

Corporal punishment of children in the Ukraine



Global Initiative to
End All Corporal Punishment
of Children

Report prepared by the Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org)

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Child population

7,897,000 (UNICEF, 2015)

Summary of necessary legal reform to achieve full prohibition

Law reform has been achieved. Corporal punishment is prohibited in all settings, including the home.

Detailed country report

Prohibition of corporal punishment

Home

Corporal punishment is prohibited in the home. Article 150(7) of the Family Code 2003 (in force 2004) explicitly prohibits all corporal punishment of children by parents: “Physical punishment of the child by the parents, as well as other inhuman or degrading treatment or punishment are prohibited.” The Law on Protection of Childhood 2001 states in article 10 (“The right to protection from all forms of violence”) (unofficial translation): “... Every child is guaranteed the right to liberty, personal security and dignity. Discipline and order in the family, education and other children’s facilities should be provided on the principles based on mutual respect, justice and without humiliation of the honour and dignity of the child....”

Alternative care settings

Corporal punishment is unlawful in alternative care settings under article 150(7) of the Family Code 2003 and article 10 of the Law on Protection of Children 2001 (see under “Home”).

Day care

Corporal punishment is unlawful in early childhood care and in day care for older children under article 10 of the Law on Protection of Children 2001 (see under “Home”).

Schools

Corporal punishment is unlawful in schools. Article 51(1) of the Law on Education 1991 states that students and other learners have the right “to the protection from any form of exploitation, physical and psychological violence, actions of pedagogical and other employees who violate the rights or

humiliate their honour and dignity”. Article 10 of the Law on Protection of Childhood 2001 also applies (see under “Home”).

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under the Constitution 1996 (arts. 28 and 52) and the Law on Protection of Childhood 2001 (art. 10) though it appears there is no explicit prohibition.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime under the Criminal Code 2001, the Code of Criminal Procedure 1960 and the Constitution 1996 (amended 2004).

Universal Periodic Review of Ukraine’s human rights record

Ukraine was examined in the first cycle of the Universal Periodic Review in 2008 (session 2). No recommendations were made concerning corporal punishment of children.

Examination in the second cycle took place in 2012 (session 14). No recommendations were made concerning corporal punishment of children.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(21 April 2011, CRC/C/UKR/CO/3-4, Concluding observations on third/fourth report, paras. 41 and 42)

“The Committee is deeply concerned about the significant number of allegations of physical ill-treatment of detainees, including children, notably during initial questioning in district police stations. In particular, the Committee is gravely concerned at alleged cases of torture and ill-treatment of juveniles by *Militsia* officers to extract confessions and of migrant children while in the custody of the Ukraine State Border Guard Services. The Committee is further concerned at reports of widespread use of corporal punishment in the home, despite its prohibition in the home, in schools, the penal system and alternative care settings. In this context, the low level of awareness and understanding among children and among the public about children’s rights and about the prohibition of such acts is of serious concern to the Committee.

“The Committee urges the State party to take all necessary measures to prevent and eliminate torture and all forms of ill-treatment of children, and, in particular: ...

e) to end all forms of corporal punishment in the home and other settings by ensuring effective implementation of the existing legislative prohibition, including through awareness-raising campaigns and public education promoting positive and non-violent child-rearing.”

Committee on the Rights of the Child

(9 October 2002, CRC/C/15/Add.191, Concluding observations on second report, paras. 41 and 42)

“The Committee welcomes the new Protection of Domestic Violence Act 2001, but remains concerned that it has not yet been implemented.

“The Committee recommends that the State party:

- a) conduct a study to assess the nature and extent of ill-treatment, abuse and neglect of children in the home, and design policies and programmes to address them;
- b) establish effective procedures and mechanisms to receive, monitor, and investigate complaints, including intervening where necessary, and investigate and prosecute instances of ill-treatment and all forms of domestic violence, including corporal punishment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected....
- d) take into consideration the recommendations of the Committee adopted at its days of general discussion on violence against children (CRC/C/100, para.688 and CRC/C/111, paras.701-745).
- e) carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment.”

Committee on the Rights of the Child

(27 November 1995, CRC/C/15/Add.42, Concluding observations on initial report, paras. 14 and 29)

“The Committee regrets that appropriate measures have not yet been taken to effectively prevent and combat ill-treatment of children in schools or in institutions where children may be placed. The Committee is also preoccupied by the existence on a large scale of child abuse and violence within the family and the insufficient protection afforded by the existing legislation and services in that regard. The problem of sexual exploitation of children also requires special attention....

“The Committee further suggests that the clear prohibition of torture or other cruel, inhuman or degrading treatment or punishment, as well as a ban on corporal punishment in the family, be reflected in the national legislation. The Committee also suggests the development of procedures and mechanisms to monitor complaints of maltreatment and cruelty within or outside the family....”

European Committee of Social Rights

(January 2016, Conclusions 2015)

“The Committee notes from the Global Initiative to End Corporal Punishment that corporal punishment is prohibited in all settings – in the home, in schools and in institutions.”

European Committee of Social Rights

(January 2012, Conclusions 2011)

“According to the report, legislation prohibits violence against children and corporal punishment. Article 52 of the Constitution states that ‘any violence against a child or his or her exploitation shall be prosecuted by law’. According to Article 28 of the Constitution no person shall be subjected to torture, cruel behaviour or behaviour humiliating dignity, or punishment.

“Corporal punishment is prohibited in the home under the *Law on Prevention of Domestic Violence of 2001*. The *Law on Protection of Childhood of 2001* prohibits all sorts of violence (physical and psychological) and exploitation of children including that inflicted by parents. Article 150 of the Family Code 2003 in force as of 2004 prohibits all corporal punishment of children by parents.

“The Committee notes from another source that corporal punishment is also unlawful in schools. Article 51(1) of the Law on Education (1991) states that students and other learners have the right ‘to

the protection from any form of exploitation, physical and psychological violence, actions of pedagogical and other employees who violate the rights or humiliate their honour and dignity'. Article 126(1) of the Criminal Code specifically penalises domestic violence against children: this provision does not include psychological violence.

According to the same source, in practice corporal punishment continues to be used. The Committee notes from UNICEF statistics that 70% of children aged 2-14 experienced physical punishment and/or psychological aggression in 2005-2006. The Committee asks for updated information on the scale of the problem and what measures have been taken to eliminate corporal punishment in practice.

...

"Pending receipt of the information requested [concerning prison sentences and young offenders], the Committee defers its conclusion."

Prevalence/attitudinal research in the last ten years

According to UNICEF statistics collected in 2012, 61% of children aged 2-14 experienced "violent discipline" (physical punishment and/or psychological aggression) in the home in the month prior to the survey. Thirty per cent experienced physical punishment and 57% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted). A smaller percentage (11%) of mothers and caregivers thought that physical punishment was necessary in childrearing.

(UNICEF (2014), *Hidden in Plain Sight: A statistical analysis of violence against children*, NY: UNICEF)

A study involving 1,000 people aged 15 and over found that 41% thought corporal punishment should never be used: 72% of parents said they had "smacked" their child, 20% had beaten or hit them, 29% had beaten them with a belt and 29% had slapped them in the face.

(Nobody's Children Foundation (2013), *The Problem of Child Abuse: Comparative Report from Six East European Countries 2010-2013*, Warsaw: Nobody's Children Foundation)

A 2009 survey of 213 teachers in primary schools in Kiev found that 74% believed corporal punishment is humiliating for the child and means that "the parents are not good at rearing children"; 76% felt the use of "spanking" as a punishment would justify intervention by a third party.

(Child Well Being Fund Ukraine and Nobody's Children Foundation (2009), *Kiev teachers' attitudes toward child abuse* www.canee.net/files/Teachers%20studies%20Ukraine%202009.pdf. Part of the Childhood Without Abuse project, which includes studies carried out in Bulgaria, Lithuania, Latvia, Macedonia, Moldova, Poland, and Ukraine in 2005 and 2009)

Over a third (35%) of respondents to a 2009 survey of 1,501 parents aged over 25 believed corporal punishment should never be used, 51% said corporal punishment "should not be used in general but in certain situations it is justified", and 12% said corporal punishment "could be used"; 54% believed corporal punishment was experienced by more than 50% of children in Ukraine.

(Child Well Being Fund Ukraine (2009), *Public opinion monitoring in Ukraine: July 2009* www.canee.net/files/Omnibus%20research%20Ukraine%202009.pdf. Part of the Childhood Without Abuse project, which includes studies carried out in Bulgaria, Lithuania, Latvia, Macedonia, Moldova, Poland, and Ukraine in 2005 and 2009)

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