

Corporal punishment of children in the Republic of Korea

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Child population 8,925,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

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

Prohibition of corporal punishment

Home

Corporal punishment is prohibited in the home under article 5 (2) of the Child Welfare Act which prohibits the infliction by adults of physical pain or psychological pain, including violent language. On 8 January 2021, the Korean National Assembly passed a Bill (Act No. 17095) 1 to amend the Civil Act 1958 and repeal article 915, which provided for the “right to take disciplinary action”. Article 915 (“Right to Take Disciplinary Action”) stated: “The person of parental authority may, in order to protect or educate his or her child, take necessary disciplinary action against the child, and may entrust such child to a reformatory or correctional institution upon the approval of the court.” With the repeal of article 915 of the Civil Act, there is no legal provision that can be interpreted as authorising the use of corporal punishment in childrearing and article 5(2) of the Child Welfare Act therefore applies.

Article 924-2 (“Adjudication on Partial Restriction of Parental Authority”) was also amended to remove a reference to “disciplinary action”. Article 945 (“Rights and Duties of Guardians on Status of Minors”) which referred to article 915 was also amended to reflect its repeal.

In January 2021, while announcing the amendment of the Civil Act, the Government stated: “A ban on the corporal punishment of children by their parents is the most fundamental stipulation in preventing child abuse. Considering that the Civil Act is the basis of the private law system, the passage of the legislative amendment through the National Assembly is expected to provide an opportunity to fundamentally improve the social awareness towards the corporal punishment of children and child abuse”.

Article 5 of the Child Welfare Act states that the protector of children (i.e. parents and other adults with parental authority) “shall rear the children healthy and safely within the family, according to the stage of their growth” and all citizens “shall respect the rights, interests and safety of children and rear them healthy”. In 2015 article 5(2) was amended to state that the protector shall not “inflict physical pain or psychological pain, including violent language, on the children” (unofficial translation).² The Child Welfare Act also states that no person shall commit physical abuse which may hurt the child’s body or physical health and development (art. 17(3)) or emotional abuse which may injure the child’s mental

¹ Act No. 17095, Jan. 26, 2021

² Information provided to the Global Initiative

health and development (art. 17(5)). It also provides for precautionary and preventive measures against child abuse including research, public education and a reporting system (art. 22). According to the Government, the Child Welfare Act was revised in 2008 to provide for parent education on non-violent discipline.³

Prior to the amendment of the Civil Act, the Government accepted the recommendation to prohibit corporal punishment in all settings made during the Universal Periodic Review of the Republic of Korea in 2012.⁴ In the same year, the Children's Rights Ordinance 2012 was enacted in Seoul, article 28 of which prohibits corporal punishment by parents: "Parents, custodians, or the person who has responsibilities for taking care of children should not use physical, emotional and verbal abuse including corporal punishment on their children" (unofficial translation). But corporal punishment had remained lawful in other provinces.

Alternative care settings

Corporal punishment is unlawful in alternative care settings under article 5 (2) of the Child Welfare Act (see under "Home"). Article 5(2) of the Child Welfare Act provides that the protector of children shall not "inflict physical pain or psychological pain, including violent language, on the children" (unofficial translation). According to article 5 of the Child Welfare Act, protectors of children are parents and other adults with parental authority.

Corporal punishment is also prohibited in alternative care settings in Seoul in the Children's Rights Ordinance 2012, article 28 (see under "Home") and article 31 (unofficial translation): "Directors and staff in residential alternative care institutions should not use physical, emotional and verbal abuse including corporal punishment on their children."

Day care

Corporal punishment is unlawful in day care under article 5 (2) of the Child Welfare Act (see under "Home"). Article 5(2) of the Child Welfare Act provides that the protector of children shall not "inflict physical pain or psychological pain, including violent language, on the children" (unofficial translation). According to article 5 of the Child Welfare Act, protectors of children are parents and other adults with parental authority. Corporal punishment is also prohibited in day care in Seoul under articles 28 and 31 of the Children's Rights Ordinance 2012 (see under "Home" and "Alternative care").

Schools

Corporal punishment is unlawful in schools under article 5 (2) of the Child Welfare Act (see under "Home"). Article 5(2) of the Child Welfare Act provides that the protector of children shall not "inflict physical pain or psychological pain, including violent language, on the children" (unofficial translation). The enforcement of article 5(2) of the Child Welfare Act followed the repeal of article 915 of the Civil Act in January 2021. Article 915 provided for the right of persons with parental authority "to take disciplinary action" against children. Although the Government has clearly stated that it intended to prohibit corporal punishment of children in all settings, we are seeking confirmation that the provision regarding "persons with parental authority" also concerns teachers.

In Seoul, Gyeonggi province, Gwangju City and Jeollabukdo province all corporal punishment is also prohibited by the respective Student Rights Ordinances.

Penal institutions

Corporal punishment is unlawful in penal institutions under article 5 (2) of the Child Welfare Act (see under "Home"). Article 5(2) of the Child Welfare Act provides that the protector of children shall not "inflict physical pain or psychological pain, including violent language, on the children" (unofficial

³ 5 January 2011, CRC/C/KOR/3-4, Third/fourth state party report, para. 146; 2 February 2012, CRC/C/KOR/CO/3-4, Concluding observations on third/fourth report, para. 3

⁴ 12 December 2012, A/HRC/22/10, Report of the working group, para. 124(38)

translation). According to article 5 of the Child Welfare Act, protectors of children are parents and other adults with parental authority.

The Training School Act (Juvenile Reformatory Act) and the Act on Execution of the Sentence and Treatment of Prisoners do not include corporal punishment among permissible disciplinary measures. There is no provision for corporal punishment in the Act on the Treatment of Protected Juveniles, etc. 2004 amended 2013, or its Enforcement Decree 2008 amended 2014.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in the Criminal Code, the Criminal Procedure Code 1954 and the Juvenile Act 1988.

Universal Periodic Review of the Republic of Korea's human rights record

The Republic of Korea was examined in the first cycle of the Universal Periodic Review in 2008 (session 2). The following recommendation was made:⁵

“To urgently amend relevant legislation to expressly prohibit corporal punishment in schools and at home and implement educational measures promoting positive and non-violent forms of discipline (Italy)”

The Government did not accept or reject the recommendation but stated: “Regarding the issue of corporal punishment of children in the home, it is important to reflect the views of various sectors of society in order to amend legislation. Since 2007, the Republic of Korea has designated some pilot schools where corporal punishment is not practiced and alternative measures for student discipline in this regard are provided.”⁶ The Government later stated that the issue would be kept under review.⁷

Examination in the second cycle took place in 2012 (session 14). The national report states that law reform in 2011 prohibits corporal punishment in schools but confirms that there is no legislation explicitly prohibiting corporal punishment in the home.⁸ During the review the following recommendations were made:⁹

“Consider establishing the total prohibition of corporal punishment (Palestine); Carry out public awareness campaigns on the negative consequences of the ill-treatment of children to promote positive and non-violent forms of discipline in schools and at home as alternative measures to these punishments (Uruguay); Expressly prohibit corporal punishment in all settings (Hungary)”

The Government accepted the recommendations.¹⁰

Third cycle review took place in 2017 (session 28). The following recommendation was made and supported by the Government:¹¹

“Prohibit by law and in practice corporal punishment of children in all settings, including in orphanages and child welfare centers (Ecuador)”

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(27 September 2019, CRC/C/KOR/CO/5-6 Advance unedited version, Concluding observations on fifth/sixth report, paras. 5, 26 and 27)

⁵ 29 May 2008, A/HRC/8/40, Report of the working group, para. 64(29)

⁶ 29 May 2008, A/HRC/8/40, Report of the working group, para. 58

⁷ 25 August 2008, A/HRC/8/40/Add.1, Report of the working group: Addendum

⁸ 13 August 2012, A/HRC/WG.6/14/KOR/1, National report to the UPR, paras. 60 and 61

⁹ 12 December 2012, A/HRC/22/10, Report of the working group, para. 124(38)

¹⁰ 16 January 2013, A/HRC/22/10/Add.1, Report of the working group: Addendum, para. 23

¹¹ 13 November 2017, A/HRC/WG.6/28/L.8 Unedited version, Draft report of the working group, para. 130(75)

“The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party’s attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: ...violence against children (para. 27)...”

“While welcoming the adoption of the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, the increase in the child abuse prevention budget, local child protection agencies, shelters and psychotherapists, the Committee remains concerned at:

- (a) The high prevalence of child abuse, including online violence and violence in school;
- (b) The high incidence of repeated child abuse in the family without effective measures to prevent reoffending;
- (c) The fact that corporal punishment is still legal in certain settings;
- (d) The underreporting of child abuse;
- (e) Shortage of reliable data on child abuse;
- (f) The absence of a comprehensive policy and strategy to address all forms of violence and abuse against children;
- (g) Shortage of local child protection agencies, shelters, counsellors, psychologists and lawyers specialised in child abuse;
- (h) Shortage of specialised support, including shelters, for migrant children and children with disabilities, who are victims of abuse.

“With reference to its general comments No. 13 (2011) on the right of the child to freedom from all forms of violence, No 8 (2006) on corporal punishment and SDG target 16.2 on ending abuse, exploitation, trafficking and all forms of violence against and torture of children, the Committee recommends that the State party:

- (a) Establish a national database on all cases of violence and abuse against all children and undertake a comprehensive assessment of their extent, causes and nature;
- (b) Formulate a comprehensive strategy and an action plan for preventing, combating and monitoring all forms of violence and abuse against children, including online violence;
- (c) Explicitly prohibit corporal punishment, including “indirect corporal” and “disciplinary” punishment, in law and practices in all settings, in all territories of the State Party;
- (d) Intensify awareness-raising and education programmes on all forms of violence and abuse; promote non-violent communication and conflict mediation in schools and positive, non-violent and participatory forms of child-rearing; and encourage the reporting of violence and abuse;
- (e) Train professionals concerned to identify and adequately respond to cases of violence and child abuse, including psychological abuse, taking into account a gender perspective; and establish reporting guidelines;
- (f) Ensure that cases of violence and child abuse are investigated and appropriately addressed;
- (g) Ensure the development of programmes and policies for the prevention, recovery and social reintegration of child victims of abuse, including by: (i) further increasing the number of local child protection agencies and shelters, counsellors, clinical psychologists and lawyers dealing with child abuse cases; (ii) providing free legal representatives for child victims; (iii) ensuring access of migrant children and children with disabilities to shelters;
- (h) Allocate adequate human, financial and technical resources for implementing the abovementioned recommendations and reducing regional disparities.”

Committee on the Rights of the Child

(2 February 2012, CRC/C/KOR/CO/3-4, Concluding observations on third/fourth report, paras. 6, 7, 42 and 43)

“The Committee ... regrets that some of its concerns and recommendations have been insufficiently addressed or not addressed at all.

“The Committee urges the State party to take all necessary measures to address the recommendations from the concluding observations on its second periodic report (CRC/C/124, paras. 79-141) which have not yet been implemented, particularly those related to ... the comprehensive prohibition of corporal punishment....

“The Committee reiterates its previous concerns (CRC/C/15/Add.197, para. 38) on the continued prevalence of corporal punishment in the domestic, school and alternative care context.

“The Committee reiterates its previous recommendation to:

a) implement the recommendation of the National Human Rights Commission that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions;

b) carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes to corporal punishment, and promote positive, non-violent forms of discipline in schools and at home, including the pilot green mileage system as an alternative to corporal punishment in school;

c) establish mechanisms which allow for children who are victims of corporal punishment to report such incidents.”

Committee on the Rights of the Child

(18 March 2003, CRC/C/15/Add.197, Concluding observations on second report, paras. 7, 38 and 39)

“The Committee regrets that most recommendations in the concluding observations (CRC/C/15/Add.51), adopted following its consideration of the State party’s initial report (CRC/C/8/Add.21), have been insufficiently addressed, particularly those regarding:

d) the prohibition of all forms of corporal punishment (para. 22)....

“The Committee notes with great concern that corporal punishment is officially permitted in schools. The Committee is of the opinion that corporal punishment does not conform with the principles and provisions of the Convention, particularly since it constitutes a serious violation of the dignity of the child (see similar observations of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.79, para. 36 [re UK]). The fact that the Ministry of Education guidelines leave the decision on whether to use corporal punishment in schools to the individual school administrators suggests that some forms of corporal punishment are acceptable and therefore undermines educational measures to promote positive, non-violent forms of discipline.

“The Committee recommends that the State party:

a) implement the recommendation of the National Human Rights Commission that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions;

b) carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes to corporal punishment, and promote positive, non-violent forms of discipline in schools and at home as an alternative to such punishment.”

Committee on the Rights of the Child

(13 February 1996, CRC/C/15/Add.51, Concluding observations on initial report, paras. 15 and 22)

“... With regard to child abuse and domestic violence, the Committee is concerned at the lack of preventive policies and of adequate reporting mechanisms. Abandonment of children, the high rate of child headed families and the persistence of corporal punishment, widely envisaged by parents and teachers as an educational measure, are other subjects of concern to the Committee.

“... The Committee particularly recommends that legislative measures be adopted with a view to ... clearly prohibiting any form of corporal punishment....”

Committee Against Torture

(30 May 2017, CAT/C/KOR/CO/3-5, Concluding observations on third/fifth report, paras. 33 and 34)

“The Committee is concerned that corporal punishment of children remains permitted in the home, in schools and in alternative care and day-care settings, in particular in orphanages and child welfare facilities, especially outside the capital city (arts. 2, 4 and 16).

“The State party should amend and enact legislation so as to explicitly and clearly prohibit corporal punishment in all settings, including orphanages and child welfare facilities, in all parts of the country, and take the measures necessary to prevent such punishment.”

Prevalence/attitudinal research in the last ten years

A survey of 9,060 elementary, middle and high school students conducted by the National Youth Policy Institute in June and August 2018, found that 29% of students said they thought about committing suicide once in a while and 5% said they did so very often. Whilst academic pressure was cited as the biggest cause, nearly 19% of young people surveyed said they had experienced abusive language from teachers and 12% said they received corporal punishment at school.

(Reported in “Over 33% of students contemplate suicide”, Korea Times, 24 July 2019
http://www.koreatimes.co.kr/www/nation/2019/07/371_272815.html)

According to a 2016 report on student rights by the Seoul Metropolitan Office of Education, about 19% of the 21,000 surveyed students were physically punished at school in the past year. Corporal punishment was most commonly experienced by students in middle school (31%), followed by high school (22%) and elementary school students (15%). More cases were reported in private schools (27%) compared to public schools (16%). About 28% of students said they had also experienced verbal assault or insulting remarks from faculty members.

(Reported in “20% of Seoul students still face corporal punishment: report”, Korea Herald, 4 April 2016
(<http://www.koreaherald.com/view.php?ud=20160404000771>))

According to the “Survey IV on the Human Rights of Korean Children and Adolescents” conducted by the National Youth Policy Institute in 2013, 23.7% of primary, middle and high school respondents have experienced corporal punishment at least once a year at their school.

(Independent Report of National Human Rights Commission of Korea for Consideration of Third to Fifth Periodic Reports submitted by Republic of Korea under Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or punishment, March 2017, at p.15)

A study of 481 high school students, carried out in September and October 2011 and published in 2012 in the journal of the Korea Institute of Criminology, found that 94.6% had experienced corporal punishment at school, including being “spanked”, struck on the cheek and punched.

(Reported in Asian Correspondent, 18 July 2012)

A 2011 survey of 1,430 student teachers (783 training to be primary school teachers and 647 to be secondary school teachers) found that 68% of primary student teachers and 62% of secondary student teachers disagreed that any form of corporal punishment was unacceptable and 63% of primary student teachers and 66.5% of secondary student teachers disagreed that corporal punishment should be banned by law. Nearly half (47.6%) of primary student teachers and 58% of secondary student teachers agreed “although a teacher cannot hit a school child with his/her open hand, it is acceptable to use a paddle”; 33.7% of primary student teachers and 37.1% of secondary student teachers agreed that “to maintain order in a classroom, it is acceptable for a teacher to administer physical punishment upon the whole class”. The vast majority of the students had experienced corporal punishment at

school as children: 97.6% had been hit on the palms of their hands, 98.4% physically punished as part of a group, 85.3% hit on the buttocks or thighs and 94.8% forced to kneel down.

(Save the Children Korea (2011), Incorporating Children's Rights Education into the Teacher Training Curriculum of South Korea: A study on the teacher education curriculum, student-teachers' awareness of children's rights, and development of a children's rights education course)

[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.