



Global Initiative to
**End All Corporal Punishment
of Children**

MONGOLIA – COUNTRY REPORT

Summary of necessary legal reform to achieve full prohibition

Settings where explicit prohibition is necessary

home, penal institutions, alternative care settings

Is there a legal defence for corporal punishment which must be repealed?

No – there appears to be no defence of “reasonable chastisement” or similar enshrined in legislation, but the legal protections from violence and abuse in the Family Law, the Law on the Protection of the Rights of the Child, the Domestic Violence Act, the Law on Crime Prevention and the Criminal Code are not interpreted as prohibiting all corporal punishment. The near universal social acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment is acceptable. Explicit prohibition should be enacted of all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults have authority over children.

Other legislative measures necessary

Penal institutions – explicit prohibition of corporal punishment as a disciplinary measure should be enacted in legislation applicable to all institutions accommodating children in conflict with the law.

Alternative care settings – explicit prohibition should be enacted in legislation applicable to all alternative care settings, including public and private day care, residential institutions, foster care, etc.

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment is lawful in the home. Provisions against violence and abuse in the Family Law (1999), the Law on the Protection of the Rights of the Child (1996, amended 2003), the Domestic Violence Act (2004), the Law on Crime Prevention (1997) and the Criminal Code (amended 2002), are not interpreted as prohibiting all corporal punishment in childrearing.

The Family Law is under review, with revisions due for consideration in Parliament by 2010. Proposals have been made to include prohibition of corporal punishment. The Criminal Code was also being revised in 2009, and there are plans to revise the Law on the Protection of the Rights of the Child.

Schools

Corporal punishment is prohibited in schools by amendments to the Education Law passed in December 2006.

Penal system

Corporal punishment is unlawful as a **sentence for crime**. It is not a permitted punishment under the Criminal Code and the Criminal Procedure Code.

There is no explicit prohibition in legislation of corporal punishment as a **disciplinary measure** in penal institutions.

Alternative care

There is no explicit prohibition of corporal punishment in alternative care settings. Proposals have been made to prohibit corporal punishment in care institutions in the revised Family Law.

Prevalence research

A 2005 study of nearly 600 children on corporal punishment in schools found that only 12 had not been subjected to any form of punishment; 71.1% reported being beaten at school and 41.9% reported experiencing verbal abuse. The figures were higher for children from children's institutions (85.1% reported being beaten, 38.8% subjected to verbal abuse, 38.8% slapped and 26% hit with rubber batons and subjected to harsh physical experiences and labour). Over two thirds of these children (68%) reported that children are constantly subjected to punishment in the children's institutions. The survey also found a high prevalence of corporal punishment at home; 42.3% of 10-11 and 14-15 year olds reported being regularly punished at home; 67.4% of rural children reported being constantly beaten at home.¹

According to statistics from UNICEF on violence in the family, 79% of children aged 2-14 experienced physical punishment and/or psychological aggression in 2005-2006: 37% experienced

¹ Save the Children UK/Gender Center for Sustainable Development (2005), *Corporal Punishment of Children: Views of children in some schools, kindergartens and institutions: Summary report*

physical punishment and psychological aggression, 42% experienced psychological aggression only and 1% experienced physical punishment only; boys were more likely than girls to be physically punished (42% compared with 34%). Disabled children were more likely to experience harsh discipline: 47% of disabled children aged 2-9 were hit on the face, head or ears, hit repeatedly or hit hard, compared with 40% of non-disabled children. Of girls and women aged 15-49, 20% think that a husband is justified in hitting or beating his wife under certain circumstances.²

Large scale comparative research into the views and experiences of 3,322 children and 1,000 adults in 8 countries in Southeast Asia and the Pacific (Cambodia, Fiji, Hong Kong, Indonesia, Mongolia, Philippines, Republic of Korea and Viet Nam) was carried out by Save the Children in 2005. The research in Mongolia involved 607 children from urban, semi-urban and rural areas, and 40 adults. Methods used included research diaries, drawings, body maps, attitude survey, sentence completion, and discussions. Physical punishments mentioned by children in Mongolia included slapping, hitting with implements, forcing to the ground, bearing with a rubber baton, pinching, grabbing, pulling hair, scratching. Children in institutions in Mongolia mentioned the following punishments: adults stomping on their stomachs, being forced to the ground, having to stand in the hot sun, being hit with a rubber baton. The prevalence of punishment was given as direct assault (hitting) for children aged 10-13 years 45.6%, other direct assault 5%, indirect assault 9%, deliberate neglect 1.2, verbal attack 33.8%. Of those from urban areas who were hit, 70.4% were hit with an implement, 21.4% were slapped with the hand, 8.2% kicked. The study included 55 children in institutions, with 25% reporting punishments such as being beaten with a rubber truncheon and having to maintain uncomfortable positions for long periods of time. Reasons for punishment were given mainly as failure of behaviour (30% home, 22% school) and failure of obedience (60% home, 46% school).³

In a study reported in 2003, a survey found that 89% of parents and 74% of children agreed that violence is practised against children in families.⁴

A comparative study of 10,073 children aged 9-17 years across East Asia and the Pacific by UNICEF and Research International Asia (Thailand) in 2001 found that 7% of those surveyed in Mongolia reported having been beaten by their parents. The reason for children finding it difficult to talk to teachers was given by 9% of the children as because the teachers “beat them”.⁵

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(29 January 2010, CRC/C/MNG/CO/3-4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 8, 37, 38, 41, 59 and 60)

“The Committee urges the State party to take all necessary measures to address those recommendations from previous concluding observations that have been partially or not at all implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations, notably those related to ... corporal punishment....

² UNICEF (2009), *Progress for Children: A report card on child protection*, NY: UNICEF ; see also National Statistical Office/UNICEF (2007), *Mongolia “Child and Development 2005” survey (MICS-3), Final Report*, Ulaanbaatar, Mongolia

³ Beazley, H., S. Bessell, et al. (2006), *What Children Say: Results of comparative research on the physical and emotional punishment of children in Southeast Asia and Pacific, 2005*, Stockholm, Save the Children Sweden

⁴ Sandvik-Nylund (2003), *Regional Assessment: Violence against children in East Asia and the Pacific region*, Bangkok: UNICEF. Cited in Nogami, N. (2005), *Discipline and punishment of children: a rights-based review of laws, attitudes and practices in East Asia and the Pacific - Save the Children Sweden Southeast Asia and the Pacific, regional submission to the UN Secretary General's Global Study on Violence against Children*, Stockholm, Save the Children Sweden

⁵ UNICEF (2001), *Speaking Out! Voices of Children and Adolescents in East Asia and the Pacific*

“The Committee notes the efforts being taken to address corporal punishment of children in the context of disciplinary measures but reiterates its concern that corporal punishment is observed extensively in all settings of children’s lives.

“The Committee urges the State party to introduce and enforce legislation to prevent and end all forms of corporal punishment of children as a method of discipline in all settings, including in the family and the alternative childcare system. Furthermore, the Committee recommends that the State party conduct public education, awareness-raising, and social mobilization campaigns with the involvement of children, in order to change public attitudes of corporal punishment and to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28, paragraph 2, and taking into account the Committee’s general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/2006/8, 2006).

“The Committee reiterates its recommendation to the State party (2005, para. 34) to provide, to the extent possible, the necessary support to parents and families in need and to develop policies and educational programmes which promote non-violent, positive discipline methods. The Committee also recommends that the State party: ...

b) adopt the amendment to the Family Code....

“The Committee ... notes with concern the persistence of corporal punishment or psychological pressure in educational institutions....

“In light of article 28 and other relevant provisions of the Convention, and taking into account its general comment 1 (2001) on the aims of education the Committee recommends that the State party: ...

f) strengthen the understanding of children’s rights among professionals working with children, parents, children and the general public promoting educational methods that encourage positive, non-violent forms of discipline, foster positive attitudes towards children of professional working with them, especially teachers, and raise awareness against emotional violence....”

Committee on the Rights of the Child

(21 September 2005, CRC/C/15/Add.263, Concluding observations on second report, paras. 29 and 30)

“The Committee is concerned that corporal punishment of children remains socially acceptable in Mongolia and it is still practised in families and also in places where it has been formally prohibited, such as schools and other institutions. It further notes with concern that Mongolian legislation does not expressly prohibit corporal punishment in the family.

“The Committee urges the State party to prevent and combat the practice of corporal punishment of children in the family, in schools and other institutions and to explicitly prohibit by law corporal punishment in the family. The Committee recommends that the State party introduce public education and awareness-raising campaigns with the involvement of children on alternative non-violent forms of discipline in order to change public attitudes about corporal punishment and to strengthen its cooperation with the non-governmental institutions in this respect.”

Committee Against Torture

(20 January 2011, CAT/C/MNG/CO/1, Concluding observations on initial report, para. 23)

“The Committee is concerned at information about the high prevalence of corporal punishment of children in schools, children’s institutions and in the home, in particular in rural areas (art. 16).

The State party should take urgent measures to explicitly prohibit corporal punishment of children in all settings. The State party should also ensure, through appropriate public education and professional training, positive, participatory and non-violent forms of discipline.”

Human Rights Committee

(25 March 2011, CCPR/C/MNG/CO/5 Advance Unedited Version, Concluding observations on fifth report, para. 19)

“While taking note of the prohibition of corporal punishment under the Education Law, the Committee is concerned about the continual practice of corporal punishment in all settings (art. 7).

The State party should take practical steps to put an end to corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment, and should conduct public information campaigns to raise awareness about its harmful effects.”

Universal Periodic Review

Mongolia was examined under the Universal Periodic Review process in 2010. The Government accepted the recommendations to prohibit corporal punishment of children.⁶

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⁶ 9 November 2010, A/HRC/WG.6/9/L.3, *Draft report of the Working Group on the Universal Periodic Review: Mongolia*, paras. 84.15 and 84.18