



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

## **REPUBLIC OF KOREA – COUNTRY REPORT**

### **Summary of necessary legal reform to achieve full prohibition**

#### ***Settings where explicit prohibition is necessary***

home, schools, penal institutions, alternative care settings

#### ***Is there a legal defence for corporal punishment which must be repealed?***

There appears to be no explicit confirmation in legislation of a “right” of parents and guardian to inflict corporal punishment on their children, but legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing. The near universal acceptance of corporal punishment as a method of “disciplining” children necessitates clarity in law that no kind or degree of such punishment is lawful or acceptable. Explicit prohibition should be enacted of all corporal punishment of children by all adults with authority over them.

#### ***Other legislative measures necessary***

*Schools* – Explicit prohibition should be enacted of all corporal punishment in all schools, including so-called “indirect” punishments involving painful positions etc.

*Penal institutions* – Explicit prohibition of corporal punishment should be enacted in legislation applicable to all institutions accommodating children in conflict with the law.

*Alternative care settings* – Explicit prohibition should be enacted of all corporal punishment in all alternative care settings, including public and private day care, residential care, foster care, etc.

# DETAILED COUNTRY REPORT

## Legality of corporal punishment

### Home

Corporal punishment is lawful in the home. There appears to be no explicit confirmation in law of a “right” of parents and guardian to inflict corporal punishment on their children, although article 20 of the Criminal Code states that an action which does not violate “social rules” is not punishable. Provisions against violence and abuse in the Juvenile Protection Act (1997), the Framework Act on Juveniles (2004), the Juvenile Welfare Support Act (2004), the Child Welfare Act (amended 2011), the Criminal Code, the Special Act on Punishment of Domestic Violence (1998), the Act on Prevention of Domestic Violence and Protection, etc of Victims Thereof (1997) and the Constitution (1987) are not interpreted as prohibiting corporal punishment in childrearing. The Child Welfare Act was reportedly revised in 2008 to provide for parent education on non-violent discipline and was further revised in 2011, but we have no details (Third/fourth report to the Committee on the Rights of the Child, 2009, and the Committee’s concluding observations, 2011).

### Schools

It appears that some but possibly not all forms of corporal punishment are prohibited in schools (information unconfirmed). Article 12 of the Framework Act on Education (2008) states that the “fundamental human rights of learners including students shall be respected and protected in the process of school education or social education”, and article 18 of the Elementary and Secondary Education Act (2008) states that the founders and operators of schools and the heads of schools “shall guarantee the students’ human rights clearly as defined by the Constitution and international human rights treaty”. The Elementary and Secondary Education Act also states in article 18 that a head of school may discipline a student under conditions “as deemed necessary for education”. According to the Government’s written replies to the Committee on the Rights of the Child in 2011, article 31(8) of the Enforcement Decree for the Act, which permitted corporal punishment in certain circumstances, was amended in 2011 to explicitly prohibit corporal punishment “using parts of the human body or a tool to cause physical pain to students”. We have yet to confirm that prohibition applies to all forms of corporal punishment: there was some controversy during 2010 and 2011 concerning the distinction between direct and “indirect” corporal punishment (painful positions, punitive physical exercise, etc). According to media reports in January 2011, the Ministry of Education, Science and Technology has issued guidelines which allow indirect corporal punishment.

### Penal system

Corporal punishment is unlawful as a **sentence for crime**. There is no provision for judicial corporal punishment in the Criminal Code, the Criminal Procedure Code (1954), and the Juvenile Act (1988).

Corporal punishment is considered unlawful as a **disciplinary measure** in penal institutions, though there is no explicit prohibition. The Training School Act (Juvenile Reformatory Act) and the Act on Execution of the Sentence and Treatment of Prisoners do not include corporal punishment among permissible disciplinary measures.

### Alternative care

Corporal punishment is lawful in alternative care settings. The Ministry of Health and Welfare is reportedly to draft laws prohibiting physical punishment and emotional abuse in day care centres,

following the disclosure of several cases of child abuse in the centres, including cases leading to the child's death.

## **Prevalence research**

Government research into corporal punishment at middle and high schools showed a decline in prevalence, with 6% experiencing it in 2006 compared with 40% in a similar survey by the Korean Teachers and Education Workers' Union in 2000. The research surveyed 1,160 students at 40 schools, 533 parents and 262 teachers. When asked if teachers listened to the student's side of the story before giving the punishment, 89% of teachers said "yes" while 88% of students and 92% of parents answered "no". Corporal punishment is given when students do not obey school rules, e.g. not finishing homework or being late or absent from class. (Reported in *The Korea Herald*, 26 January 2007)

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 Republic of Korea involved 152 children (69 boys, 83 girls) from urban areas and 175 adults (32 men and 143 women). Methods used included research diaries, drawings, body maps, attitude survey, sentence completion, and discussions. Physical punishments mentioned by children in Republic of Korea included slapping, whipping, beaten with a broomstick, punching, kicking, pinching, ear pulling. In terms of the settings in which children experienced punishment, the research found that in the home 97.4% of children experienced physical punishment, 3% emotional punishment, while in school 93.6% experienced physical punishment and 6% emotional. Punishment in the home comprised 61% of all punishments, followed by school, then after-school learning centres, playgrounds, and other locations (street, friends' houses, welfare centres). Punishment is most commonly inflicted by parents (45%), teachers (24%) and other relatives (20%). In response to the statement "After I punish a child I feel unhappy", 16.6% of adults disagreed, 65.1% agreed, and 18.3% had no opinion. (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)

In a nationwide survey of 3,228 students conducted by the Korean Federation of Teachers Association in April 2003, 70% said that corporal punishment given by their teachers was fair but that it should be limited to severe cases of insubordination. Students said teachers should not abuse the right to punish students. (Reported in *Joong Ang Daily*, 14 May 2003)

## **Recommendations by human rights treaty bodies**

### *Committee on the Rights of the Child*

(6 October 2011, CRC/C/KOR/CO/3-4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 6, 7, 42 and 43)

"The Committee welcomes the efforts made by the State party to address some of the concerns and recommendations (CRC/C/15/Add.197, 18 March 2003) made upon consideration of the State party's second report (CRC/C/70/Add.14, 26 June 2002) and on the initial reports under the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (CRC/C/OPSC/KOR/CO/1, 2008) and the Optional Protocol on the Involvement of Children in Armed Conflict (CRC/C/OPAC/KOR/CO/1, 2008). Nevertheless, the Committee regrets that some of its concerns and recommendations have been insufficiently or not been addressed at all.

"The Committee urges the State party to take all necessary measures to address the recommendations from the concluding observations on its second periodic report which have not yet been implemented,

particularly those related to establishing a subcommittee on children's rights inside the National Human Rights Commission of Korea; the comprehensive prohibition of corporal punishment; and, reviewing its education policy with a view to reducing the high levels of stress it subjects children to.

“The Committee reiterates its previous concerns (CRC/C/15/Add.197, para. 38) on the continued prevalence of corporal punishment in the domestic, school, and alternative care context.

“The Committee reiterates its previous recommendation to:

- a) implement the recommendation of the National Human Rights Commission that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions;
- b) carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes to corporal punishment, and promote positive, non-violent forms of discipline in schools and at home, including the pilot green mileage system as an alternative to corporal punishment in school;
- c) establish mechanisms which allow for children who are victims of corporal punishment to report such incidents.”

#### *Committee on the Rights of the Child*

(18 March 2003, CRC/C/15/Add.197, Concluding observations on second report, paras. 7, 38 and 39)

“The Committee regrets that most recommendations in the concluding observations (CRC/C/15/Add.51), adopted following its consideration of the State party's initial report (CRC/C/8/Add.21), have been insufficiently addressed, particularly those regarding:

- d) the prohibition of all forms of corporal punishment (para. 22)....

“The Committee notes with great concern that corporal punishment is officially permitted in schools. The Committee is of the opinion that corporal punishment does not conform with the principles and provisions of the Convention, particularly since it constitutes a serious violation of the dignity of the child (see similar observations of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.79, para. 36 [re UK]). The fact that the Ministry of Education guidelines leave the decision on whether to use corporal punishment in schools to the individual school administrators suggests that some forms of corporal punishment are acceptable and therefore undermines educational measures to promote positive, non-violent forms of discipline.

“The Committee recommends that the State party:

- a) implement the recommendation of the National Human Rights Commission that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions;
- b) carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes to corporal punishment, and promote positive, non-violent forms of discipline in schools and at home as an alternative to such punishment.”

#### *Committee on the Rights of the Child*

(13 February 1996, CRC/C/15/Add.51, Concluding observations on initial report, paras. 15 and 22)

“... With regard to child abuse and domestic violence, the Committee is concerned at the lack of preventive policies and of adequate reporting mechanisms. Abandonment of children, the high rate of child headed families and the persistence of corporal punishment, widely envisaged by parents and teachers as an educational measure, are other subjects of concern to the Committee.

“... The Committee particularly recommends that legislative measures be adopted with a view to ... clearly prohibiting any form of corporal punishment....”

## **Universal Periodic Review**

The Republic of Korea was examined in the first cycle of the Universal Periodic Review in 2008. In response to recommendations to prohibit corporal punishment of children, the Government stated that the issue would be kept under review (A/HRC/8/40, Report of the Working Group, para. 58; A/HRC/8/40/Add.1, Report of the Working Group: Addendum). Examination in the second cycle is scheduled for 2012.

*Report prepared by the Global Initiative to End All Corporal Punishment of Children*  
[www.endcorporalpunishment.org](http://www.endcorporalpunishment.org); [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)  
*October 2011*