

# Corporal punishment of children in the Democratic People's Republic of Korea

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Child population 6,486,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal  
Punishment of Children**

## Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings, day care and possibly schools; the prohibition in penal institutions and as a sentence for crime requires confirmation.

There appears to be no confirmation in law of a “right” of parents to administer “reasonable” or “moderate” punishment on their children, but there is no clear prohibition of all corporal punishment in childrearing. The near universal acceptance of a certain degree of violence in childrearing means that corporal punishment is typically not considered as violence or abuse. Prohibition should be enacted of all forms of corporal punishment by all persons with responsibility for the care and upbringing of children.

*Alternative care settings* – Corporal punishment should be prohibited in all alternative care settings (foster care, institutions, orphanages, places of safety, emergency care, etc).

*Day care* – Corporal punishment should be prohibited in all early childhood care (nurseries, preschools, crèches, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding).

*Schools* – Government policy is said to be against the use of corporal punishment in schools. It is imperative that this be confirmed in legislation, which should clearly prohibit all corporal punishment in all education settings, including public and private schools, schools of a religious nature, full and part time institutions, etc.

*Penal institutions* – Corporal punishment is said to be unlawful in penal institutions. Confirmation is required that prohibition is to be found in the law, not only policy, and that it applies to all institutions accommodating children in conflict with the law.

*Sentence for crime* – Judicial corporal punishment is unlawful but confirmation is required that “public education” measures for 15-16 year olds may not entail corporal punishment.

## **Current legality of corporal punishment**

### **Home**

Corporal punishment is lawful in the home. Provisions protecting children from violence and abuse in the Family Law 1990 (amended 2004), the Criminal Law 1974 (amended 2011), the Law on Nursing and Upbringing of Children 1976 and the Law on the Protection of Women's Rights 2010 do not prohibit all corporal punishment in childrearing. The Law on the Protection of Children's Rights 2010 reportedly states in article 43 that "children shall not be subject to abuse, indifference, verbal abuse, interrogations or beatings within the family".<sup>1</sup> We are currently seeking to verify this information. There is no suggestion that the law prohibits all forms of corporal punishment, however light.

In 2017, the Government reported that it would consider "addressing corporal punishment in the National Plan of Action [for the Welfare of Children 2011-2020] as well as in legislation".<sup>2</sup>

### **Alternative care settings**

There is no explicit prohibition of corporal punishment in alternative care settings, where corporal punishment is lawful as for parents.

### **Day care**

There is no explicit prohibition of corporal punishment in day care: corporal punishment is lawful as for parents.

### **Schools**

According to the third/fourth state party report to the Committee on the Rights of the Child in 2007, the Education Law 2005 takes into account the principles of the Convention on the Rights of the Child,<sup>3</sup> but we have been unable to establish whether or not it explicitly prohibits corporal punishment. Government policy states that corporal punishment should not be used in schools. The Regulation on Primary and Senior Middle Schools states that education should be conducted by positive influence, explanation and persuasion, and related materials have been distributed by the Ministry of Education. We have yet to examine the text of the General Education Law 2011.

### **Penal institutions**

Corporal punishment is unlawful as a disciplinary measure in penal institutions (information unconfirmed). Article 51 of the Law on the Protection of Children's Rights 2010 reportedly states that "law enforcement and judicial institutions shall respect children's dignity while dealing with juvenile offences".<sup>4</sup>

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<sup>1</sup> Information submitted to UPR-info.org by the Citizens' Alliance for North Korean Human Rights, June 2012

<sup>2</sup> 25 September 2017, CRC/C/SR.2236, Summary records of 2236th meeting, para. 29

<sup>3</sup> 15 January 2008, CRC/C/PRK/4, Third/fourth state party report, para. 16

<sup>4</sup> 25 October 2016, CRC/C/PRK/5, Fifth report, para. 87

## **Sentence for crime**

Corporal punishment appears to be unlawful as a sentence for crime for young people under 18, but we have yet to confirm that it is not an element of the “public education” measures imposed on children aged 15-16 convicted of an offence (Criminal Law 1974, art. 49). Young people aged 17 appear to be subject to adult criminal sanctions under the Criminal Law, which include “reform through labour”. There is no protection from cruel and degrading treatment or punishment in the Socialist Constitution 1998.

## **Universal Periodic Review of DPR Korea’s human rights record**

The Democratic People’s Republic of Korea was examined in the first cycle of the Universal Periodic Review in 2009 (session 6). No recommendations were made specifically concerning corporal punishment of children. The Government did not respond to a recommendation to prohibit all forms of violence against children.<sup>5</sup>

Examination in the second cycle took place in 2014 (session 19). The following recommendation was made:<sup>6</sup>

“Enact and implement legislation to prohibit corporal punishment of children in all settings (Norway)”

The Government accepted the recommendation.<sup>7</sup>

Third cycle examination took place in 2019 (session 33). The following recommendation was made:<sup>8</sup>

“Ensure a ban on corporal punishment in all settings, including at home and educational institutions, and monitor its respect (Israel)”

The Government supported the recommendation.<sup>9</sup>

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

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

(29 September 2017, CRC/C/PRK/CO/5, Concluding observations on fifth report, Advance unedited version, paras. 27, 45 and 46)

“The Committee, with reference to its general comment No. 8 (2006) on corporal punishment, urges the State Party to:

(a) Promptly review its legislation to unequivocally prohibit all forms of corporal punishment in all settings, including the home, child-related institutions and all types of penal institutions, including political prison camps;

(b) Ensure the ban on corporal punishment in all educational facilities is strictly implemented and monitored;

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<sup>5</sup> 4 January 2010, A/HRC/13/13, Report of the working group, para. 90(67)

<sup>6</sup> 5 May 2014, A/HRC/WG.6/19/L.8 Advance Unedited Version, Draft report of the working group, para. 124(112)

<sup>7</sup> 12 September 2014, A/HRC/27/10/Add/1, Report of the working group: Addendum, para. 10

<sup>8</sup> 25 June 2019, A/HRC/42/10, Report of the Working Group, para. 126(190)

<sup>9</sup> 28 August 2019, A/HRC/42/10/Add.1, Report of the Working Group: Addendum

(c) Ensure that corporal punishment is not an element of “social education” measures applicable to children aged 15-17 and that children under 18 years are not subjected to adult criminal sanctions under the Criminal Law that may include or amount to corporal punishment;

(d) Strengthen the measures to promote positive, non-violent and participatory forms of child-rearing and discipline, among parents and educational staff.”

“The Committee notes the adoption of the Law on General Secondary Education in 2011, the Ordinance on the Enforcement of Universal 12-year Compulsory Education in 2012, and of the Education Strategy (2015-2032) in 2014. The Committee, however, remains seriously concerned about consistent reports on...

(d) Children being victims of verbal and physical punishment and discrimination by teachers when the child is unable to achieve the ‘economic assignment’ or unable to participate in the mass mobilization;...

“With reference to its general comment No. 1 (2001) on the aims of education and taking note of goal 4 of the Sustainable Development Goals, the Committee urges the State party to:

(d) Promptly strengthen monitoring systems in schools to ensure that teachers do not ill-treat or punish students, implement in practice the ban on corporal punishment, and investigate and discipline school staff who fail to respect the child’s right to physical and mental integrity”

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

(27 March 2009, CRC/C/PRK/CO/4, Concluding observations on third/fourth report, paras. 36, 37, 70, 72 and 73)

“While noting the information in the State party’s report that the ‘living conditions at orphans’ nurseries, kindergartens and schools remarkably improved during the period under review’ (para. 69), the Committee expresses its concern at the significant number of children who are placed in institutions and that the living conditions in many of these institutions continue to be below internationally acceptable standards. The Committee is concerned that adequate and effective monitoring of the quality of these facilities is lacking, and that the placement of children in alternative care is frequently not decided with respect to the best interest of the child. The Committee is also concerned about the reported use of corporal punishment in alternative care institutions.

“The Committee recommends that the State party: ...

d) take strengthened measures to sensitize professionals working with children to the harm caused by corporal punishment and promote an alternative, non-violent forms of discipline, as foreseen in article 28, paragraph 2, of the Convention....

“The Committee notes that in cases of crimes committed by children between the age of 14 and 17, the child is subject to ‘public education measures’. In this regard, the Committee regrets the lack of information provided by the State party on these measures, specifically, how and by whom the decision is made to commit a child to these measures; what procedural guarantees exist; what types of sanctions are imposed as ‘public education measure’; their duration; and whether they fully respect the rights of the child as provided by the Convention.

“The Committee reiterates its previous recommendation (CRC/C/15/Add.239, paragraph 65 (d)) to the State party to provide in its next periodic report detailed information on how the non-judicial approach of the State party conforms to the human rights safeguards enshrined in articles 37, 39 and 40 of the Convention and the nature and application of ‘public education measures’.

“The Committee also urges the State party to bring the system of juvenile justice, applicable to children aged between 14 and 18, fully in line with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules) and the Vienna Guidelines for Action on Children in the Criminal Justice System; and the Committee’s general comment No. 10 (2007) on children’s rights in juvenile justice. In this regard, the Committee recommends that the State party in particular: ...

f) ensure that punishment imposed, including ‘public education measures’, do not involve any form of corporal punishment....”

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

(1 July 2004, CRC/C/15/Add.239, Concluding observations on second report, paras. 7, 36 and 37)

“The Committee notes with satisfaction that some concerns and recommendations (CRC/C/15/Add.88) made upon the consideration of the State party’s initial report (CRC/C/3/Add.41) have been addressed through legislative measures and policies. However, recommendations regarding, inter alia, ... corporal punishment (para.13) ... have not been given sufficient follow-up. The Committee notes that these concerns and recommendations are reiterated in the present document.

“While welcoming the positive steps taken by the State party and the information that it has almost eliminated corporal punishment through, inter alia, public campaigns, the Committee remains concerned that owing to traditional customs, corporal punishment may still be practised and accepted in schools, families, and care institutions.

“The Committee encourages the State party to continue to reinforce its public awareness campaigns to promote positive, participatory and non-violent forms of discipline as an alternative to corporal punishment at all levels of society.”

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

(5 June 1998, CRC/C/15/Add.88, Concluding observations on initial report, paras. 13 and 26)

“The Committee is concerned that corporal punishment is still used, especially within the family environment and in institutions, and by the fact that no comprehensive strategy exists to eradicate this form of violence, in light of, inter alia, articles 3, 19 and 28 of the Convention.

“The Committee suggests that the State party take all appropriate measures, including of a legislative nature, to prevent and combat the use of corporal punishment, especially at home and in institutions. The Committee also suggests that awareness-raising campaigns be conducted 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.”

## **Prevalence/attitudinal research in the last ten years**

A 2012 report documents the human rights abuses, including severe corporal punishment and torture, taking place in penal labour colonies, prisons, prison camps and other institutions of detention. Children are often detained with their families in these institutions. The report estimates that 150,000-200,000 people are incarcerated in penal labour colonies.

(Hawk, D. (2012), *The Hidden Gulag: The Lives and Voices of "Those Who are Sent to the Mountains"*, second edition, Washington DC: Committee for Human Rights in North Korea)

The commission of inquiry on human rights in the DPR Korea published its detailed findings in 2014. The report documents cruel and degrading treatment of children as of adults in the political prison camps, frequently imposed as punishment for the slightest mistake and inflicted in special punishment blocks – “Children are not spared from even the cruellest punishments”. Also documented is the widespread infliction by state actors of physical punishment on children outside the political camps – including harsh physical punishment of children imposed in the guise of “discipline” during training for the Mass Games and beatings inflicted in the children’s shelters to which street children are taken.

(7 February 2014, A/HRC/25/CRP.1, Report of the detailed findings of the commission of inquiry on human rights in the Democratic People’s Republic of Korea, paras. 173-175, 372 and 760)