Corporal punishment of children in Poland

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Children population 6,802,000 (UNICEF, 2020)

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. The Constitution of Poland adopted in 1997 explicitly confirms the right not to be subjected to corporal punishment (article 40): "No one may be subjected to torture or cruel, inhuman, or degrading treatment or punishment. The application of corporal punishment shall be prohibited." But while this clearly applied to the penal system and in state-run schools and other institution, it did not clearly protect children in their homes and in privately provided care settings.

Complete prohibition was achieved in 2010, with the enactment of the Law of 6 May 2010 "On the Prevention of Family Violence". Article 2 of the law amended the Family and Guardianship Code 1964 by inserting a new article 96 which prohibits all corporal punishment in childrearing (unofficial translation): "Persons who exercise parental authority and who provide care of or custody over a minor may not apply corporal punishment." The new law was signed by the President on 18 June 2010 and came into force on 1 August.

The Penal Code 1997 punishes the causing of grievous bodily harm and bodily injury or impairment to health (arts. 156 and 157), threats (art. 190), and mental or physical mistreatment within the family, including of children (art. 207). Amendments to the Penal Code were passed in March 2017 which strengthen children's protection from violence and abuse.[1]

Alternative care settings

Corporal punishment is unlawful in alternative care settings under article 40 of the Constitution and article 96 of the Family and Guardianship Code, as amended by the 2010 Law "On the Prevention of Family Violence" (see under "Home" and "Schools").

[1] May 2017, communication from the Ombudsman for Children of the Republic of Poland

Day care

Corporal punishment is unlawful in early childhood care and in day care for older children under article 40 of the Constitution and article 96 of the Family and Guardianship Code, as amended by the 2010 Law "On the Prevention of Family Violence" (see under "Home" and "Schools").

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 the types of rewards and penalties applicable to students cannot be used for punishment infringing on the dignity and integrity of the student. Corporal punishment is prohibited in private schools in the Act of 7 September 1991 on the Education System.

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 40 of the Constitution (see under "Schools"). 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.

Sentence for crime

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

Universal Periodic Review of Poland's human rights record

Poland was examined in the first cycle of the Universal Periodic Review in 2008 (session 1). No recommendation was made specifically concerning corporal punishment. However, the following recommendations were made:[2]

> "Recommended to Poland to endorse the recommendations made by the Committee on the Rights of the Child and the Human Rights Committee on the adoption of legislative measures to ensure compliance of national legislation with the principles and provisions of the Convention on the Rights of the Child (Angola)
>
> "While noting the measures taken by Poland to address the continuing occurrence of violence against children, recommended that measures be taken by the Government to ensure the sufficient legal protection of the freedom of children from physical or mental violence (Sweden)
>
> "Encouraged Poland to continue its efforts to ensure compliance of its domestic legislation with the Convention on the Rights of the Child, specifically with regard to juvenile justice (Mexico)"

The Government initially appeared to suggest that existing law was sufficient with regard to protection from corporal punishment but also stated its intention to pursue law reform to achieve explicit prohibition.[3]

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[2] 23 May 2008, A/HRC/8/30, Report of the working group, para. 54(1), 54(2) and 54(3)
[3] 23 May 2008, A/HRC/8/30, Report of the working group, para. 13; 25 August 2008, A/HRC/8/30/Add.1, Report of the working group: Addendum, para. 2; 1 September 2008, A/HRC/8/52, Report of the eighth session of the Human Rights Council, para. 532

Examination in the second cycle took place in 2012 (session 13). The following recommendation was made:[4]

> "Inform the Council on the measures to make the provision prohibiting corporal punishment in all settings widely respected in the country (Hungary)"

The Government accepted the recommendation, stating that it was "in the course of implementation".[5]

Poland was examined in the third cycle in 2017 (session 27). No recommendations were made specifically on corporal punishment but the following recommendation was extended[6] and accepted by the Government:[7]

> "Continue to reinforce actions aimed at protection of children against violence and other forms of maltreatment (Bosnia and Herzegovina)"

Examination in the fourth cycle took place in 2023 (session 41). The following recommendations were made[8] and accepted by the Government:[9]

> "Prohibit corporal punishment within educational institutions (Zambia);
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> Strengthen measures to eradicate corporal punishment within educational institutions and in the home (Estonia)"

Recommendations by human rights treaty bodies

Committee on the Rights of the child

(27 September 2021, CRC/C/POL/5-6 Advance Unedited Version, Concluding observations on the combined fifth and sixth periodic reports, para. 26(c))

The committee recommends that the state party strengthens the measures to eradicate corporal punishment, particularly at home, and domestic violence

Committee on the Rights of the Child

(2 October 2015, CRC/C/POL/CO/3-4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 24 and 25)

"The Committee commends the State party for legislating a total ban on corporal punishment in all settings, yet is concerned that:

a) while there have been no official complaints filed or convictions made in relation to inhuman or degrading treatment of children in police emergency youth centers, youth shelters or reform schools in recent years, certain ill-treatments in such facilities have been identified, including extended periods of detention in a transitional facility, penalties not compliant with the regulations, constraints on correspondence and complaints and restrictions on visits; and

b) corporal punishment is still used in schools, youth centres and alternative care facilities despite its legal prohibition.

"In the light of its general comment No. 8 (2006) on corporal punishment and general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee recommends that the State party:

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[4] 9 July 2012, A/HRC/21/14, Report of the working group, para. 90(41)
[5] 7 September 2012, A/HRC/21/14/Add.1, Report of the working group: Addendum
[6] 18 May 2017, A/HRC/WG.6/27/L.12, Draft report of the Working Group, para. 120 (161)
[7] A/HRC/36/14/Add.1, 15 September 2017, Report of the Working Group: Addendum
[8] 4 January 2023, A/HRC/52/15, Report of the Working Group, paras. 114 (138) and 114 (181)
[9] 13 March 2023, A/HRC/52/15/Add.1, Report of the Working Group: Advance version, Addendum

a) fully investigate all allegations of ill-treatment of children and ensure that such acts are given an appropriate response through judicial processes, in order to avoid impunity for perpetrators;

b) review existing complaints mechanisms and ensure that all children deprived of liberty, including in the course of criminal or corrective procedure, have access to a safe and child-friendly mechanism for complaints related to their deprivation of liberty, conditions of detention/internment and treatment;

c) ensure that child victims of ill-treatment are provided with care and rehabilitation programmes;

d) ensure that the prohibition of corporal punishment is adequately monitored and enforced in all settings;

e) strengthen capacity-building programmes for teachers and staff members of child care facilities, in order to promote positive and alternative forms of discipline and respect for children's rights and to raise awareness about the adverse consequences of corporal punishment on children;

f) further strengthen collaboration with the Ombudsman for Children and the Human Rights Defender in this regard."

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."

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 2020, Conclusions 2019)

"The Committee recalls that corporal punishment is prohibited in all settings. There has been no change to this situation."

European Committee of Social Rights

(January 2016, Conclusions 2015)

"The report states that a total ban on corporal punishment of children in all settings has been introduced. The situation accordingly remains in conformity with the 1961 Charter."

European Committee of Social Rights

(January 2012, Conclusions 2011)

"In reply to its previous question, the Committee notes from the report that corporal punishment is prohibited in private schools through Chapter 8 of the Act of 7 September 1991 on Education System.

"In its previous conclusion the Committee held that the situation in Poland was not in conformity with the Charter as corporal punishment was not explicitly prohibited in the home. In this regard it notes from another source1 that corporal punishment is now prohibited in the home. Article 2 of the Act of 6 May 2010 "On the Prevention of Family Violence" amends 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".

"The Committee considers that these legislative amendments have brought the situation into conformity with the Charter."

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."

Prevalence/attitudinal research in the last ten years

In a survey of 3,000 adults conducted for the Ministry of Labour and Social Policy, 26% of respondents agreed that a parent has a right to use corporal punishment. Almost 26% know a family where physical violence is used against children. Over 3% of parents of children under 18 years admitted to using physical violence against their child, almost 5% psychological violence and almost 7% some form of violence.

(Ministry of Labour and Social Policy (2014), Badania porównawcze oraz diagnoza skali występowania przemocy w rodzinie wśród osób dorosłych i dzieci, z podziałem na poszczególne formy przemocy wraz z opisem charakterystyki ofiar przemocy i sprawców (Comparative study and diagnosis of the scale of violence in the family among adults and children, broken down into individual forms of violence along with a description of the characteristics of victims and perpetrators))

In a survey conducted for the Ministry of Labour and Social Policy involving 1,210 students aged 11-17 years attending various types of schools, children were found to accept the beating of children in response to the following behaviour: smoking and drinking alcohol (39%), stealing (38%), not respecting parents' wishes (31%), truancy (24%), destroying a precious thing (9%), telling lies (6%). On average, 6% of children said their parents use corporal punishment towards their siblings.

(Ministry of Labour and Social Policy (2014), Diagnoza zjawiska przemocy i możliwości uzyskania pomocy w sytuacji doświadczania przemocy w percepcji dzieci i młodzieży (Diagnosis of the phenomenon of violence and the possibility of getting help in a situation of experiencing violence from the perspective of children and adolescents))

In research in 2013, involving 1,000 adults, 60% agreed "there are situations when a child needs to be smacked", compared to 68% in 2012, 69% in 2011 and 78% in 2008. In 2013, 33% disagreed with the statement, compared to 29% in 2012, 27% in 2011 and 19% in 2008. In 2013, 45% thought the prohibition of corporal punishment was right and would have positive effects.

(Ombudsman for Children (2013), Annual Report of the Ombudsman for Children of the Republic of Poland for 2013, Warsaw: Office of the Ombudsman for Children)

In a study involving 1,000 people aged 15 and over, 47% thought corporal punishment should never be used – an increase from 35% in a similar survey in 2005. Sixty-five per cent of parents said they had "smacked" their child (compared to 72% in a similar survey in 2010), 26% said they had beaten or hit them (37% in 2010) and 11% that they had beaten them with a belt (16% in 2010).

(Nobody's Children Foundation (2013), The Problem of Child Abuse: Comparative Report from Six East European Countries 2010-2013, Warsaw: Nobody's Children Foundation)

A study conducted in 2011 on behalf of the Children's Ombudsman, involving 1,005 residents of Poland aged 15-75, found decreases in the social acceptance of parents hitting children since the achievement of full prohibition in 2010. In research published in 2008, 78% of respondents agreed "there are situations when a child needs to be smacked", compared to 69% in 2011; in 2008, 19% disagreed with the statement, compared to 27% in 2011. A previous comparison of research carried out in 1994 and

2008 did not reveal similar decreases in public approval of corporal punishment, suggesting that law reform and accompanying public education activities had an impact on public opinion. The study also showed a high rate of awareness of the law: 74% of respondents agreed “beating of a child is unlawful”.

(TNS OBOP (2011), Social resonance of the amendment to the Act on Counteracting Domestic Violence, Ombudsman for Children of the Republic of Poland)

The report of the Human Rights Defender on the activities of the National Preventive Mechanism in Poland in 2011 found that in some police emergency centres for children, youth care centres and juvenile detention centres young people were punished by being slapped, isolated, forbidden contact with their families and forced to do physical exercise. The reports of the Human Rights Defender on the activities of the National Preventive Mechanism in 2010, 2009 and 2008 had similar findings.

(Rzecznik Praw Obywatelskich (2012), Report of the Human Rights Defender on the activities of the National Preventive Mechanism in Poland in 2012)

In a 2009 survey of 189 teachers in primary schools in Warsaw, 75% believed corporal punishment is humiliating for the child, 71% believed it meant that “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 an identical survey with a similar sample 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 corporal punishment should not be used, compared to 35% in 2005.

(Nobody’s Children Foundation (2009), Warsaw teachers’ attitudes toward child abuse: research report, www.canee.net/files/Teachers%20studies%20Poland%202009.pdf. 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)

End Corporal Punishment acts as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We support and analyse national progress, monitor legality and implementation worldwide, partner with organisations at all levels, and engage with human rights treaty body systems. End Corporal Punishment is hosted by the World Health Organization and supported by a multi-partner Advisory Committee.