Eritrea; Ethiopia; Georgia; Italy; Malta; Myanmar; Singapore; St Lucia; St Vincent and the Grenadines; Sudan; Suriname; Swaziland; Trinidad and Tobago; UK; United Arab Emirates; United Republic of Tanzania; Zimbabwe

States defending corporal punishment during the first cycle of the Universal Periodic Review (extracts from the reports of the Working Group):

“corporal punishment is a reasonable act of discipline” (Bahamas)

“it is a legitimate and acceptable form of punishment, as informed by the norms of the society” (Botswana)

“concepts of lawful correction and reasonable chastisement are in no way equivalent to corporal punishment” (Malta)

“corporal punishment was not common and was only conducted as a last resort with strict regulations, guidelines and procedures ... only available for a specified list of serious crimes, and was not lightly imposed” (Singapore)

THE REALITY BEHIND THE STATISTICS



There is a large and still growing body of research which reveals the appalling levels of punitive violence experienced by children worldwide (for full references see www.endcorporalpunishment.org):

- Enormous numbers of children are subjected to painful and humiliating physical punishment in their own homes. A UNICEF study of more than 30 countries found that on average 75% of children experienced physical punishment and/or psychological aggression in the home. On average, 17% of children were subjected to severe punishment – being hit on the head, ears or face or being hit hard and repeatedly. This study focussed on low- and middle-income countries, but similar results are found in states with high-income economies: in a study in Australia, 71% of parents “smacked” their children, while a study in the USA found that 65% of three year olds had been “spanked” in the past month.
- In addition to being hit with hands or objects, children also experience a wide range of other violent, cruel and degrading treatment. For example, research in Egypt found that 28% of children had been punished at home by being shaken, burned, beaten up, choked, smothered or kicked.
- Where school corporal punishment remains legally sanctioned, in many cases it is widespread. The proportion of school students who have experienced physical punishments such as beating is alarmingly high in many states (92% in Botswana, 82% in Nepal, 75% in Jamaica).

The available evidence paints a horrific picture – but given that much of the research relies on reporting by adults it is certain that children’s actual experience is worse. Children especially vulnerable to corporal punishment, such as very young children, disabled children and working children, are among the least likely to be visible in research.

“Children are sick of being called ‘the future’; they want to enjoy their childhood, free of violence, now.”

*(Paulo Sérgio Pinheiro,
Independent Expert who led the
UN Secretary General’s Study on
Violence against Children)*

Inquiries by the Global Initiative suggest that in over 40 states there is no research into corporal punishment of children; in some other states research is minimal. But we know more than enough to demand urgent action in all regions. Children cannot wait for the fulfilment of their right to protection from all violence. Universal prohibition and elimination of all corporal punishment is needed now.

TAKING ACTION

Many states have made a commitment to law reform to prohibit corporal punishment in all settings including the home. Some are actively considering draft legislation which would achieve this. In other states there are developments towards prohibiting corporal punishment in one or more settings outside the home.

Yet there are immediate opportunities for law reform in a great many more states – at least 100 across all regions – as laws relevant to children are being reviewed and revised.

There are active regional campaigns promoting prohibition of all corporal punishment of children. For example, the Council of Europe campaigns for prohibition across its 47 member states (www.coe.int/t/dg3/children/corporalpunishment/) and the South Asia Initiative to End Violence Against Children (www.saievac.info) has launched a campaign for prohibition and elimination of corporal punishment across eight South Asia states which include one quarter of the world's children.

"... 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."

(Supreme Court, Bangladesh, 2011)

"... at this time, so close to the dawn of the 21st century, juvenile whipping is cruel, it is inhuman and it is degrading."

(Constitutional Court, South Africa, 1995)

"Children have rights no wit inferior to the rights of adults.... Our educational institutions should be sanctuaries of peace and creative enrichment, not places of fear, ill-treatment and tampering with the human dignity of students."

(High Court, Fiji, 2002)

Law reform to prohibit corporal punishment means:

- repealing all legal defences, justifications, authorisations and regulations for the use of corporal punishment
- enacting explicit prohibition of all corporal punishment and other cruel and degrading forms of punishment in all settings

Where progress is not being made, stronger advocacy is now required, including legal advocacy. Full use should be made of Constitutional challenges to corporal punishment and direct application of the Convention on the Rights of the Child and other relevant instruments in national courts. There are many examples of national high level court judgments which have led to law reform. Recourse can also be made to regional and international complaints/communications mechanisms, where a state has accepted these. The Global Initiative is currently preparing reports to support legal action in those states which continue to resist prohibition.

For further information and advice on any aspect of this briefing, see www.endcorporalpunishment.org or email info@endcorporalpunishment.org

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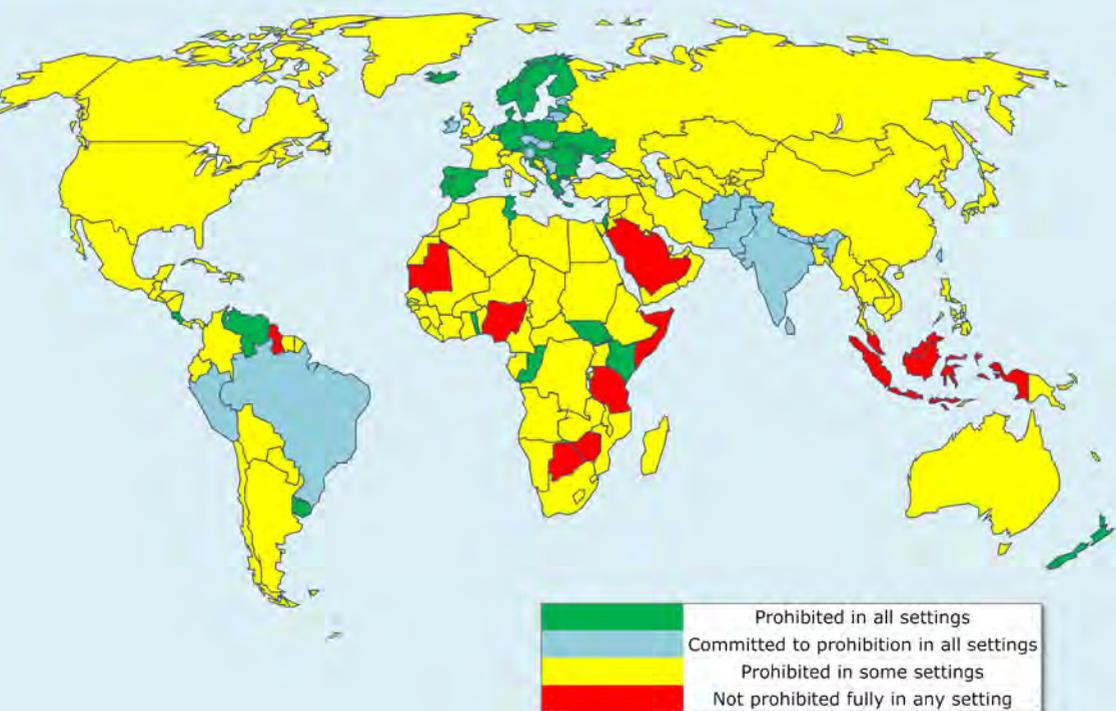
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Compliance with international human rights law – the Convention on the Rights of the Child and other human rights instruments – requires that states prohibit by law all corporal punishment of children in all settings, including the home.

There has been accelerating progress towards law reform, but the pace of reform is still unacceptably slow. Too many governments on the one hand claim to support ending all forms of violence against children while on the other they fail to prohibit violence disguised as discipline or punishment. Some governments claim to have prohibited corporal punishment but scrutiny of the laws shows otherwise.

To date, 33 states have prohibited corporal punishment in all settings including the home – but almost as many (at least 24) do not prohibit corporal punishment in any setting. The majority (139) have prohibited it in one or more settings outside the home (schools, the penal system and/or care settings); 118 have prohibited it in all their schools. This means that only 5.2% of the global child population are currently growing up in countries where they are protected in law from punitive assault by adults.

Prohibition of corporal punishment worldwide (October 2012)



“Addressing the widespread acceptance or tolerance of corporal punishment of children and eliminating it, in the family, schools and other settings, is not only an obligation of States parties under the Convention. It is also a key strategy for reducing and preventing all forms of violence in societies.”

(Committee on the Rights of the Child, General Comment No. 8, 2006)