



End Violence
Against Children



End Corporal
Punishment

Corporal punishment of children in Australia

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www.endcorporalpunishment.org

Child population 5,833,000 (UNICEF, 2020)

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home in all states/territories and in alternative care settings, some day care, schools and penal institutions in some states/territories.

The near universal acceptance of corporal punishment in childrearing means that legal provisions against violence and abuse are not interpreted as prohibiting corporal punishment and provisions confirming a right to use “reasonable” punishment provide a legal justification for the use of corporal punishment. The following legal defences for the use of corporal punishment should be repealed/amended and the law clarified to state that all forms of corporal punishment are unlawful: New South Wales Crimes Act (s61AA), Northern Territory Criminal Code Act (s27), Queensland Criminal Code Act 1899 (s280), South Australia Criminal Law Consolidation Act 1935 (s20(2)), Tasmania Criminal Code Act 1924 (s50), Western Australia Criminal Code 1913 (s257) and the relevant common law defences in Australian Capital Territory and Victoria.

Alternative care settings – Corporal punishment should be prohibited all alternative care settings in Northern Territory, Tasmania, Victoria and Western Australia.

Day care – Corporal punishment should be prohibited in all day care for children above the age of 13, in Tasmania and Northern Territory; in Australian Capital Territory, New South Wales, Queensland, South Australia, Victoria and Western Australia.

Schools – Prohibition of corporal punishment should be enacted in relation to all education settings, including public and private schools, in Queensland.

Penal institutions – Prohibition of corporal punishment should be enacted in relation to disciplinary measures in detention centres in Western Australia.

Current legality of corporal punishment

Home

Corporal punishment in the home is regulated at state level, and is lawful throughout Australia under the right of “reasonable chastisement” and similar provisions – in Australian Capital Territory under common law, Northern Territory the Criminal Code Act (s27), Queensland the Criminal Code Act 1899 (s280), South Australia the Criminal Law Consolidation Act 1935 (s20(2)) as amended in 2007, Tasmania the Criminal Code Act 1924 (s50), Western Australia the Criminal Code 1913 (s257) and Victoria under common law rule.

Under section 61AA of the New South Wales Crimes Act, as amended in 2001, physical punishment by a parent or caregiver is considered unreasonable if the force is applied to a child’s head or neck, or the force is applied to any part of the body in such a way as to cause, or threaten to cause, harm to the child which lasts more than a short period; in such cases the defence of “lawful correction” does not apply. In 2010, the NSW Government reviewed section 61AA and recommended that it be retained.

The Australian Family Law Act 1975 defines family violence as “violent, threatening or other behaviour by a person that coerces or controls a member of the person’s family (the family member), or causes the family member to be fearful” (art. 4). It protects a child from being exposed to family violence but not from direct suffering of violence in the form of physical punishment. The Family Law Act 1975 was comprehensively reviewed by the Australian Law Reform Commission in 2017-2019 to address family violence and child abuse.¹ The final report of the review published in March 2019 did not address corporal punishment of children.

The aims of the National Framework for Protecting Australia’s Children 2009-2020² include ensuring children live in supportive families and communities and addressing risk factors for child abuse and neglect but it makes no reference to violent punishment of children. The Fourth Action Plan 2018–2020 under the National Framework for Protecting Australia’s Children 2009-2020 and the National Plan to Reduce Violence against Women and their Children 2010 – 2022³ also do not address corporal punishment.

In May 2010, the Australian Children’s Commissioners and Guardians (ACCG) group agreed to a resolution which stated that children have a right to protection from all forms of violence “and that this extends to protection from physical punishment”. It stated that the ACCG “encourages all Australian Governments to ... collaborate to ensure that laws across Australia relating to the physical punishment of children are consistent with international human rights standards” and concluded with a note that “members of ACCG agree to pursue strategies to promote these rights ... in their individual jurisdictions”.⁴ In 2013, the Paediatric & Child Health Division of the Royal Australasian College of Physicians issued a position statement also calling for the repeal of the legal provisions defending the use of corporal punishment against children so that “the law protects children from assault to the same extent that it does all people”.⁵

Reporting to the UN Committee on the Rights of the Child in 2012, the Australian Government stated that it had not taken any steps towards prohibiting all corporal punishment, but that it does promote positive parenting.⁶ The Government later effectively rejected the recommendation to prohibit corporal punishment in the home made during the Universal Periodic Review of Australia in 2015, stating that it “notes” the recommendation “but will not further consider [it] at this time”.⁷ In March 2016, a ruling by the South Australian Supreme Court found in favour of “reasonable” corporal punishment of children by parents.⁸ In 2018, the Government reported to the Committee on the Rights of the Child that

¹ 9 November 2017, CCPR/C/AUS/CO/6, Concluding observations on sixth report, Advance unedited version, para. 21

² Council of Australian Governments (2009), Protecting Children is Everyone’s Business, National Framework for Protecting Australia’s Children 2009–2020

³ Council of Australian Governments (2010), National Plan to Reduce Violence against Women and their Children 2010 – 2022; and Commonwealth of Australia Department of Social Services (2016)

⁴ Alasdair Roy, Children & Young People Commissioner, ACT Human Rights Commission, in correspondence with the Global Initiative, March 2015

⁵ The Royal Australasian College of Physicians, Paediatric & Child Health Division (2013), Position Statement on Physical Punishment of Children

⁶ 9 May 2012, CRC/C/AUS/Q/4/Add.1, Reply to list of issues, para. 53

⁷ 29 February 2016, A/HRC/31/14/Add.1, Report of the working group: Addendum, paras. 47 and 48

⁸ *Police v Gray*, [2016] SASC 39, Judgment issued 21 March 2016

corporal punishment was “not accepted as a social norm in Australia”,⁹ but no progress has been made on enacting a legal prohibition at the federal or state level. The National Children’s Commissioner Megan Mitchell called for a prohibition of corporal punishment of children in February 2020.¹⁰

Alternative care settings

In residential centres, corporal punishment is prohibited in New South Wales in the Children and Young Persons (Care and Protection) Regulation 2012 (regulations 41 and 86), in Queensland in the Child Protection Act 1999 (s122), in South Australia in the Family and Community Services Regulations 1996 (s13) and in Australian Capital Territory in the Children and Young People Act 2008 (s741). It is lawful in the Northern Territory under provisions for the use of force “to discipline, manage or control” a child in the Criminal Code Act (s27), in Tasmania under the authority to use force “by way of correction” in the Criminal Code Act (s50), in Victoria under common law and in Western Australia under the authority to use force “by way of correction” in the Criminal Code Act (s257).

In foster care, corporal punishment is prohibited in New South Wales in the Children and Young Persons (Care and Protection) Regulation 2012 (regulations 41 and 86), in Queensland in the Child Protection Act 1999 (s122), in South Australia by licensing requirements and in Australian Capital Territory in the Children and Young People Act 2008 (s741). It is lawful in the Northern Territory under provisions for the use of force “to discipline, manage or control” a child in the Criminal Code Act (s27), in Tasmania and Western Australia under the authority to use force “by way of correction” in the respective Criminal Code Acts (s50 and s257) and in Victoria under common law.

Day care

Corporal punishment is prohibited in child care centres in Australian Capital Territory in the Children and Young People Act 2008 (s741), in New South Wales in the Children’s Services Regulation 2004 (s65), in Queensland in the Child Protection Act 1999 (s122), in South Australia in the Education and Children’s Services Act 2019 (s32 (1)), in Victoria in the Children’s Services Act 1996 (s106(1) (a)) and in Western Australia in the Child Care Services (Child Care) Regulations 2006 (s85), the Child Care Services (Family Day Care) Regulations 2006 (s69), the Child Care Services (Outside School Hours Care) Regulations 2006 (s66) and the Child Care Services (Outside School Hours Family Day Care) Regulations 2006 (s52).

Corporal punishment is also prohibited under section 166 of the Education and Care Services National Law Act 2010 and the Education and Care Services National Regulations 2011 which regulate the provision of education and care services on a regular basis to children under 13 years of age. The Education and Care Services National Law Act 2010 was subsequently adopted by other states, including in South Australia, with the Education and Care Services (National Uniform Legislation) Act 2011 in Northern Territory, the Education and Care Services National Law (Application) Act 2011 in Tasmania, and the Education and Care Services National Law Act 2010 in Victoria and the Children (Education and Care Services) National Law (NSW) No 104a 2010 in New South Wales. In Western Australia corporal punishment is prohibited in day care in the Education and Care Services National Law (WA) Act 2012. However, as in the Education and Care Services National Law Act 2010, these laws apply to some but not all education and care settings and for children under 13 only.

Schools

In 2012, the Australian Government stated that it “does not endorse” corporal punishment in schools and that in 2011 it had launched the National Safe Schools Framework which promotes children’s safety from violence in schools and is endorsed by all education ministers.¹¹ However, the Framework is silent on the issue of corporal punishment. The Government reiterated in 2018 that it did “not endorse

⁹ 22 November 2018, CRC/C/AUS/5-6, Fifth/sixth report, para. 115

¹⁰ See for example <https://www.tweeddailynews.com.au/news/new-push-to-make-smacking-a-crime/3956058/>, last accessed 11 March 2020

¹¹ 9 May 2012, CRC/C/AUS/Q/4/Add.1, Reply to list of issues, para. 66

corporal punishment as an approach to student behaviour management in schools”,¹² but no progress has been made on enacting prohibiting legislation.

Legally, corporal punishment in schools is regulated at state level. It is prohibited in government and independent schools in Australian Capital Territory in the Education Act 2004 (s7), in New South Wales in the Education Act 1990 (s35(2a) and s47(1h)) and the Children (Education and Care Services) National Law (NSW) No 104a 2010, in Northern Territory in the Education Act 2015 (s162), in South Australia in the Education and Children's Services Act 2019 (s83) and the Education and Early Childhood Services (Registration and Standards) Act 2011, in Tasmania in the Education Act 1994 (s82A) and the Education and Care Services National Law (Application) Act 2011, and in Victoria in the Education and Training Reform Act 2006 (s4.3), the Education and Training Reform Regulations 2007 (reg14), and the Education and Care Services National Law Act 2010.

It is prohibited in government schools in Western Australia in the School Education Regulations (s40) and the Education and Care Services National Law (WA) Act 2012. This was extended to non-government schools in 2015 under section 131A of the School Education Regulations and chapter 12 of the Guide to the Registration Standards and Other Requirements for Non-Government Schools 2016. Section 257 of the Criminal Code Act still allows the use of force “by way of correction” for schoolteachers: this provision should be repealed.

In Queensland, corporal punishment is lawful in schools under the provisions for reasonable force “by way of correction, discipline, management or control” in section 280 of the Criminal Code Act. It is prohibited in government schools at policy level (Department of Education Standard of Practice (2016: 7)) which states: ‘An employee must not impose corporal punishment on a student in the course of their professional duties, or misuse their professional relationship with a student for personal or private gain’.

In a 2018 shadow report to the Committee on the Rights of the Child, the Australian Human Rights Commission recommended that the Government ban corporal punishment in all educational and care settings.¹³

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions in New South Wales under section 22 of the Children (Detention Centres) Act 1987 and the Children (Detention Centres) Regulations 2005 (s50), in Northern Territory under the Youth Justice Act (s153), in Queensland under the Juvenile Justice Regulations 2003 (s17), in South Australia under section 29 of the Youth Justice Administration Act 2016 and the Family and Community Services Regulations 1996 (s7), in Tasmania under the Youth Justice Act 1997 (s132) and in Victoria under the Children, Youth and Families Act 2005 (s487). In Australian Capital Territory, corporal punishment is not among permitted disciplinary measures in the Children and Young People Act 2008 but is not explicitly prohibited. It is not prohibited in Western Australia.

Sentence for crime

Corporal punishment is prohibited as a sentence for crime in all states and territories.

Universal Periodic Review of Australia’s human rights record

Australia was examined in the first cycle of the Universal Periodic Review in 2011 (session 10). The following recommendation was made:¹⁴

“Introduce a full prohibition of corporal punishment within the family in all states and territories (Russian Federation)”

¹² [2018], CRC/AUS/5-6, Fifth/sixth report, page 14

¹³ 1 November 2018, Australian Human Rights Commission Submission to the CRC

¹⁴ 24 March 2011, A/HRC/17/10, Report of the working group, para. 86(75)

The Government rejected the recommendation, stating: “While Australia has programs in place to protect children against family violence, and laws against assault, it remains lawful for parents in all States and Territories to use reasonable corporal punishment to discipline their children.”¹⁵

Examination in the second cycle took place in 2015 (session 23). The following recommendations were made:¹⁶

“Remove the reservation to the Convention on the Rights of the Child, and prohibit corporal punishment of children in the home and all other settings (Estonia)

“Reinforce the measures to improve conditions of detention, especially for persons with disabilities and the young, as well as to eliminate corporal punishment (Holy See)”

The Government accepted the recommendation from the Holy See “on the basis of existing law, policy and action”, stating that “Australia does not endorse corporal punishment as an approach to student behavior management in schools” and that corporal punishment “is not a sentencing option in any juvenile justice system in Australia”. But the Government effectively rejected the recommendation to prohibit corporal punishment in the home, stating that it “notes” the recommendation “but will not further consider [it] at this time”.¹⁷

During the third cycle of the Universal Periodic Review in 2021 (session 37). No specific recommendations were made concerning corporal punishment of children.¹⁸

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(30 September 2019, CRC/C/AUS/CO/5-6 Advance unedited version, Concluding observations on fifth/sixth report, para. 28)

“The Committee recall its previous recommendations (CRC/C/AUS/CO/4, paras. 44-45) and urges the State party to:

(a) Explicitly prohibit corporal punishment in law in all settings, including in homes, public and private schools, detention centres and alternative care settings, and repeal the legal defence of “reasonable chastisement”.

(b) Develop awareness-raising and education campaigns to promote positive and alternative forms of discipline, and the adverse consequences of corporal punishment.”

Committee on the Rights of the Child

(28 August 2012, CRC/C/AUS/CO/4, Concluding observations on fourth report, paras. 7, 8, 43, 44, 45, 46 and 47)

“While welcoming the State party’s efforts to implement the concluding observations on its previous report (CRC/C/15/Add.268), it is concerned that some of the recommendations contained therein have not been fully addressed.

“The Committee urges the State party to take all necessary measures to effectively address the recommendations contained in the concluding observations on the combined second and third periodic reports that have yet to be implemented, particularly those on the reservation to article 37(c) of the Convention, legislation, coordination, respect for the views of the child, freedom of association, corporal punishment, and the administration of juvenile justice.

“The Committee regrets that notwithstanding its previous recommendation (CRC/C/15/Add.268, para. 36), corporal punishment, in the home and some schools and alternative care settings, remains lawful throughout the State party under the label of so-called ‘reasonable chastisement’.

¹⁵ 31 May 2011, A/HRC/17/10/Add.1, Report of the working group: Addendum

¹⁶ 13 January 2016, A/HRC/31/14, Report of the working group, paras. 136(165) and 136(193)

¹⁷ 29 February 2016, A/HRC/31/14/Add.1, Report of the working group: Addendum, paras. 47 and 48

¹⁸ 24 March 2021, A/HRC/47/8, Report of the working group

“The Committee reiterates its previous recommendation (CRC/C/15/Add.268, para. 36) that the State party:

- a) take all appropriate measures to explicitly prohibit corporal punishment in homes, in public and private schools, detention centres and alternative care settings in all states and territories;
- b) strengthen and expand awareness-raising and education campaigns, in order to promote positive and alternative forms of discipline and respect for children’s rights, with the involvement of children, while raising awareness about the adverse consequences of corporal punishment.

“In addition, the Committee recommends that the State party:

- a) ensure that ‘reasonable chastisement’ is not used as defence to a charge of assault of a child;
- b) ensure the training of all professionals working with or for children, including law enforcement, medical, education professionals, to promptly identify, address and report all cases of violence against children;
- c) consider undertaking an independent study on the probable linkages between domestic violence and corporal punishment.

“The Committee is gravely concerned at the high levels of violence against women and children prevailing in the country and notes that there is an inherent risk that the coexistence of domestic violence, lawful corporal punishment, bullying, and other forms of violence in the society are interlinked, conducing to an escalation and exacerbation of the situation....

“Emphasising the State party’s obligations under articles 19 and 37(a) of the Convention and the Committee’s general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee urges the State party to develop federal legislation as a general framework to reduce violence and promote the enactment of similar and complementary legislation at state and territory level. It also recommends that the State party adopt a specific plan of action to make operational the provisions under the National Plan to Reduce Violence against Women and Their Children (2010-2022), including such measures as: ...

- e) monitoring the implementation of anti-violence measures (including corporal punishment and bullying in schools, through the Internet, and in other settings) within specific plans and as part of the 3-year action plan of the National Framework for Protecting Australia’s Children.”

Committee on the Rights of the Child

(20 October 2005, Concluding observations on second and third report, CRC/C/15/Add.268, paras. 5, 35 and 36)

“The Committee notes with satisfaction that most of its concerns and recommendations (CRC/C/15/Add.79) made upon the consideration of the State party’s initial report (CRC/C/8/Add.31) in 1997 have been addressed. However, it notes that some concerns and recommendations have been insufficiently or partly addressed regarding, inter alia, ... corporal punishment....

“The Committee notes with concern that corporal punishment in the home is lawful throughout Australia under the label ‘reasonable chastisement’ and other similar provisions in states’ legislation. Furthermore, the Committee is concerned that while corporal punishment has been prohibited in government schools and some private ones in most states and territories, it is still lawful in many private education institutions and in both government and private schools in South Australia and the Northern Territory.

“The Committee recommends that the State party:

- a) take appropriate measures to prohibit corporal punishment at home and in public and private schools, detention centres and all alternative care settings in all states and territories;
- b) strengthen awareness-raising and education campaigns, with the involvement of children, in order to promote positive, non-violent forms of discipline and respect for children’s rights, while raising awareness about the negative consequences of corporal punishment.”

Committee on the Rights of the Child

(10 October 1997, CRC/C/15/Add.79, Concluding observations on initial report, paras. 15 and 26)

“The Committee expresses its concern about the lack of prohibition in local legislation of the use of corporal punishment, however light, in schools, at home and in institutions; in the view of the Committee this contravenes the principles and provisions of the Convention, in particular articles 3, 5, 6, 19, 28 (2), 37 (a), (c), and 39. The Committee is also concerned about the existence of child abuse and violence within the family.

“The Committee suggests that the State party take all appropriate measures, including of a legislative nature, to prohibit corporal punishment in private schools and at home. 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. The Committee also believes that cases of abuse and ill-treatment of children, including sexual abuse within the family, should be properly investigated, sanctions applied to perpetrators and publicity given to decisions taken. Further measures should be taken with a view to ensuring the physical and psychological recovery and social reintegration of the victims of abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention.”

Committee Against Torture

(22 November 2022, CAT/C/AUS/CO/6, Concluding observations on the sixth report, advanced unedited version, paras. 47 and 48)

“The Committee is concerned that corporal punishment remains lawful under the label of so-called ‘reasonable chastisement’ in the home throughout the State party, as well as in day care and alternative care settings, public and private schools and detention centres in some states and territories.

The Committee urges the State party to explicitly prohibit corporal punishment in law in all settings, including in homes, public and private schools, detention centres and day care and alternative care settings in all states and territories, and repeal the legal defence of “reasonable chastisement”. It should also strengthen and expand awareness-raising and education campaigns to promote positive and alternative forms of discipline.”

Committee Against Torture

(22 May 2008, CAT/C/AUS/CO/1, Concluding observations on third report, para. 31)

“The Committee notes that corporal punishment of children is not explicitly prohibited in all States and Territories and may still be applied as ‘reasonable chastisement’.

The State party should adopt and implement legislation banning corporal punishment at home and in public and private schools, detention centres, and all alternative care settings in all States and Territories.”

Committee on the Rights of Persons with Disabilities

(15 October 2019, CRPD/C/AUS/CO/2-3, Concluding observations on second-third report, paras. 29 and 30)

“The Committee is seriously concerned about:

(a) Legislation, policies and practices that permit the use of psychotropic medications, physical restraints and seclusion under the guise of “behaviour modification” and restrictive practices against persons with disabilities, including children, in any setting, including in justice, education, health, psychosocial and aged care facilities;

(b) The reported abuse of young Aboriginal and Torres Strait Islander persons with disabilities by fellow prisoners and prison staff, the use of prolonged solitary confinement, particularly of persons with

intellectual or psychosocial disabilities, and the lack of safe and accessible channels for making complaints;

(c) The lack of engagement with persons with disabilities, through their representative organizations, regarding the designation and establishment of a disability-inclusive national preventive mechanism.

“The Committee urges the State party to:

(a) Establish a nationally consistent legislative and administrative framework for the protection of all persons with disabilities, including children, from the use of psychotropic medications, physical restraints and seclusion under the guise of “behaviour modification” and the elimination of restrictive practices, including corporal punishment, in all settings, including the home;

(b) Introduce policies and measures to protect persons with disabilities, including young Aboriginal and Torres Strait Islander persons with disabilities and persons with intellectual or psychosocial disabilities, from abuse by fellow prisoners and prison staff and ensure that persons with disabilities cannot be held in solitary confinement;

(c) Ensure that organizations of persons with disabilities can effectively engage in the establishment and work of the national preventive mechanism.”

Prevalence/attitudinal research in the last ten years

In 2022 the Australian Child Maltreatment study found that approximately 61% of young people experienced corporal punishment (defined as being physically hit for discipline more than 3 times during childhood). The study used a nationally representative youth sample comprising of 3500 young people (aged 16-24 years) from across Australia. Youth who experienced corporal punishment were more likely to experience clinical major depressive disorder and generalized anxiety disorder. Only 14.8% of young people viewed physical discipline as necessary compared with 37.9% of people aged 65 and older.

(The Prevalence of Corporal Punishment in Australia - The Australian Child Maltreatment Study (ACMS), 2022. <https://www.australianchildmaltreatmentstudy.org/the-prevalence-of-corporal-punishment-in-australia/>)

In a 2012 report by the Victorian Equal Opportunity and Human Rights Commission, 514 educators – around 60% of the 883 educators involved in total – reported having used restraint on children with disabilities. Restraints included tying children up, forcing them to the floor and other physical force.

(Victorian Equal Opportunity and Human Rights Commission (2012), Held back: the experiences of children with disabilities in Victorian schools, Victoria: Victorian Equal Opportunity and Human Rights Commission)

In 2012, the Education Department of Western Australia approved confining 19 primary school children, most of whom had intellectual disabilities, in unfurnished “time-out” rooms.

(Reported in The Sunday Times, 12 January 2013)

A 2012 civil society report to the Committee on the Rights of Persons with Disabilities documents evidence of the use of “restrictive practices”, including being thrown to the ground and pinned down, solitary confinement and chemical restraint, against children with disabilities in mainstream and special schools.

(Australian Centre for Disability Law et al (2012), Disability Rights Now: Civil Society Report to the United Nations Committee on the Rights of Persons with Disabilities)

In a 2012 online poll of more than 12,000 people, 92.47% replied “no” to the question “should smacking a child be a criminal offence?”

(Reported in The Daily Telegraph, 4 February 2012, www.dailytelegraph.com.au)

In a 2011 online poll of more than 4,000 people, 85% of parents admitted smacking their children.

(Reported in news.com.au, 12 September 2011)

In a survey of over 300 children and young people carried out in 2010 by the ACT Children & Young People Commissioner, 57% of children and young people said it was “not ok” for parents to smack their children, 37% said it was “sometimes ok”, and 2% said it was “ok”. Of those children and young people

who thought that it was “ok” or “sometimes ok” for parents to smack their children, 49% said that it was ok to smack a child to “punish the child”, or to “teach the child a lesson” (29%), or if the child was “at risk of hurting themselves” (16%). Very few children and young people thought that it was ok to smack a child “when the parents are angry” (3%), to “make the parents feel better” (1%), or “whenever the parents want to” (1%). Additionally, 46% of children and young people thought that parents smacking their children “maybe” should be banned, 38% said that it “should” be banned, and 11% said that it “shouldn’t” be banned.

(ACT Human Rights Commission (2011), Children & Young People Commissioner Annual Report Summary 2010-2011)

The Victoria Education Department investigated 187 cases of “inappropriate discipline”, including “smacking”, in childcare centres between 2007 and 2009, despite corporal punishment being prohibited.

(Reported by The Herald Sun, 11 April 2011, www.heraldsun.com.au)

A 2009 study of all identified child homicides in New South Wales from 1991 to 2005 (165 homicides by 157 offenders) found that the most common cause of death was physical punishment, accounting for 36% (59 deaths) over the 14 year period. In almost three in four cases, children had been beaten, thrown or shaken to death by their parents/carers. Children below the age of one were more likely to be killed than older children; the average age of the 59 children killed through physical punishment was 1.5 years. The researchers, backed by the Australian Childhood Foundation, called for corporal punishment to be prohibited: “More lives could be saved by measures that reduce the incidence of child abuse, including the prohibition of corporal punishment of children.”

(Nielssen, O. et al (2009), “Child homicide in New South Wales from 1991 to 2005”, Medical Journal of Australia, 190(1), 7-11, www.mja.com.au/public/issues/190_01_050109/nie10592_fm.html)

A federal government funded survey of over 500 adults by the Australian Council of State School Organisations found that while most believed discipline in schools is too lax, few supported a return to corporal punishment.

(Reported in The Herald Sun, 10 October 2008)

In a study involving interviews and focus groups with 31 8-17 year olds, children described the physical and emotional pain which physical punishment causes. They said physical punishment is often inflicted by adults who are angry and stressed and adults often regret it and feel guilty afterwards.

(Saunders, B. J. & Goddard, C. (2007), “Some Australian Children’s Perceptions of Physical Punishment in Childhood”, Children & Society, 22, 405-417)

A survey of parents in Queensland, conducted by the Parenting and Family Support Centre, University of Queensland, and reported in 2007, found that 71% smacked their children occasionally. When asked how likely parents were to use smacking as a punishment, 43% said they were likely or very likely to give a single smack with their hand; 10% said they were likely or very likely to spank their child more than once with their hand or another object.

(Reported in Herald Sun, 19 May 2007)

Annex: Summary of legal status of corporal punishment of children in Australia

State/territory	Prohibited in the home	Prohibited in alternative care settings	Prohibited in day care	Prohibited in schools	Prohibited in penal institutions	Prohibited as sentence for crime
Australian Capital Territory	NO	YES	[YES] ¹⁹	YES	YES ²⁰	YES
New South Wales	NO	YES	[YES] ²¹	YES	YES	YES
Northern Territory	NO	NO	SOME ²²	YES	YES	YES
Queensland	NO	YES	[YES] ²³	NO ²⁴	YES	YES
South Australia	NO ²⁵	YES	[YES] ²⁶	YES	YES	YES
Tasmania	NO	NO	SOME ²⁷	YES	YES	YES
Victoria	NO	NO	[YES] ²⁸	YES	YES	YES
Western Australia	NO	NO	[YES] ²⁹	YES	NO	YES

[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.

¹⁹ Prohibition in childminding unconfirmed

²⁰ But no explicit prohibition

²¹ Prohibition in childminding unconfirmed

²² Prohibited in some education and care settings for under 13s

²³ Prohibition in childminding unconfirmed

²⁴ Prohibited in government schools as a matter of policy

²⁵ 2016 South Australian Supreme Court ruling found in favour of “reasonable” corporal punishment by parents

²⁶ Prohibition in childminding unconfirmed

²⁷ Prohibited in some education and care settings for under 13s

²⁸ Prohibition in childminding unconfirmed

²⁹ Prohibition in childminding unconfirmed