

Corporal punishment of children in Israel

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Child population 2,626,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

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

Prohibition of corporal punishment

Home

Corporal punishment is prohibited in the home. At one time the Civil Wrongs Ordinance 1944 provided a defence for the use of corporal punishment in childrearing, stating in article 24 that in respect of assault “it will be a defence if ... (7) the defendant is the parent or guardian or teacher of the plaintiff, or his or her status in regard to the plaintiff is similar to that of a parent or guardian or teacher, and he or she punished the plaintiff in an amount reasonably necessary in order that the plaintiff correct his or her behavior.”

This defence was repealed in 2000, following a landmark Supreme Court judgment which – referring to the Convention on the Rights of the Child and to the Israeli Basic Law: Human Dignity and Liberty 1992 – ruled that the defence and previous case law associated with it, was outdated: “Accordingly, we decide that corporal punishment of children, or humiliation and derogation from their dignity as a method of education by their parents, is entirely impermissible, and is a remnant of a societal-educational outlook that has lost its validity. The child is not the parent’s property and cannot be used as a punching bag the parents can beat at their leisure, even when the parents honestly believe that they are fulfilling their duty and right to educate their child. The child depends upon the parents, is entitled to parental love, protection and the parents’ gentle touch. The use of punishment which causes hurt and humiliation does not contribute to the child’s personality or education, but instead damages his or her human rights. Such punishment injures his or her body, feelings, dignity and proper development. Such punishment distances us from our goal of a society free of violence. Accordingly, let it be known that in our society, parents are now forbidden to make use of corporal punishments or methods that demean and humiliate the child as an educational system.”¹ Subsequent court rulings have confirmed the unacceptability and illegality of corporal punishment in childrearing.²

¹ Criminal Appeal 4596/98 *Plonit v A. G.* 54(1) P. D. p.145

² For example Cr.C 40362/05 *The State of Israel v. Onimaya Theodor* (04.07.2006), Cr.A (Be’er-Sheva) 7161/02 *The State of Israel v. Z.Y.* (12.2.2003), Cr.C (Ashkelon) 1414/06 *The State of Israel v. Zur Yehoshua* (9.9.2007)

According to the Circular of the Ministry of Education Director General 2719/3(b) “The Duty to Report a Crime Committed against a Minor According to the Law and the Questioning of Pupils as Victims or Witnesses”, there is a duty on those supervising children within and outside the family to report any suspicion of an offence against child.³

Alternative care settings

Corporal punishment is unlawful in alternative care settings under the Supreme Court ruling and subsequent repeal of the defence from the Civil Wrongs Ordinance in 2000 (see under “Home”).

Day care

Corporal punishment is prohibited in day care institutions by clause 6 of the Regulations of Supervision of Daycare Institutions (1965, 1968). It is unlawful in other early childhood care and in day care for older children under the Supreme Court ruling and subsequent repeal of the defence from the Civil Wrongs Ordinance in 2000 (see under “Home”).

Schools

A Supreme Court ruling in 1994 declared that “corporal punishment cannot constitute a legitimate tool in the hands of teachers or other educators”, applicable to both state and private schools.⁴ In 2000, the Students’ Rights Law 5761-2000 was enacted, stating in article 10: “It is the right of every pupil that discipline be maintained in the educational institution in conformity with human dignity and, in that regard, he has the right not to be subjected to corporal or degrading disciplinary measures.” The principal of an educational institution is under an obligation to report any occurrence of violence between an educator and a pupil under the Compulsory Education (Physical Violence Reporting Rules) Regulations 5770-2009.

Circular of the Ministry of Education Director General 2772/a(3) “Promoting Safe Climate and Coping with Violent Incidents in Educational Institutions” emphasises the prohibition of corporal punishment in schools and the obligation to report injury of a pupil by a teacher as well as suspicion that a child is being abused. It confirms that corporal punishment is considered to be physical violence.⁵ The Circular states that the following punishments should not be used: “any types of corporal punishment, degrading punishment (insult in public, verbal abuse that might include mockery, insult or humiliation), transferring a pupil temporarily to a lower grade, reducing a grade for inappropriate behavior, responding in a way that might jeopardize the pupil or harm her/his safety or health, and punishing a pupil for something her/his parents did or did not do.”⁶

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions, though we have yet to identify explicit prohibition.

³ 16 February 2015, CAT/C/ISR/5, Fifth state party report, para. 441

⁴ *The State of Israel v Alagani*

⁵ 16 February 2015, CAT/C/ISR/5, Fifth state party report, para. 441

⁶ *ibid.*

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in the Youth (Care and Supervision) Law 5720-1960 or the Penal Law 5737-1977.

Universal Periodic Review of Israel's human rights record

Israel was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 3). In the national report submitted for review, the Government described the law reform that took place in 1999/2000 to prohibit corporal punishment of children in schools and in the home.⁷ No recommendations were made on the issue during the review, but the prohibition of corporal punishment in the education system was noted by the UK and Japan, and Japan expressed the hope that Israel would "do its utmost to protect children from acts of violence".⁸ Recommendations concerning children were made in relation to Israel's position as the occupying force in the Palestinian territories, including the following:⁹

"Develop mechanisms for overseeing the implementation of the Convention of the Rights of the Child in the West Bank and Gaza (Slovenia)....

"Establish a separate juvenile justice system to try accused Palestinian children (Slovenia)"

Israel did not clearly accept or reject the recommendations but did report that "following the universal periodic review process, several measures were currently being taken towards further promoting children's rights through several preliminary means" and "a draft bill on the establishment of a new youth court had been prepared and was currently under review...".¹⁰

Examination in the second cycle took place in 2013 (session 17). No specific recommendations on corporal punishment were made.

Third cycle examination took place in 2018 (session 29). No specific recommendations on corporal punishment were made.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(4 July 2013, CRC/C/ISR/CO/2-4, Concluding observations on second to fourth report, paras. 37 and 38)

"The Committee welcomes the full prohibition of corporal punishment in all settings in the State party as well as the Compulsory Education (Physical Violence Reporting Rules) Regulations No. 5770-2009 which obliges Principals of educational institutions to report in writing any occurrence of physical violence between an educator and a pupil. The Committee is however concerned about the high proportion of students reporting that they have experienced physical and emotional maltreatment, and that corporal punishment continues to be inflicted on children in detention.

"In light of its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recommends that the

⁷ 25 September 2008, A/HRC/WG.6/3/ISR/1, National report, paras. 68, 69 and 70

⁸ 8 January 2009, A/HRC/10/76, Report of the working group, paras. 21 and 83

⁹ 8 January 2009, A/HRC/10/76, Report of the working group, paras. 100(37) and 100(45)

¹⁰ 9 November 2009, A/HRC/10/29, Report of the Human Rights Council on its tenth session, para. 461

State party take effective measures to eliminate corporal punishment and its psychological consequences including through the implementation of public and professional awareness raising programmes including campaigns. The State party should also promote positive, non-violent and participatory forms of child-rearing and discipline as an alternative to corporal punishment and establish child-friendly complaints mechanisms.”

Committee on the Rights of the Child

(9 October 2002, CRC/C/15/Add.195, Concluding observations on initial report, paras. 3, 38 and 39)

“The Committee welcomes:

c) the prohibition of corporal punishment in homes, schools and other institutions....

“The Committee welcomes the many efforts of the State party to prevent and combat all forms of violence and abuse within the family, in schools and in other institutions which care for children, but is concerned at the apparently limited impact of these efforts owing to, among other things, the lack of a comprehensive strategy and adequate resources.

“The Committee recommends that the State party establish a national and comprehensive strategy to prevent and combat violence and abuse within the family, in schools and other institutions caring for children, which should include, among other things:

a) establish a national and comprehensive strategy to prevent and combat violence and abuse within the family, in schools and in other institutions caring for children, which should include, among other things, a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address these practices;

b) 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....”

Human Rights Committee

(3 September 2010, CCPR/C/ISR/CO/3, Concluding observations on third report, para. 22)

“The Committee is concerned at a number of differences in the juvenile justice system between Israeli legislation and under military orders in the West Bank. Under military orders, children of the age of 16 are tried as adults, even if the crime was committed when they were below the age of 16.... [The Committee] is also very concerned at allegations of torture, cruel, inhuman or degrading treatment of juvenile offenders (arts. 7, 14 and 24).

The State party should:

a) ensure that children are not tried as adults; ...

d) ensure that reports of torture or cruel, inhuman or degrading treatment of detained children are investigated promptly by an independent body.”

Prevalence/attitudinal research in the last ten years

A report based on the sworn testimony of 311 children held in Israeli military detention between January 2008 and January 2012 documented systematic ill-treatment of children during their arrest, transfer and interrogation. Sixty-three per cent of the children were detained inside Israel. Ninety-five per cent had their hands tied, often very painfully, and 90% were blindfolded. Three quarters

experienced physical violence such as being pushed, slapped or kicked, 57% experienced threats and 54% verbal violence. In 12% of cases children reported being held in solitary confinement for an average period of 11 days. The report found that when all the evidence was considered, the pattern of systematic ill-treatment which emerged amounts to cruel, inhuman or degrading treatment or punishment and in some cases torture as defined in the UN Convention against Torture.

(DCI Palestine (2012), *Bound, Blindfolded and Convicted: Children held in military detention*)