

Corporal punishment of children in Mongolia

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Child population 968,000 (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 unlawful in the home. The Law on the Rights of Children 2016 explicitly confirms children's right to be protected from corporal punishment (art. 7.1, unofficial translation): "Children have the right to be protected from crime, offences or any forms of violence, physical punishment, psychological abuse, neglect and exploitation in all social settings." The Law on Child Protection 2016 explicitly prohibits the use of corporal punishment by parents and other adults (art. 2.6, unofficial translation): "All types of physical and humiliating punishment against children by parents, guardians and third parties who are responsible for care, treatment, guidance and education of children and adolescents, during the upbringing and disciplining faulty behaviours of children is prohibited." The Law on Child Protection also puts an obligation on parents and others caring for and educating children to use non-violent discipline (art. 5.4): "During educating, upbringing and caring of children, the parents, legal guardians, relatives, and teachers are to follow non-violent disciplinary methods."

Mongolia had expressed its commitment to prohibiting all corporal punishment of children, including in the home, in 2010, when the Government clearly accepted the recommendations to do so made during the Universal Periodic Review (UPR) of Mongolia that year. At the second UPR of Mongolia in 2015, similar recommendations were made which the Government again accepted. Law reform was finally achieved in February 2016, when the Mongolian Parliament – the State Great Hural – passed the child protection and child rights legislations referred to above. The Law on the Rights of Children 2016 and the Law on Child Protection 2016 came into force on 1 September 2016.

Mongolia is a Pathfinder country with the Global Partnership to End Violence Against Children, which was established in 2016. This commits the Government to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals.

Alternative care settings

Corporal punishment is unlawful in alternative care settings under article 7.1 of the Law on the Rights of Children 2016 and articles 2.6 and 5.4 of the Law on Child Protection 2016 (see “Home”, above).

Day care

Corporal punishment is unlawful in early childhood care (crèches, family centres, etc) and in day care for older children (day centres, after-school childcare, childminding, etc) under article 7.1 of the Law on the Rights of Children 2016 and articles 2.6 and 5.4 of the Law on Child Protection 2016 (see “Home”, above). It was previously unlawful only in preschool settings under the Law on Education 2002 as amended in 2006 and the Law on Preschool 2008. Article 6.3 of the Law on Child Protection 2016 sets out the measures that must be taken by educational institutions to protect children from corporal punishment and other abuse, including “to acquire positive methodology for child education”, “to assess investigate and advise on whether their pupils are in risky environment” and “to take preventive measures by mediating, regulating and informing their families of disputes and unfriendly relationship” (unofficial translation).

Schools

Corporal punishment is prohibited in schools by amendments to the Education Law passed in 2006. The prohibition is confirmed in article 7.1 of the Law on Child rights 2016 and articles 2.6 and 5.4 of the Law on Child Protection 2016 (see “Home”, above).

Penal institutions

Corporal punishment is unlawful under the Law on the Rights of Children 2016 (art. 7.1) and the Law on Child Protection 2016 (art. 2.6).

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not a permitted punishment under the Criminal Code 2002 and the Criminal Procedure Code.

Universal Periodic Review of Mongolia’s human rights record

Mongolia was examined in the first cycle of the Universal Periodic Review process in 2010 (session 9). The following recommendations were made and were accepted by the Government:¹

“Continue harmonizing its domestic legislation in conformity with the Convention on the Rights of the Child, introduce legislation to prevent and end all forms of corporal punishment, and adopt effective measures for preventing children under the age of 18 from being involved in hazardous work (Italy);

¹ 4 January 2011, A/HRC/16/5, Report of the working group, paras. 84(15) and 84(18)

“Adopt legislation to prevent and end all forms of corporal punishment, in accordance with the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Brazil)”

Examination in the second cycle took place in 2015 (session 22). In its national report, the Government drew attention to the establishment of a hotline to address “hidden forms of physical punishment against children”.² During the review the following recommendations were made:³

“Explicitly prohibit corporal punishment to children in accordance with the recommendations of CAT (Chile);

“Explicitly prohibit all corporal punishment of children, including in the home (Sweden)”

The Government accepted the recommendations.⁴

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(12 July 2017, CRC/C/MNG/CO/5, Concluding observations on fifth report, paras. 11 and 23)

“With reference to its general comment No. 2 (2002) on the role of independent human rights institutions, the Committee reiterates its previous recommendations (see CRC/C/MNG/CO/3-4, para. 16) and further recommends that the State party:

(c) Implement the recommendations made by the National Human Rights Commission of Mongolia to the State party on issues related to the rights of children, including those regarding horse racing, domestic violence, the right to education of children with disabilities, corporal punishment, regulation and monitoring of childcare providers and issuance of birth certificates.”

“While welcoming the adoption of the revised Law on the Rights of the Child and the Law on Child Protection, which make corporal punishment of children in all settings a criminal offence, the Committee remains concerned that corporal punishment continues to be used widely in the home and in schools and urges the State party to ensure the effective implementation of the law, including through public education and awareness-raising programmes such as nationwide social mobilization campaigns, as well as training of parents and teachers, to promote positive, non-violent and participatory forms of child-rearing and discipline.”

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....

“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

² 17 February 2015, A/HRC/WG.6/22/MNG/1, National report to the UPR, para. 78

³ 13 July 2015, A/HRC/30/6, Report of the working group, para. 108(106) and 108(107)

⁴ 16 September 2015, A/HRC/30/6/Add.1, Report of the working group: Addendum, para. 2

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

(5 September 2016, CAT/C/MNG/CO/2, Concluding observations on second report, paras. 25 and 26)

"While welcoming the enactment of the Law on the Rights of Children and the Law on Child Protection, which make the corporal punishment of children in all settings a criminal offence, the

Committee is concerned at information that some 42 per cent of children have been subjected to physical or psychological punishment in home settings (art. 16).

“The State party should:

(a) Take all the necessary steps to ensure the full implementation and enforcement of the prohibition of corporal punishment in all settings;

(b) Conduct awareness-raising campaigns for professionals and the general public in order to raise awareness about the harmful effects of corporal punishment and promote positive, non-violent disciplinary methods in education and in bringing up and caring for children;

(c) Investigate, prosecute and sanction all reported cases of corporal punishment.”

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

([July 2017], CCPR/C/MNG/CO/6, Concluding observations on sixth report, Advance unedited version, paras. 17 and 18)

“While welcoming the introduction of criminal punishment for domestic violence by the revised Law on Domestic Violence, the Committee is concerned about reports of violence against women and children, including domestic violence, that remain widespread in the State party. It is also concerned that despite legal prohibition of corporal punishment of children in all settings, corporal punishment continues to be used widely in the home and in schools. (arts. 2, 3, 6, 7, 24 and 26)

“The State party should increase its efforts to prevent and eradicate domestic violence against women, including through implementation of the revised Law on Domestic Violence, and by ensuring that all allegations of domestic violence are reported and promptly, thoroughly and effectively investigated, that the perpetrators are prosecuted and, if convicted, punished with commensurate sanctions and that the victims have access to effective remedies, full reparation and means of protection. The State party should also provide training to State officials, in particular law enforcement officials, judges and prosecutors, to ensure that they are able to respond promptly and effectively to cases of domestic violence. It should ensure effective implementation of prohibition of corporal punishment of children in all settings, including through public education and awareness-raising programmes.”

Human Rights Committee

(2 May 2011, CCPR/C/MNG/CO/5, 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 of the Covenant).

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.”

Prevalence/attitudinal research in the last ten years

In 2016, the Government reported to the Committee on the Rights of the Child the number of incidents recorded by police of corporal punishment of children in schools, kindergartens and other institutions that provide care for children: the police recorded 275 incidents of corporal punishment in 2011, 291 incidents in 2012, and 279 in 2013.

(Committee on the Rights of the Child, *Fifth periodic reports of States parties due in 2014: Mongolia*, CRC/C/MNG/5, 7 September 2016, at para. 82)

Research conducted in 2013 as part of UNICEF’s Multiple Indicator Cluster Surveys (MICS) programme involving 15,500 households – the largest sample ever in the country – found 49% of 1-14 year-old children experienced some form of violent “discipline” (psychological aggression and/or physical punishment) in the month prior to the survey. The survey found 40% of children experienced psychological aggression, 28% physical punishment and 4% severe physical punishment (hit or slapped on the face, head or ears, or hit repeatedly). Physical punishment was most often inflicted on 3-4 year olds (44%) and least often on 10-14 year olds (16%). Only 38% of children experienced only non-violent forms of discipline, which was a little more common among girls (40%) than boys (36%).

(National Statistical Office, UNFPA & UNICEF (2015), *Mongolia Social Indicator Sample Survey 2013, Multiple Indicator Cluster Survey. Final Report*, Ulaanbaatar, Mongolia: National Statistics Office)

A survey carried out in 2012 by the Statistics Department of the Governor’s Office of Nalaikh District as part of the global MICS programme found 42% of children age 2-14 years had been subjected to at least one form of psychological or physical punishment by household members during the month preceding the survey; 21% had experienced physical punishment and 4% severe physical punishment (hitting the child on the head, ears or face or hitting the child hard and repeatedly). Sixteen percent of parents with basic education, and 8% with upper secondary, college, or university education, believe that physical punishment is necessary for raising children properly. Forty-eight percent of children had experienced only non-violent forms of discipline.

(Statistics Department of the Governor’s Office of Nalaikh District & UNICEF (2014), *Nalaikh Child Development Survey 2012 (MICS), Final Report*, Nalaikh District, Ulaanbaatar, Mongolia: Statistics Department of the Governor’s Office of Nalaikh District & UNICEF)

According to UNICEF statistics collected in 2013, 46% of children aged 2-14 experienced “violent discipline” (physical punishment and/or psychological aggression) in the home in the month prior to the survey. A quarter experienced physical punishment and 38% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted). A smaller percentage (16%) of mothers and caregivers thought that physical punishment was necessary in childrearing.

(UNICEF (2014), *Hidden in Plain Sight: A statistical analysis of violence against children*, NY: UNICEF)

According to statistics collected in 2010 under round 4 of the UNICEF Multiple Indicator Cluster Survey programme (MICS4), 46% of children aged 2-14 experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in the month prior to the survey.

(National Statistics Office & UNICEF (2011), *Multiple Indicator Cluster Survey 2010: Summary Report*, Ulaanbaatar: National Statistics Office)