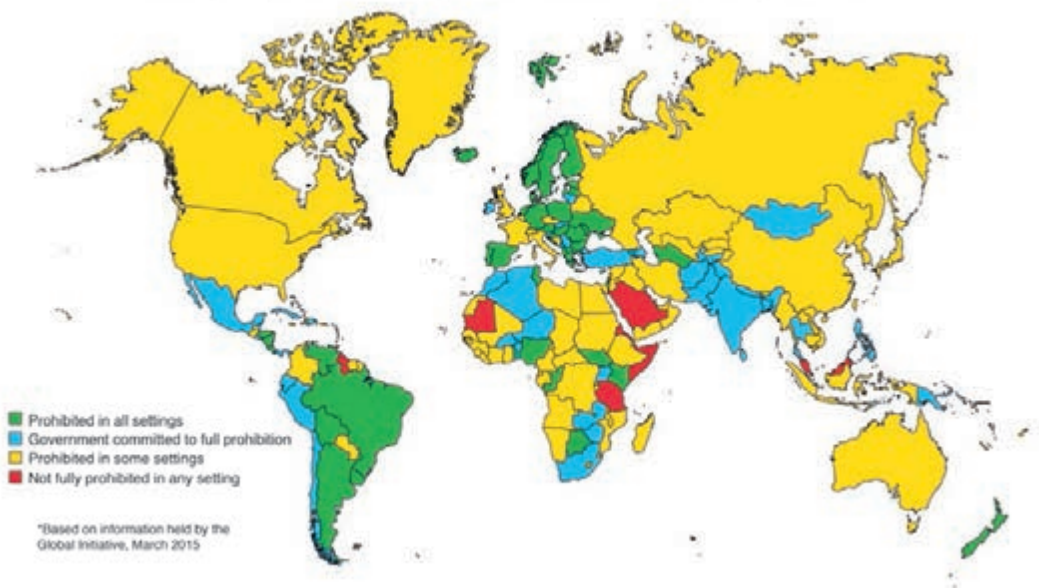


Prohibiting all corporal punishment of children: progress and delay

Global progress towards prohibition of all corporal punishment*



“... eliminating violent and humiliating punishment of children, through law reform and other necessary measures, is an immediate and unqualified obligation of States parties.”

(Committee on the Rights of the Child, General Comment No. 8, 2006)

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Punishment of Children
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Global Initiative to
End All Corporal Punishment
of Children

PROGRESS

States meeting their obligations

The Committee on the Rights of the Child underlines states’ immediate obligation to prohibit and eliminate all corporal punishment in its General Comment No. 8 (2006), which provides detailed guidance to states on fulfilling their obligation. The Committee has recommended prohibition to 189 states across all regions. Its recommendations are echoed by other UN human rights treaty bodies and by regional human rights mechanisms. Corporal punishment has repeatedly been raised as an issue during the Universal Periodic Review (UPR) of states’ overall human rights records. Of states still to achieve full prohibition, 48 have made a commitment to law reform to prohibit in all settings including the home, by unequivocally accepting UPR recommendations to do so and/or in other contexts.

44 states have achieved prohibition in all settings:

Albania	Liechtenstein
Argentina	Luxembourg
Austria	Malta
Bolivia	Netherlands
Brazil	New Zealand
Bulgaria	Nicaragua
Cabo Verde	Norway
Congo, Republic	Poland
Costa Rica	Portugal
Croatia	Republic of Moldova
Cyprus	Romania
Denmark	San Marino
Estonia	South Sudan
Finland	Spain
Germany	Sweden
Greece	TFYR Macedonia
Honduras	Togo
Hungary	Tunisia
Iceland	Turkmenistan
Israel	Ukraine
Kenya	Uruguay
Latvia	Venezuela

Governments in 48 states have made clear commitments to prohibition by accepting UPR recommendations and/or in other contexts:

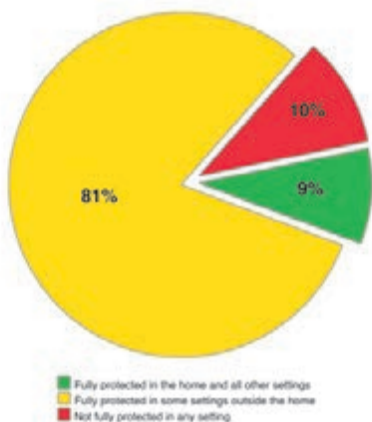
Afghanistan; Algeria; *Armenia; *Azerbaijan; Bangladesh; Belize; *Benin; Bhutan; *Burkina Faso; Chile; *Comoros; Cuba; Dominican Republic; Ecuador; El Salvador; *Estonia; India; *Lithuania; Maldives; *Mauritius; Mexico; *Mongolia; *Montenegro; Morocco; Nepal; *Nicaragua; *Niger; *Pakistan; Palau; Panama; Papua New Guinea; *Peru; *Philippines; Samoa; San Marino; Sao Tome and Principe; *Serbia; *Slovakia; *Slovenia; *South Africa; Sri Lanka; Tajikistan; Thailand; *Timor-Leste; Turkey; *Uganda; *Zambia; Zimbabwe

** Prohibiting legislation under discussion*

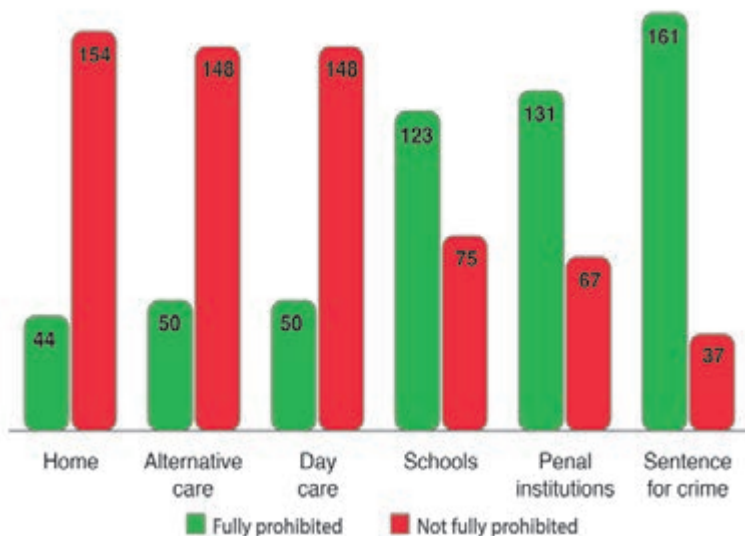
Another 14 states have accepted UPR recommendations to prohibit but shown ambiguity about the need for law reform:

Andorra; Belarus; France; Ghana; Guatemala; Japan; Jordan; Kuwait; Kyrgyzstan; Lesotho; Republic of Korea; Rwanda; Solomon Islands; Tuvalu

Percentage of global child population fully protected in law from corporal punishment



Number of states worldwide prohibiting corporal punishment of children in law



International action to speed universal prohibition

In June 2014, Sweden's Government hosted an international conference in Stockholm bringing together high-level representatives of states which have achieved or are committed to a complete ban on corporal punishment to discuss how to accelerate progress. The conference celebrated the 35th anniversary of Sweden's pioneering ban in 1979 and the 25th anniversary of the adoption of the CRC. Austria – the fourth state to achieve a complete ban in 1989 – has agreed to host a similar follow-up conference in 2016. See the full report at [www.endcorporalpunishment.org/pages/pdfs/reports/Special Report Sweden.pdf](http://www.endcorporalpunishment.org/pages/pdfs/reports/Special%20Report%20Sweden.pdf).



DELAY

The worst offenders

The human rights imperative to enact legislation explicitly prohibiting corporal punishment of children, wherever they are, is clear. But there are individual governments which resist reform, ignoring repeated recommendations by treaty bodies, rejecting recommendations to prohibit made during the Universal Periodic Review, even openly defending the legality and use of corporal punishment.

In at least 22 states, corporal punishment is not fully prohibited in any setting

Antigua and Barbuda; Barbados; Botswana; Brunei Darussalam; Dominica; Eritrea; Grenada; Guyana; Malaysia; Maldives; Mauritania; Nigeria; Pakistan; Saudi Arabia; Singapore; Somalia; State of Palestine; St Vincent and the Grenadines; Trinidad and Tobago; Tuvalu; United Republic of Tanzania; Zimbabwe

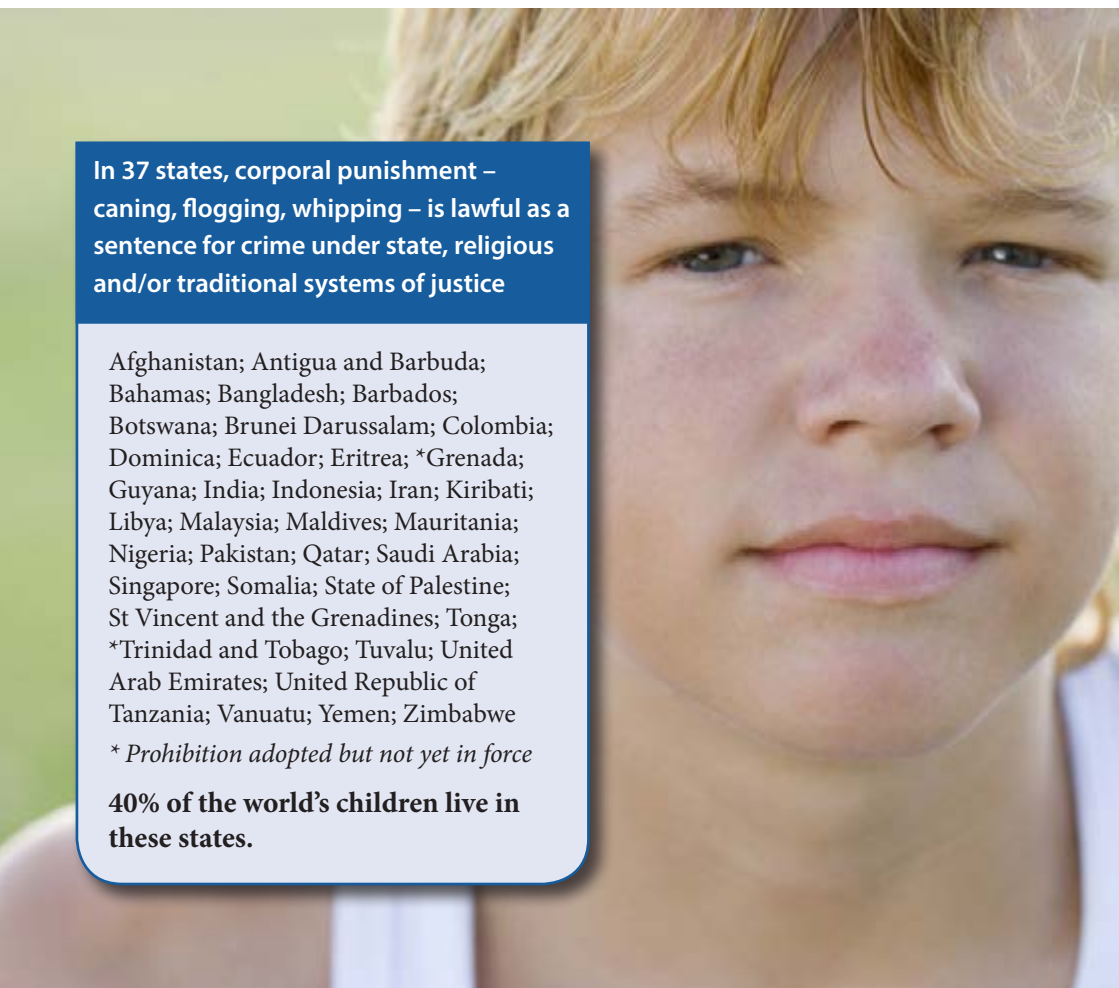
10% of the world's children live in these states.

In 37 states, corporal punishment – caning, flogging, whipping – is lawful as a sentence for crime under state, religious and/or traditional systems of justice

Afghanistan; Antigua and Barbuda; Bahamas; Bangladesh; Barbados; Botswana; Brunei Darussalam; Colombia; Dominica; Ecuador; Eritrea; *Grenada; Guyana; India; Indonesia; Iran; Kiribati; Libya; Malaysia; Maldives; Mauritania; Nigeria; Pakistan; Qatar; Saudi Arabia; Singapore; Somalia; State of Palestine; St Vincent and the Grenadines; Tonga; *Trinidad and Tobago; Tuvalu; United Arab Emirates; United Republic of Tanzania; Vanuatu; Yemen; Zimbabwe

** Prohibition adopted but not yet in force*

40% of the world's children live in these states.



The UN Committee on the Rights of the Child has made recommendations concerning corporal punishment three times to the following states, but they have not yet achieved prohibition in all settings

Algeria; Armenia; Australia; Bangladesh; Belgium; Canada; Czech Republic; DPR Korea; Ethiopia; France; Georgia; Guatemala; India; Italy; Jamaica; Japan; Jordan; Kyrgyzstan; Lebanon; Lithuania; Mauritius; Mexico; Morocco; Myanmar; Nigeria; Pakistan; Panama, Republic of Korea; Russian Federation; Singapore; Sri Lanka; Sudan; Syrian Arab Republic; Thailand; UK; Uzbekistan; United Republic of Tanzania; Yemen



33 states rejected recommendations to prohibit corporal punishment during the Universal Periodic Review of their overall human rights record and have made no commitment to law reform

Antigua and Barbuda; Australia; Bahamas; Barbados; Belgium; Botswana; Brunei Darussalam; Cameroon; Canada; Chad; Czech Republic; Dominica; Eritrea; Ethiopia; Georgia; Grenada; Indonesia; Italy; Malaysia; Myanmar; Saudi Arabia; Singapore; St Lucia; St Vincent and the Grenadines; Sudan; Suriname; Swaziland; Switzerland; Tonga; Trinidad and Tobago; UK; United Arab Emirates; United Republic of Tanzania

States defending corporal punishment in the Universal Periodic Review

“Corporal punishment was ... not applied arbitrarily, and was seen as a measure of last resort for serious offences in the school system.... Dominica was not prepared to remove corporal punishment from its statute books” (Dominica, 2011)

“... corporal punishment was not common and was only conducted as a last resort with strict regulations, guidelines and procedures ... only available for a specified list of serious crimes, and was not lightly imposed” (Singapore, 2011)

“Whipping is the only form of corporal punishment that is available under the criminal justice system, but it ... will be retained as a deterrent, and used only at the most extreme cases when alternative sentences are not appropriate in the interests of the criminal justice system” (Tonga, 2013)

“... caning of miscreant students in schools is viewed as a legitimate and acceptable form of punishment in Tanzania. It was not the intention of the law makers that it should be violent, abusive and/or degrading as recommended or envisaged” (United Republic of Tanzania, 2012)

THE REALITY BEHIND THE STATISTICS



There is a large and still growing body of research which reveals the appalling levels of punitive violence experienced by children worldwide (for full references see www.endcorporalpunishment.org):

UNICEF (2014), *Hidden in Plain Sight*, www.unicef.org/publications/index_74865.html

- A major UNICEF report published in 2014, which used data from 62 countries, highlighted that violent punishment is the most common form of violence against children. The report, which used data from surveys carried out in 2005-2013, found that on average 80% of children aged 2-14 had experienced violent “discipline” (physical punishment and/or psychological aggression) at home in the past month. Seventeen per cent of children experienced severe physical punishment (being hit on the head, face or ears or hit hard and repeatedly) at home in the past month.
- Corporal punishment continues to be inflicted on children by teachers and other school staff in states in all regions. States in which studies have documented a high prevalence of school corporal punishment include Belgium (2011), Benin (2009), Dominica (2009) and Iraq (2008). An analysis of US government statistics relating to the 2009-2010 school year revealed that on average, more than 800 children experience corporal punishment in public schools every day, the equivalent of one every 30 seconds.
- Corporal punishment is widespread in care settings, including institutional and foster care, and in the penal system. For example, studies have documented violent punishment in “orphanages”, shelters, police custody and prisons in Kazakhstan, and in “orphanages”, “special needs centres”, church homes, transit care centres and reformatory centres in Malawi.

“Children are sick of being called ‘the future’; they want to enjoy their childhood, free of violence, now.”
(Paulo Sérgio Pinheiro, Independent Expert who led the UN Secretary General’s Study on Violence against Children)

The available evidence paints a horrific picture – but given that much of the research relies on reporting by adults it is certain that children’s actual experience is worse. Children especially vulnerable to corporal punishment, such as very young children, disabled children and working children, are among the least likely to be visible in research.

Inquiries by the Global Initiative suggest that in around 40 states no research into corporal punishment of children has been undertaken in the last ten years; in some other states research is minimal. But we know more than enough to demand urgent action in all regions. Children cannot wait for the fulfilment of their right to protection from all violence. Universal prohibition and elimination of all corporal punishment is needed now.

TAKING ACTION

Many states have made a commitment to law reform to prohibit corporal punishment in all settings including the home. Some are actively considering draft legislation which would achieve this. In other states there are developments towards prohibiting corporal punishment in one or more settings outside the home.

Yet there are immediate opportunities for law reform in a great many more states – at least 131 across all regions – as laws relevant to children are being reviewed and revised.

There are active regional campaigns promoting prohibition of all corporal punishment of children. For example, the Council of Europe campaigns for prohibition across its 47 member states (www.coe.int/t/dg3/children/corporalpunishment/), the South Asia Initiative to End Violence Against Children (www.saievac.info) campaigns for prohibition across eight South Asia states and the Caribbean Coalition for the Abolition of Corporal Punishment of Children (www.endcorporalpunishmentcaribbean.org) campaigns for prohibition in all Caribbean states and territories.

Where progress is not being made, stronger advocacy is now required, including legal advocacy. Full use should be made of Constitutional challenges to corporal punishment and direct application of the Convention on the Rights of the Child and other relevant

instruments in national courts. There are many examples of national high level court judgments which have led to law reform. Recourse can also be made to regional and international complaints/communications mechanisms, where a state has accepted these. The Global Initiative is currently preparing reports to support legal action in those states which continue to resist prohibition.

Law reform to prohibit corporal punishment means:

- repealing all legal defences, justifications, authorisations and regulations for the use of corporal punishment
- enacting clear prohibition of all corporal punishment and other cruel and degrading forms of punishment in all settings

“... we have no hesitation to hold that in the light of the Convention corporal punishment upon the children must be prohibited in all settings, including schools, homes and work places.”

(Supreme Court, Bangladesh, 2011)

“... at this time, so close to the dawn of the 21st century, juvenile whipping is cruel, it is inhuman and it is degrading.”

(Constitutional Court, South Africa, 1995)

“Children have rights no wit inferior to the rights of adults.... Our educational institutions should be sanctuaries of peace and creative enrichment, not places of fear, ill-treatment and tampering with the human dignity of students.”

(High Court, Fiji, 2002)

For further information and advice on any aspect of this briefing, see www.endcorporalpunishment.org or email info@endcorporalpunishment.org

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Now more than 25 years since the adoption of the Convention on the Rights of the Child, 9% of the world's children are fully protected in law from all corporal punishment, but still 91% can be lawfully hit and hurt by those closest to them.

Compliance with international human rights law – the Convention on the Rights of the Child and other human rights instruments – requires that states prohibit by law all corporal punishment of children in all settings, including the home.

There has been accelerating progress towards law reform, but the pace of reform is still unacceptably slow. Too many governments on the one hand claim to support ending all forms of violence against children while on the other they fail to prohibit violence disguised as discipline or punishment. Some governments claim to have prohibited corporal punishment but scrutiny of the laws shows otherwise.



To date, 44 states have prohibited corporal punishment in all settings including the home – but 22 do not prohibit corporal punishment in any setting. The majority (132) have prohibited it in one or more settings outside the home (alternative care settings, day care, schools, the penal system); 123 have prohibited it in all their schools. One hundred and fifty-four states have yet to prohibit all corporal punishment in the home, 148 in alternative care settings and day care, 75 in all schools, 67 in penal institutions, and 37 as a sentence for crime.



“Joining hands together, we can build a world where all children, without discrimination of any kind, are protected by effective legislation and enjoy human rights in a violence free environment.”
(Marta Santos Pais, Special Representative of the UN Secretary General on Violence against Children)

“Addressing the widespread acceptance or tolerance of corporal punishment of children and eliminating it, in the family, schools and other settings, is not only an obligation of States parties under the Convention. It is also a key strategy for reducing and preventing all forms of violence in societies.”

(Committee on the Rights of the Child, General Comment No. 8, 2006)