

Corporal punishment of children in Viet Nam

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Child population 26,506,000 (UNICEF, 2020)

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings and day care.

There appears to be no defence of “reasonable chastisement” or similar enshrined in legislation, but legal protections from violence and abuse are not interpreted as prohibiting all corporal punishment. The near universal social acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment is acceptable. All corporal punishment and other cruel or degrading forms of punishment should be prohibited in the home and all other settings where adults have authority over children.

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

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

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. Provisions against violence and abuse in the Child Law 2016, the Criminal Code 2015, the Law on Marriage and the Family (art. 26), and the Law on Domestic Violence Prevention and Control 2007 are not interpreted as prohibiting all corporal punishment in childrearing.

The Law on Domestic Violence Prevention and Control 2007 defines domestic violence as “purposeful acts of certain family members that cause or may possibly cause physical, mental or economic injuries to other family members” (article 1). It lists acts of domestic violence, including “corporal beating, ill-treating, torturing or other purposeful acts causing injuries to one’s health and life” and “insulting or other intended acts meant to offend one’s pride, honour and dignity” (article 2). But the law does not clearly prohibit physical punishment intended to “discipline” children.

The Criminal Code 2015 includes a specific provision against cruel treatment of family members (article 185); provisions prohibiting corporal punishment are not interpreted as prohibiting corporal punishment of children outside of the penal system (see below). The 2015 Civil Code confirms the right of all individuals to “safety of life, health and body” and states that “each individual has the right to life, the inviolable right to life and body, the right to health protection by law” (article 33). But the Codes do not explicitly prohibit all corporal punishment of children.

The Marriage and Family Law 2000 states that parents “have the obligations and rights to love, look after, rear, care for, and protect the legitimate rights and interests of, their children” and that parents must not “discriminatorily treat, ill-treat or persecute their children, or hurt their honour” (article 34). It does not explicitly prohibit all physical punishment in childrearing.

In November 2013, the new Constitution 2013 was adopted. Article 20(1) protects human dignity but does not clearly prohibit all corporal punishment: “Every one shall enjoy inviolability of the person and the legal protection of his or her life, health, honor and dignity; and is protected against torture, harassment and coercion, and any forma of violation of his or her life and health, and offence of honor and dignity.” However, the Government has reported that article 20 contains a prohibition of corporal punishment:¹ we are enquiring as to the exact translation and interpretation of the article. Similarly, article 37(1) prohibits violence and abuse against children but it does not explicitly prohibit all forms of corporal punishment (unofficial translation): “Children enjoy protection, care and education by the family, the State and society; and are allowed to participate into children affairs. Infringement, maltreatment, abandonment, abuse, and exploitation of labor and other forms of violating children rights are strictly prohibited.”

In reporting to the UN Committee on the Rights of the Child in 2012, the Government stated that corporal punishment is unlawful in the family, school and education centres under the Constitution and other laws.² However, as noted above there is no explicit prohibition, and the Government also stated its intention to include a provision on corporal punishment in draft amendments to the Law on the Protection, Care and Education of Children.³

The Child Law 2016 was voted in April 2016, repealing the Law on Child Protection, Care and Education 2004. The Child Act provides for children’s right to be “protected, in any form, from violence” (art. 27, unofficial translation); parents have the responsibility to educate their children in a “comfortable, equal, progressive and happy family” (art. 98, unofficial translation). But the Law does not send a clear message that all corporal punishment, however light, is prohibited. The Law came into effect on 1 June 2017.

A new Criminal Code and a new Criminal Procedure Code were originally adopted in 2015 but the implementation of most of their provisions was delayed due to technical errors in the text of the

¹ 9 January 2018, CCPR/C/VNM/3, Third report, paras. 72, 73 and 74; see also 14 November 2018, A/HRC/WG.6/32/VNM/1, National report to the UPR, para. 41

² 24 May 2012, CRC/C/VNM/Q/3-4/Add.1, Written replies to the List of Issues, para. 73; 31 July 2012, CRC/C/SR.1703, Summary record of 1703rd meeting, para. 9

³ 22 August 2012, CRC/C/VNM/CO/3-4, Concluding observations on third/fourth report, para. 45; 31 July 2012, CRC/C/SR.1703, Summary record of 1703rd meeting, para. 9

Criminal Code. The Law amending the Criminal Code 2015 was then adopted in 2017. Both the 2015 Criminal Code and the 2015 Code of Criminal Procedure entered into force in January 2018. It appears both texts prohibit the use of “corporal punishment”, but Government declarations show that this applies to the penal system only.⁴ As the minimum sentence is six months imprisonment, it is likely this only applies to corporal punishment of a certain severity.

Alternative care settings

There is no explicit prohibition of corporal punishment in alternative care settings, where corporal punishment is lawful as for parents (see under “Home”).

Day care

There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children.

Schools

Corporal punishment is unlawful in schools under article 75 of the Education Law 2005, which states that teachers must not “disrespect the honour, dignity of learners, hurt or abuse them physically”. There are a number of other legal provisions regarding protection of students’ honour and dignity, including Decree No. 163/2003/ND-CP regulating education in commune, ward and town, the Primary Universal Education Law, and Decree 338-HDBT 26/10/1991 on the implementation of the Primary Universal Education Law.

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 30 of the Child Law 2016 which states (unofficial translation): “Children have the right to be protected during proceedings and the taking of actions against administrative violations. (...) In addition, they are protected from torture, extortion of deposition, corporal punishment, defamation of the honor and dignity, acts violating their body, psychological pressure and other violations”.

Other applicable laws include the 2015 Criminal Code (art. 373), the 2015 Code of Criminal Procedure (art. 10), the 2015 Law on Execution of Temporary Custody and Detention (art. 4 and 8), the 2015 Law on Organisation of Criminal Investigation Agencies (art. 14) and Decree No.114/2006/ND-CP on punishment of administrative violations on population and children (art. 21). Ordinance No.33/CP 1997 on residential schools, which accommodate children in conflict with the law, provides for children’s honour and dignity but does not explicitly prohibit corporal punishment as a disciplinary measure.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in criminal law.

⁴ 28 March 2019, A/HRC/41/7, Report of the Working Group, para. 32; see also 14-15 November 2018, Opening statement of the Head of the Vietnamese delegation to the Committee Against Torture; 16 November 2018, CAT/C/SR.1685, Summary records of 1685th meeting, para. 5; 20 November 2018, CAT/C/SR.1688, Summary records of 1688th meeting, paras. 27, 31 and 50

Universal Periodic Review of Viet Nam's human rights record

Viet Nam was examined in the first cycle of the Universal Periodic Review in 2009 (session 5). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:⁵

“Continue fulfilling its obligations under the international treaties to which it is a party (Algeria);

“Continue to improve in the following areas: poverty eradication, rights of the child, women's rights and rights of persons with disabilities (Singapore)

“Continue the reforms under way, notably the attention to the promotion of the rights of women and children, providing for the necessary protection and their personal development (Tunisia)”

The second cycle review of Viet Nam took place in 2014 (session 18). No specific recommendations on corporal punishment were made. However, the following recommendations were made and were accepted by the Government:⁶

“Fully address recommendations and issues of concern raised by the Committee on the Rights of the Child with regard to child abuses and allocation of economic resources (Albania)

“Strengthen the national system of investigating complaints of child abuse and neglect, eliminate violence against children, and establish policies to protect children from all forms of violence (Poland)”

Third cycle review took place in 2019 (session 32). No recommendations were extended specifically on the issue of corporal punishment of children but the Government supported the following recommendations:⁷

“Continue to carry out policies on the protection and promotion of the human rights of vulnerable groups, such as women, children and persons with disabilities, also in order to prevent and combat human trafficking, child labour and child, early and forced marriage, as well as other forms of violence and discrimination (Italy)”

“Continue to consolidate the progress and achievements made in promoting the rights and welfare of children and adolescents (Dominican Republic)”

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(19 September 2022, CRC/C/VNM/CO/5-6 8, Concluding observations on the combined fifth and sixth reports, para. 28)

“Noting with deep concern that corporal punishment remains socially acceptable and widespread, particularly in the home and in schools, the Committee recommends that the State party: (a) Explicitly prohibit in law, as a matter of priority, corporal punishment in all settings, including in the home, alternative care settings and daycare;⁴ (b) Enforce the prohibition of corporal punishment in schools, and provide children with a complaint mechanism in schools to safely and confidentially report teachers and others who use corporal punishment; (c) Strengthen awareness-raising programmes for parents and professionals working with and for children to promote attitudinal change concerning corporal punishment within the family, schools and communities, and to promote positive, nonviolent and participatory forms of child-rearing.”

⁵ 5 October 2009, A/HRC/12/11, Report of the working group, paras. 99(1), 99(73) and 99(82)

⁶ 2 April 2014, A/HRC/26/6, Report of the working group, paras. 143(69) and 143(120)

⁷ 28 March 2019, A/HRC/41/7, Report of the Working Group, paras. 38(224) and 38(269); 26 June 2019, A/HRC/41/7/Add.1, Report of the Working Group: Addendum

Committee on the Rights of the Child

(22 August 2012, CRC/C/VNM/CO/3-4, Concluding observations on third/fourth report, paras. 45 and 46)

“The Committee is concerned about the prevalence of corporal punishment in the home and that many parents still find it appropriate to use slapping as a means of discipline. While noting the State party’s declaration during the dialogue that it intends to include a provision on corporal punishment in the amendment to the 2004 Law on Protection, Care and Education of Children, the Committee remains concerned that the State party has not yet passed legislation explicitly prohibiting all forms of corporal punishment in all settings, including in the home, despite the Committee’s previous recommendation (CRC/C/15/Add.200, para. 34 (e)).

“The Committee recommends that the State party reform its domestic legislation, including the envisaged amendment to the 2004 Law on Protection, Care and Education of Children, to ensure the explicit prohibition of all forms of corporal punishment in all settings, taking into account the Committee’s general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, and general comment No. 13 (2011) on the right of the child to freedom from all forms of violence. The Committee further recommends that the State party raise awareness among parents and the general public on the negative impact of corporal punishment on the well-being of children, and on positive alternative methods of discipline in accordance with the rights of the child, also through the effective implementation of the National Programme on Child Protection for 2011-2015.”

Committee on the Rights of the Child

(18 March 2003, CRC/C/15/Add.200, Concluding observations on second report, paras. 33 and 34)

“The Committee is concerned that children in the State party are subject to various forms of violence and ill-treatment, including child abuse and neglect, and corporal punishment.

“The Committee recommends that the State party:

- e) explicitly prohibit corporal punishment in the home, schools and all other institutions;
- f) 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 Against Torture

([December 2018], CAT/C/VNM/CO/1 Advance unedited version, Concluding observations on initial report, paras. 30, 31, 36 and 37)

“The Committee is concerned at reports about:

(c) The use of “security rooms” and “disciplinary rooms” where prisoners can be isolated in solitary confinement or small groups for up to three months; with reported use of corporal punishment, shackling, and harsh disciplinary measures against inmates by prison officials or other prisoners who act under their instructions;

“The State party should:

(c) Establish strict rules for the use of “security rooms” and “disciplinary rooms” and refrain from corporal punishment, shackling, and harsh disciplinary measures; and inform prison staff that they and prisoners acting under their instructions will be held accountable for committing acts of ill-treatment and torture”

“The Committee is concerned that corporal punishment of children is not prohibited in the home, in alternative care and in day care settings (arts. 2 and 16).

“The Committee recommends that the State party amend its legislation to expressly prohibit corporal punishment of children in all settings, including in the home and in particular in public institutions, through acts or omissions by State agents and others who engage the State’s responsibility under the Convention. In that context, it invites the State party to include a provision on the prohibition of

corporal punishment in all settings in the draft amendments to the Law on the Protection, Care and Education of Children.”

Prevalence/attitudinal research in the last ten years

The Young Lives longitudinal study, which is following two cohorts of children in Ethiopia, India (the states of Andhra Pradesh and Telangana), Peru and Vietnam over 15 years, found that in Vietnam 59% of 8 year-olds and 13% of 15 year-olds said they had been physically punished by a teacher in the past week; 20% of 8 year-olds and 1% of 15 year-olds said they had seen other children being physically punished. Among 8 year-olds, corporal punishment was more common for boys (28%) than girls (11%), in urban areas (29%) than rural areas (18%), and in private schools (33%) than public schools (19%). Over 5% of 8 year-olds cited “teachers beating” as the most important reason for disliking school.

(Ogando Portela, M. J. & Pells, K. (2015), Corporal Punishment in Schools: Longitudinal Evidence from Ethiopia, India, Peru and Viet Nam, Innocenti Discussion Paper No. 2015-02, Florence, Italy: UNICEF Office of Research)

A survey conducted during 2013-2014 found 68.4% of children aged 1-14 years were subjected to some form of violent “discipline” (psychological or physical punishment) by household members during the month preceding the survey; 42.7% experienced physical punishment and 2.1% severe physical punishment (hitting the child on the head, bottom, ears or face or hard and repeatedly). Boys experienced physical punishment (48.5%) more than girls (36.6%). Children from poorer households and those whose head of household had lower education were more likely to experience physical punishment. In contrast to the actual prevalence, just 14.6% of respondents said they believe physical punishment is needed to raise a child properly. Only 27.2% of children experienced only non-violent forms of discipline.

(General Statistics Office & UNICEF (2015), Monitoring the situation of children and women: Viet Nam Multiple Indicator Cluster Survey 2014. Final Report, Ha Noi, Viet Nam: General Statistics Office)

In a study which involved interviews with 30 men aged 24 and above, all but one of the participants reported experiencing physical punishment from their parents during childhood. Physical punishment was most frequently linked to fathers, and related to their role as educator and disciplinarian. Experience of school corporal punishment was also common. The study found that violence was commonly seen as a disciplinary tool to establish and maintain men’s authority, most often within the family setting, and that this was linked to the men’s childhood experiences of corporal punishment. It recommended working to end school corporal punishment and promoting programmes and awareness on the impact of corporal punishment on child development as part of preventing gender-based violence.

(Duc, D. T. et al (2012), “Teach the wife when she first arrives”: Trajectories and pathways into violent and non-violent masculinities in Hue City and Phu Xuyen district, Viet Nam, Partners for Prevention, UN Women & UN Population Fund)

According to statistics collected in 2010 under round 4 of the UNICEF Multiple Indicator Cluster Survey programme (MICS4), 73.9% of children aged 2-14 experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in the month prior to the survey. Fifty-five per cent experienced physical punishment, while a smaller percentage (17.2%) of mothers and caregivers thought physical punishment was necessary in childrearing. More than half the children (55.4%) experienced psychological aggression (being shouted at, yelled at, screamed at or insulted), 3.5% experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement).

(General Statistical Office (2011), Viet Nam Multiple Indicator Cluster Survey 2011, Final Report, Ha Noi: General Statistical Office)

A study on drug detention centres in and around Ho Chi Minh City found that corporal punishment, including beatings, forced labour and confinement in “punishment rooms”, was common. In 2007, 3.5% of detainees in Ho Chi Minh City centres were children, and the study included one centre for youths.

(Human Rights Watch (2011), The Rehab Archipelago: Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam)

[End Corporal Punishment](#) is a critical initiative of the [Global Partnership to End Violence Against Children](#). Previously known as The Global Initiative to End All Corporal Punishment of Children, we act as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We track global progress, support and hold governments to account, partner with organisations at all levels, and engage with human rights treaty body systems.