



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

POLAND – COUNTRY REPORT

Summary of necessary legal reform to achieve full prohibition

Corporal punishment is prohibited in all settings, including the home.

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment is prohibited in the home. Article 2 of the Law of 6 May 2010 “On the Prevention of Family Violence” amended the Family Code (1964) by inserting a new article 96 which prohibits all corporal punishment in childrearing: “Persons exercising parental care, care or alternative care over a minor are forbidden to use corporal punishment, inflict psychological suffering and use any other forms of child humiliation” (Unofficial translation). The new law was signed by the President on 18 June 2010 and came into force on 1 August.

Schools

Corporal punishment is prohibited in schools under article 40 of the Constitution (1997) which states: “No one may be subjected to torture or cruel, inhuman, or degrading treatment or punishment. The application of corporal punishment shall be prohibited.” A Regulation of the Minister of National Education and Sport on the framework statutes of public schools (2001) states that “penalties which inflict bodily harm or offend the personal dignity of the student are prohibited”.

Penal system

Corporal punishment is unlawful as a **sentence for crime** under article 40 of the Constitution (see above). It is not a permitted sentence under the Criminal Code or the Act on proceedings in juvenile cases (1982, amended 2000).

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions under article 40 of the Constitution (see above). Ministerial Regulations issued in 2001 determine the circumstances under which limited methods of coercion may be applied to juveniles in shelters and reform institutions, and prohibit direct coercive measures as a form of punishment.

Alternative care

Corporal punishment is unlawful in alternative care settings under article 40 of the Constitution and article 2 of the Law “On the Prevention of Family Violence” (see above).

Prevalence research

A 2009 survey of 189 teachers in primary schools in Warsaw found that 75% believed corporal punishment is humiliating for the child and 71% believed it means “the parents are not good at rearing children”; 36% felt that the use of “spanking” as a punishment would justify intervention by a third party, in comparison to 20% in a similar survey in 2005. On average, respondents in 2009 estimated that 61% of children in Poland experience “spanking” as punishment, compared to an average estimate of 72% in 2005. Of 1,000 respondents to a 2009 nationwide study, 38% believed that corporal punishment should not be used, compared to 35% in 2005.¹

¹ Nobody’s Children Foundation (2009), *Warsaw teachers’ attitudes toward child abuse: research report*. 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

A nationwide survey of adults published in 2001 found that 80% reported experiencing beatings in the home as children, by parents or guardians, more commonly for men than for women. The higher the level of education of respondents, the less often they had experienced physical punishment and the less frequently they used corporal punishment on their own children. Corporal punishment was most often reported as being used on children aged 7-14. Almost half the respondents (48%) believed corporal punishment by parents should be banned. One fifth (20%) had also experienced corporal punishment by teachers.²

In 2001, the State Agency for Prevention of Alcohol Related Problems (PARPA) commissioned attitudinal research on childrearing. The survey of 1,116 people aged above 15 years found that more than half (54%) considered beating children with a belt acceptable, and 77% felt it was acceptable to shout at and threaten children. Just under half (44%) agreed that children are the property of their parents; 24% agreed with the statement “a child should be afraid of his/her parents, and there is no upbringing without beating”; 30% agreed with “the severe upbringing makes a child stronger and is beneficial for the child”; and 27% agreed with “children deserve corporal punishments”.³

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(30 October 2002, CRC/C/15/Add.194, Concluding observations on second report, paras. 34 and 35)

“The Committee notes the establishment of the ‘Blue Card’ programme to address family violence, but is concerned that child abuse, and violence in the home and in schools, remain a problem in the State party.... Furthermore, the Committee is concerned that corporal punishment is widely practised in the home, in schools and other institutions, such as prisons, and in alternative care contexts.

“The Committee recommends that the State party:

- d) expressly prohibit corporal punishment in the home, schools and all other institutions;
- 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

(15 January 1995, CRC/C/15/Add.31, Concluding observations on initial report, paras. 18 and 30)

“The Committee regrets that appropriate measures have not yet been taken to effectively prevent and combat corporal punishment and 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 in that regard....

“The Committee further suggests that the clear prohibition of torture or other cruel, inhuman or degrading treatment or punishment, as well as the ban on corporal punishment in the family, be reflected in the national legislation. In this field, the Committee also suggests the development of procedures and mechanisms to monitor complaints of maltreatment and cruelty within or outside the family. Moreover, special programmes should be set up to promote physical and psychological recovery and social reintegration of children victims of any form of neglect, abuse, exploitation, torture or ill-treatment in an environment which fosters the health, self-respect and dignity of the child.”

² Fluderska, G. & Sajkowska, M. (2001), *The Problem of Child Abuse in Poland: Attitudes and Experiences*, Warsaw: Nobody's Children Foundation

³ Reported in Government Response to UN Study on Violence Against Children Questionnaire, May 2005

Human Rights Committee

(29 July 1999, CCPR/C/79/Add.110, Concluding observations on fourth report, para. 25)

“The Committee welcomes the abolition by law of corporal punishment in schools; it is concerned, however, that this change in the law is not fully being implemented (arts.7 and 24).”

European Committee of Social Rights

(March 2005, Conclusions XVII-2)

“In its previous conclusion the Committee noted that Ministerial Regulations prohibit corporal punishment of children in public schools. It asked about the situation in private schools and in institutions. The report is not clear on this. The Committee therefore repeats its request for this information.

“The Committee recalls that Article 17 requires a prohibition in legislation against any form of violence against children, whether at school, in other institutions, in their home or elsewhere. It considers that any other form of degrading punishment or treatment of children must be prohibited in legislation and combined with adequate sanctions in penal or civil law. The Committee notes that since corporal punishment is still socially accepted and there is no legislation prohibiting corporal punishment of children in the home, this situation cannot be considered to be in conformity with the Charter.

...

“The Committee concludes that the situation in Poland is not in conformity with Article 17 of the Charter on the grounds that:

- corporal punishment in the home is not prohibited....”

European Committee of Social Rights

(30 September 2003, Conclusions XVI-2, page 658)

“Ministerial Regulations prohibit the corporal punishment of children in public schools. The Committee requests information about the situation in private schools and in institutions; it notes that the corporal punishment of children in the home is not prohibited. Therefore, the situation is not in conformity with the Charter in this respect....

“The Committee concludes that the situation in Poland is not in conformity with Article 17 of the Charter on the following grounds:

- corporal punishment of children in the home is not prohibited....”

European Committee of Social Rights

(1 January 2001, Conclusions XV-2 vol. 2, pages 465-470)

“The Committee wishes to know whether legislation prohibits all forms of corporal punishment of children, in schools, in institutions, in the home and elsewhere....

“Pending the receipt of the information requested, the Committee defers its conclusion.”

Universal Periodic Review

Poland was examined under the Universal Periodic Review process in 2008. In response to a recommendation to prohibit corporal punishment of children, the Government noted its intention to enact a complete ban. Full prohibition was achieved in 2010.

Report prepared by the Global Initiative to End All Corporal Punishment of Children

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