

# Towards non-violent schools: prohibiting all corporal punishment

## Global report 2015



“The vision of a world in which violent punishment of children is universally condemned and prohibited is now within our grasp. We cannot let more generations of children suffer these obvious and deliberate violations of their rights. We must not keep children waiting.”

Professor Paulo Sérgio Pinheiro



**T**he aims of the Global Initiative – promoting the prohibition and elimination of all corporal punishment of children – are supported by UNICEF, UNESCO and many international and national organisations, including:

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**The Global Initiative urges international and national organisations to support its aims – to sign up go to [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org). The website includes a full list of supporters.**

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## Professor Paulo Sérgio Pinheiro

The Independent Expert who led the UN Secretary General's Study on Violence against Children

Can anything be more anti-educational than deliberately using violence to discipline children? This report shows that, nearly 10 years after I delivered my report on violence against children to the UN General Assembly, 74 states have still not fully prohibited corporal punishment in their educational institutions. It is exciting, but also long overdue, that progress towards universal prohibition of violent punishment of children, including in their families, is accelerating. But it surely makes even more shameful the lack of action by so many states to eliminate corporal punishment from schools. As a judgment from the High Court of Fiji stated more than a decade ago: “Our educational institutions should be sanctuaries of peace and creative enrichment, not places for fear, ill-treatment and tampering with the human dignity of students.” We must re-double our collective efforts to ensure all states take seriously their immediate obligation to end legalised violence against children in all their schools.

## Acknowledgements

Photographs of children depict models and are used for illustrative purposes only.

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## Note on facts and figures

The Global Initiative bases its analyses on a total of 198 states: all states parties to the UN Convention on the Rights of the Child except the Holy See, plus Somalia, South Sudan, Taiwan, US and Western Sahara. Child population figures are from UNICEF 2013 except for Western Sahara (World Population Prospects 2010, 0-19) and Taiwan (Dept of household Registration, Ministry of Interior, 2013).

The information on legality (pp. 15-19) is based wherever possible on examination of national legislation; additional information is gathered from many sources, including reports to and by the United Nations human rights treaty bodies. We are very grateful to government officials, UNICEF and other UN agencies, NGOs and human rights institutions, and many individuals who have assisted us in our research. We welcome corrections or updates: email [sharon@endcorporalpunishment.org](mailto:sharon@endcorporalpunishment.org). For further details on all states see the individual country reports at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org).

# The human rights obligation to prohibit corporal punishment in schools

“Children do not lose their human rights by virtue of passing through the school gates” – this is what the Committee on the Rights of the Child said in 2001 in its General Comment No. 1 on article 29 of the Convention, the aims of education. It is a reminder needed as much today as 14 years ago that children’s fundamental human rights – including to respect for their human dignity and to protection from all forms of violence including all corporal punishment – are applicable in schools as in all other settings.

Article 19 of the Convention on the Rights of the Child confirms children’s right to protection from all physical or mental violence; article 28 sets out the obligation on states “to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention”; article 37 states that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. The Committee on the Rights of the Child has consistently interpreted these articles as requiring law reform to prohibit all corporal punishment of children, in schools and in all other settings.

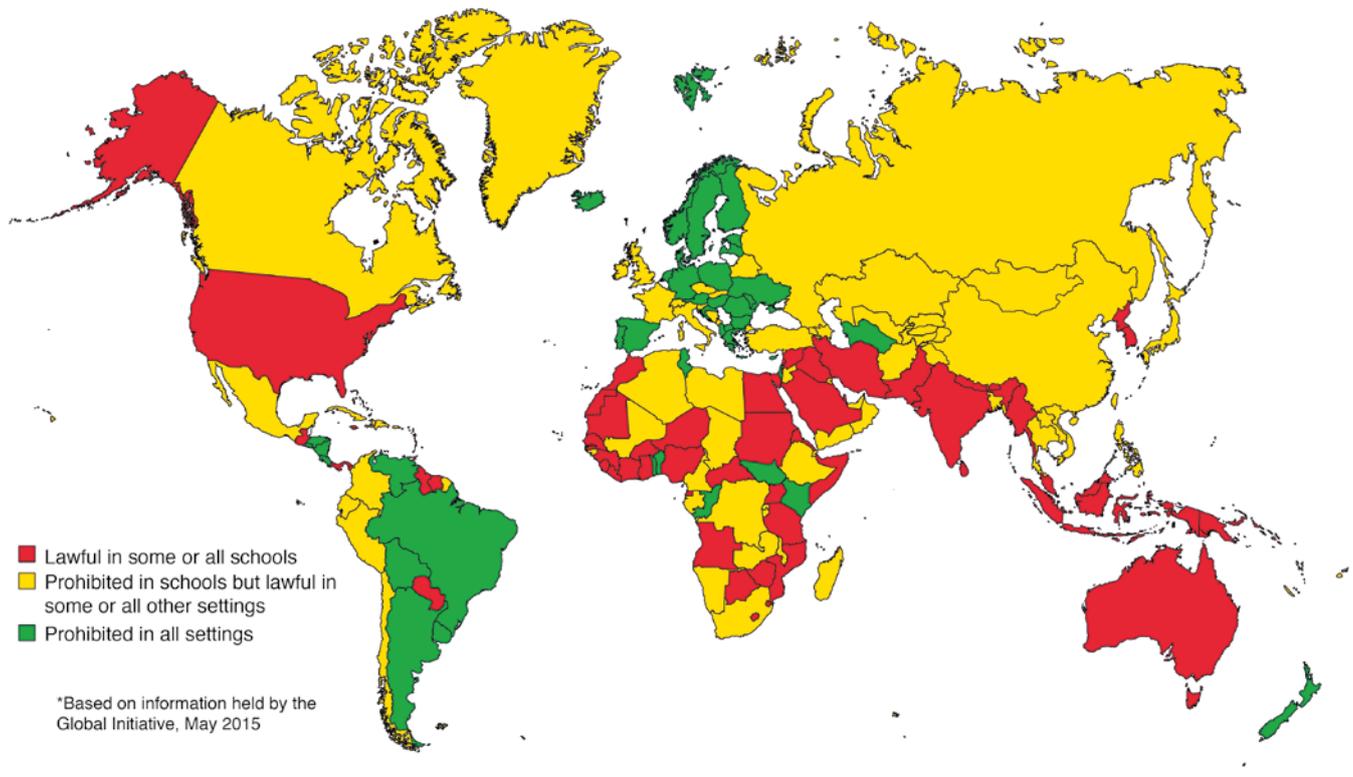
Other treaty bodies interpret their respective treaties as requiring prohibition of corporal punishment in schools and other settings and have recommended to states that legislation be reformed to ensure this, including the Human Rights Committee, the Committee Against Torture, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, and the Committee on the Rights of Persons with Disabilities. The obligation to prohibit all corporal punishment is regularly raised during the Universal Periodic Review of states’ overall human rights records. In December 2005, the UN General Assembly in its resolution on the rights of the child No. 60/231 urged states “to take measures to eliminate the use of corporal punishment in schools” (para. 15).

Regional human rights bodies support and promote the prohibition of corporal punishment of children in schools and other settings under their respective treaties, including the European Committee of Social Rights, the Inter-American Commission on Human Rights and the African Committee of Experts on the Rights and Welfare of the Child. The European Court of Human Rights has condemned corporal punishment in schools, including in private schools. In 2009, the Organisation of the Islamic Conference (now the Organisation of Islamic Cooperation) confirmed the obligation of member states to “prohibit all corporal punishment and other cruel or degrading forms of punishment or treatment of children, in all settings including within schools and within the family” (Cairo Declaration on the Convention [on the Rights of the Child] and Islamic Jurisprudence).

*“... Children do not lose their human rights by virtue of passing through the school gates. Thus, for example, education must be provided in a way that respects the inherent dignity of the child and enables the child to express his or her views freely in accordance with article 12 (1) and to participate in school life. Education must also be provided in a way that respects the strict limits on discipline reflected in article 28 (2) and promotes non-violence in school. The Committee has repeatedly made clear in its concluding observations that the use of corporal punishment does not respect the inherent dignity of the child nor the strict limits on school discipline. Compliance with the values recognized in article 29 (1) clearly requires that schools be child-friendly in the fullest sense of the term and that they be consistent in all respects with the dignity of the child....”*

Committee on the Rights of the Child, General Comment No.1, 2001

# Progress towards universal prohibition



The majority of states worldwide have prohibited corporal punishment in schools. As at May 2015, corporal punishment is unlawful in all schools in 125 states, including 46 states where it is prohibited in all settings including the home. In a further 11 states, legislation prohibits corporal punishment in some but not all schools. This progress is to be celebrated. But why is it that in 73 states corporal punishment is still not fully prohibited in places of learning? Why are laws still being enacted which prohibit corporal punishment in some education settings but not in others? Why do so many states fail to support policies they have adopted against corporal punishment with legislation prohibiting it?

In many states, prohibition has been achieved in schools before the home. Yet states' immediate human rights obligation is to prohibit all corporal punishment, wherever children are and whoever the perpetrator. Banning in schools and not the home is in conflict with this obligation and is confusing for children, teachers and parents. This makes acceptance and effective implementation of the ban in schools slower and more difficult.

## States where children may lawfully be subjected to corporal punishment in all or some schools

Angola, Antigua and Barbuda, Australia, Bahamas, Barbados, \*Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Central African Republic, Comoros, \*Côte d'Ivoire, Dominica, \*DPR Korea, \*Egypt, Equatorial Guinea, \*Eritrea, \*Gambia, \*Ghana, Grenada, Guatemala, \*Guinea, Guyana, India, Indonesia, \*Iran, Iraq, Jamaica, Lebanon, Lesotho, Liberia, Malaysia, \*Maldives, \*Mauritania, \*Morocco, \*Mozambique, \*Myanmar, Nepal, \*Niger, Nigeria, Niue, Pakistan, Palau, Panama, \*Papua New Guinea, Paraguay, \*Qatar, Republic of Korea, Samoa, \*Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, \*Sri Lanka, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, \*State of Palestine, Sudan, Suriname, Swaziland, \*Syrian Arab Republic, Timor-Leste, Trinidad and Tobago, Tuvalu, \*Uganda, UR Tanzania, USA, Western Sahara, Zimbabwe

*\* In these states, policies, ministerial circulars/directives and/or codes of discipline state that corporal punishment should not be used – but there is no prohibition in legislation, which is either silent on the issue or undermines policy by expressly authorising corporal punishment.*

# Making the violation visible through research

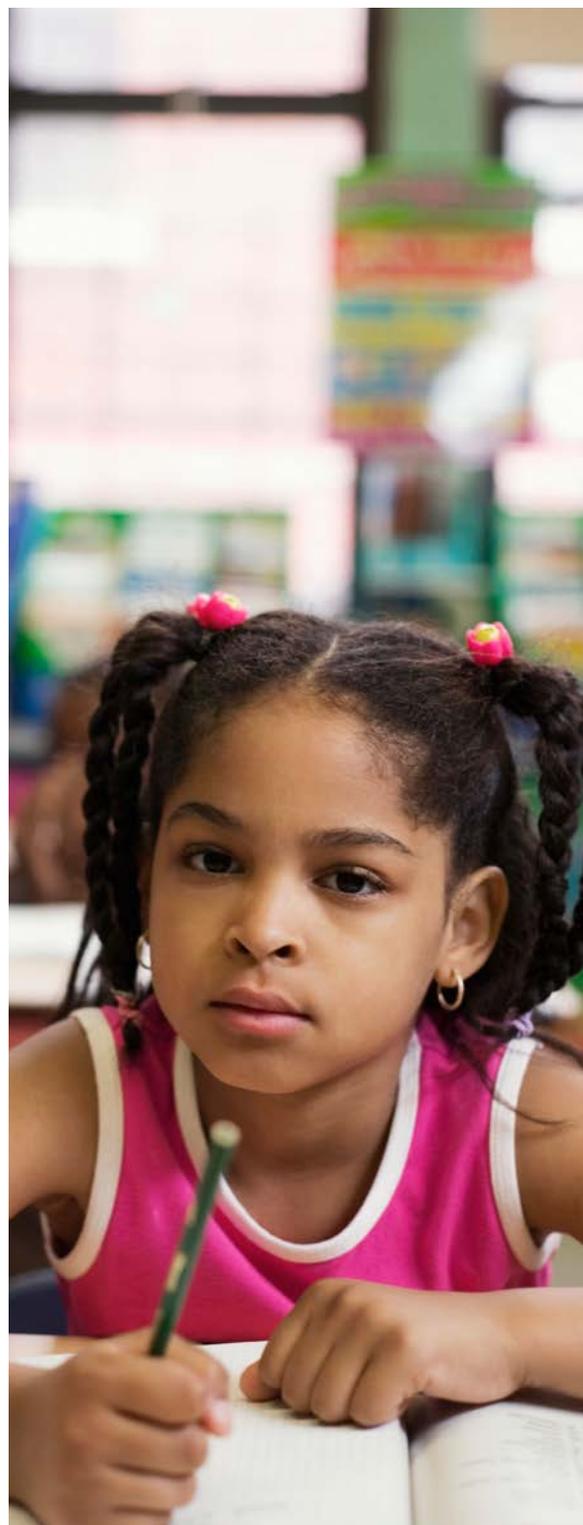
Research the world over has documented corporal punishment of children in schools, frequently causing physical injury and sometimes death. The following is just a sample of the efforts in the last 10 years to bring this form of violence in schools to light. In most of the countries referred to, this violent punishment in schools is inflicted lawfully; in some, legislation has been enacted which prohibits corporal punishment in schools but implementation to ensure it is eliminated in practice must be strengthened. For further information see the research pages at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org).

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**Africa:** Studies have revealed children being smacked, slapped and beaten in schools in **Central African Republic** (2013)<sup>1</sup> and whipped and caned in schools in **Ghana, Kenya and Mozambique** (2013).<sup>2</sup> Corporal punishment has been documented in **Namibia and South Africa** (2010, 2013)<sup>3</sup> and children in **Uganda** have reported feeling unsafe in school because of beatings by teachers (2012).<sup>4</sup>

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**East Asia and Pacific:** High rates of corporal punishment have been recorded in **Myanmar and Republic of Korea** (2012).<sup>5</sup> A study in **Cambodia** (2014) found that children in schools were hit or beaten with hands and objects including belts and sticks, and forced to stand in painful positions and do painful physical exercises.<sup>6</sup> Research in **Japan** (2013) revealed children being physically injured by corporal punishment, including fractures, sprains and eardrum damage.<sup>7</sup> Studies have confirmed the use of physical punishment in schools in **China** (2008)<sup>8</sup> and widespread support for corporal punishment among education staff in **Fiji** (2009).<sup>9</sup>



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- 1 Mimche, H. & Tanang, P. (2013), "Les violences basées sur le genre à l'école en République centrafricaine", *Recherches & Educations*, 8, 49-63
  - 2 ActionAid International (2013), *Stop Violence Against Girls in School: A cross-country analysis of change in Ghana, Kenya and Mozambique*
  - 3 National Planning Commission (2010), *Children and Adolescents in Namibia 2010: A situation analysis*, Windhoek: UNICEF Namibia; Statistics South Africa (2014), *General Household Survey 2013*
  - 4 WarChild UK (2012), *Child Safety Report Card: 2012 Regional Report*
  - 5 Ministry of National Planning and Economic Development & UNICEF (2012), *Situation Analysis of Children in Myanmar July 2012*, Nay Pyi Taw: UNICEF; Chul-Hyun, P. (2012), "The Legitimacy of Corporal Punishment, Social Bond, and Juvenile Defiance", *Korean Criminological Review*, 89, 355-383
  - 6 Ministry of Women's Affairs (2014), *Findings from Cambodia's Violence Against Children Survey 2013*, Cambodia: Ministry of Women's Affairs, UNICEF Cambodia & US Centers for Disease Control and Prevention
  - 7 Ministry of Education, Culture, Sports, Science and Technology (2013) *Survey of 2012: Secondary Report*
  - 8 Leung, P. W. S. et al (2008), "Prevalence and determinants of child maltreatment among high school students in Southern China: A large school based survey", *Child and Adolescent Psychiatry and Mental Health*, 2(27), 1-8
  - 9 UNICEF & AusAid (2009), *Protect me with love and care: A Baseline Report for creating a future free from violence, abuse and exploitation of girls and boys in Fiji*

**Europe and Central Asia:** Violent punishment in schools has been documented in relation to 10-18 year olds in **Belgium** (2011),<sup>10</sup> 9-17 year olds in **Kazakhstan** (2013)<sup>11</sup> and 10-14 year olds in **Kosovo** (2012).<sup>12</sup>

**South Asia:** Studies have revealed physical and psychological punishments in schools in **Bangladesh, Bhutan, India** and **Nepal** (2012, 2013).<sup>13</sup> Corporal punishment was found to be one of the barriers to education for children with disabilities in **Nepal** (2011).<sup>14</sup> Research in **Pakistan** found widespread support for corporal punishment among teachers (2013).<sup>15</sup>

**The Americas and the Caribbean:** Flogging at school is prevalent in **Barbados** (2009);<sup>16</sup> its use has also been documented in schools in **Dominica** and **St Lucia** (2009, 2011).<sup>17</sup> In the **USA**, research has shown that on average a child is physically punished in a public school every 30 seconds, and being black or disabled increases the likelihood of suffering violent punishment (2009, 2012, 2014).<sup>18</sup>

## Laws authorising corporal punishment in schools

*"... a school-teacher shall have authority to administer moderate corporal punishment for disciplinary purposes upon any minor male pupil or student; and, where moderate corporal punishment is administered upon a minor person by a parent, guardian or school-teacher within the scope of that authority, the authority shall be a complete defence to a criminal charge alleging the commission of a crime of which the administration of the punishment is an essential element."*

Zimbabwe, Criminal Law (Codification and Reform) Act 2004, article 241(2)

*"It is lawful for a parent or a person in the place of a parent, or for a schoolmaster, or master, to use, by way of correction, towards a child, pupil or apprentice under his care such force as is reasonable under the circumstances."*

Papua New Guinea, Criminal Code 1974, article 278

*"The corporal punishment of boy pupils shall be administered with a light cane on the palms of the hands or on the buttocks over the clothing. No other form of corporal punishment shall be administered to boy pupils."*

Singapore, Education (School) Regulations 1958, article 88(2)

*"Corporal punishment may be administered where no other punishment is considered suitable or effective, and only by the principal, deputy principal or any teacher appointed by the principal for that purpose, in a manner which is in conformity with the guidelines issued, in writing, by the Chief Education Officer."*

St Kitts and Nevis, Education Act 2005, article 49(2)

10 Kinderrechtencommissariaat (2011), *Geweld gemeld en geteld*

11 Office of the Commissioner for Human Rights in the Republic of Kazakhstan (2013), *Assessment of violence against children in schools in Kazakhstan*, Astana: Commissioner for Human Rights in the Republic of Kazakhstan & UNICEF

12 Krasniqi, V. & Osmani, T. (2012), *Research on Violence Against Children in Schools in Kosovo*, Save the Children & Social Research Kosova

13 Bangladesh Legal Aid and Services Trust & Institute of Informatics and Development (2012), *Survey Report on Violence against Children in Education Institute Settings*; Government of Bhutan & UNICEF (2013), *A situation analysis of children, youth and women in Bhutan – 2012*; National Commission for Protection of Children's Rights (2012), *Eliminating Corporal Punishment in Schools*; Sanchar, H. et al (2013), *Physical Punishment at School: a Study (Summary)*, Save the Children Norway

14 Human Rights Watch (2011), *Futures Stolen: Barriers to Education for Children with Disabilities in Nepal*

15 Plan Pakistan (2013), *Stopping the Fear: Why Teachers Use Corporal Punishment*

16 Caribbean Development Research Services (2009), *Corporal Punishment and Other Major Educational Issues in Barbados*, UNICEF & Barbados Union of Teachers

17 Le Franc, E. R. M. et al (2009), *Violence Against Children: An Evaluation of the Protective Environment – Participant Assessment Methodology: A Case Study In Dominica*, UNICEF Office for Barbados and the Eastern Caribbean & Government of Dominica; Road to Geneva Child Rights Research & Advocacy project team (2011), *Who Feels it Knows it: Children's Rights in St. Lucia Through The Eyes of Children & Youth*

18 Human Rights Watch & American Civil Liberties Union (2009), *Impairing Education: Corporal Punishment of Students with Disabilities in US Public Schools*; Office for Civil Rights (2012), *Civil Rights Data Collection March 2012*; Children's Defense Fund (2014), *The State of America's Children 2014*

# Law reform to achieve abolition

Prohibiting corporal punishment of children in schools means ensuring legal clarity that no child can be subjected to any form of corporal punishment in any education setting, including public and private schools, full and part time education services, primary and secondary schools, pre-school provision, military schools, and secular and religious education institutions. Children must be protected from corporal punishment regardless of the views of their parents and/or their faith community.



Prohibition can only be achieved by law reform. Ministerial advice, policies and guidance which state that corporal punishment should not be used do not amount to prohibition and ultimately cannot be enforced. As the table on pages 15-19 shows, in 22 of the 73 states which have not yet fully prohibited corporal punishment in schools there are policies, ministerial circulars/directives and/or codes of conduct which state that corporal punishment should not be used. While these appear to protect children from corporal punishment by teachers, their implementation is undermined by legislation which at best fails to clearly prohibit all corporal punishment in schools and at worst expressly authorises corporal punishment.

High level court rulings declaring corporal punishment to be unlawful must be confirmed in legislation. There have been court rulings against corporal punishment in schools in a number of states – Bangladesh (2011), Nepal (2005), Canada (2004), Fiji (2002) and India (2000). These can play a significant role in moving towards the achievement of prohibition but they do not in themselves amount to prohibition – there is always the possibility that future rulings will overturn their conclusions.

**States have an obligation under human rights law to take legislative measures to protect children from all forms of corporal punishment in all settings. By definition this means that the law must be reformed.**

It is crucial that all forms of physical punishment and other humiliating punishments are prohibited, including direct physical assault on a child and indirect physical punishment such as being forced to maintain painful positions, or to stand in the sun, or to undertake physical exercise or manual labour. In some states, corporal punishment in schools is synonymous with a particular form of punishment (such as caning in Malaysia, or “paddling” in the USA) but research shows that children are subjected to a wide range of assaults by teachers (see pages 6-7). Prohibition must allow for no exceptions.

If it is considered necessary to provide in the law for protective restraint of children by teachers in exceptional circumstances, then legislation should strictly limit the use of force and should be clear that it cannot be construed as justification for the use of force as discipline or punishment of children.

## What prohibiting corporal punishment in schools means

- Repeal of all laws and regulations authorising corporal punishment in schools and other education settings
- Repeal of all legal defences for the use of corporal punishment by teachers and others *in loco parentis* (“reasonable chastisement”, “reasonable punishment”, “moderate correction”, “force by way of correction”, etc)
- Clear prohibition of corporal punishment in legislation applicable to all education settings

*“... 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

## Laws prohibiting corporal punishment in schools

*"Teaching methods and discipline in educational institutions shall respect the rights and guarantees of children and young persons and shall exclude all forms of abuse, ill-treatment and disrespect, and, accordingly, any form of cruel, inhuman or degrading punishment.*

Educational institutions are:

(1) Prohibited from using corporal punishment;

(2) Prohibited from using psychological punishments that offend the dignity of children and young persons...."

Ecuador, Childhood and Adolescence Code 2003, articles 40 and 41

*"Children and adolescents have a right to receive counselling, education, care and discipline from their mother, father or tutor, as well as from their caretakers or the personnel from educational and health centres, shelters, youth detention or any other type of centres, that in no way represents an authorisation of any sort to these parties for the use of corporal punishment or degrading treatment...."*

Costa Rica, Code on Children and Adolescents 1998 amended 2008, article 24bis

*"(1) No person may administer corporal punishment at a school to a learner;*

*(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence which could be imposed for assault."*

South Africa, Schools Act 1996, article 10

## Laws authorising corporal punishment in schools

*"(1) No person shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment.*

*(2) No person shall subject a child to correction which is unreasonable in kind or in degree relative to the age, physical and mental condition of the child and which, if the child by reason of tender age or otherwise is incapable of understanding the purpose and fairness thereof.*

*(3) The provisions of this section shall not be construed as prohibiting the corporal punishment of children in such circumstances or manner as may be set out in this Act or any other law...."*

Botswana, Children's Act 2009, article 61

*"(1) If any person who has attained the age of fifteen years and has the custody, charge or care of any child or young person under that age, wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb or organ of the body, and any mental derangement), that person shall be guilty of a misdemeanour, and shall be liable to imprisonment for five years...."*

*(4) Nothing in this section shall be construed as affecting the right of any parent, teacher, or other person, having the lawful control of a child or young person to administer reasonable punishment to him."*

Solomon Islands, Penal Code 1963, article 233

*"(1) In the enforcement of discipline in public schools, assisted private schools and private schools degrading or injurious punishment shall not be administered.*

*(2) Corporal punishment may be administered where no other punishment is considered suitable or effective, and only by the principal, deputy principal or any teacher appointed in writing by the principal for that purpose, in a manner which is in conformity with the guidelines issued in writing by the Chief Education Officer.*

*(3) Whenever corporal punishment is administered an entry shall be made in a punishment book that shall be kept in each school for such purpose with a statement of the nature and extent of the punishment and the reasons for administering it.*

*(4) A person other than those mentioned in subsection (2) who administers corporal punishment to a child on the school premises is guilty of an offence and liable on summary conviction to a fine of one thousand dollars."*

Dominica, Education Act 1997, article 49

## Immediate opportunities for prohibiting corporal punishment in schools

*Among the 73 states where corporal punishment is not yet fully prohibited in schools, at least 46 are undergoing processes of law reform which provide immediate opportunities for enacting prohibiting legislation.*

Prohibiting corporal punishment of children in schools – as in other settings – is an immediate human rights obligation; it does not depend on the enactment of a specific education law but can be fulfilled whenever relevant laws are under review or being drafted. These include constitutions, criminal/civil codes, education laws and general laws relating to child protection or child rights; domestic violence and family laws can be used to prohibit all corporal punishment and in this way may also achieve prohibition in schools. Among the 73 states where corporal punishment is currently lawful in schools, at least 46 are undergoing processes of law reform which provide immediate opportunities for enacting prohibiting legislation.

State	Immediate opportunities for abolition of corporal punishment
Angola	Draft Penal Code under discussion; Family Code being revised
Bahamas	Constitution under review; Disabilities Bill under consideration
Barbados	Education Act and Regulations being reviewed; all child-related legislation under review
Burkina Faso	Draft Child Protection Code under discussion
Central African Republic	Draft Child Protection Code under discussion
Comoros	Criminal Code being revised
Equatorial Guinea	Draft Family Code under discussion; law on children being drafted
Eritrea	Draft Civil and Criminal Codes under discussion; new Constitution being drafted
Gambia	Amendments to Children's Act and draft Disability Bill under discussion
Ghana	Constitution under review
Grenada	Child Protection Act and Education Act under review; new Constitution under discussion
Guinea	Civil and Criminal Codes being revised
Guyana	Education Bill and Regulations under discussion
India	Juvenile Justice (Care and Protection of Children) Bill under discussion
Indonesia	Draft Criminal Code under discussion
Iran	Children and Adolescent Protection Bill and Draft Charter of Citizens' Rights under discussion
Iraq	Draft Child Protection Act under discussion
Jamaica	Child Care and Protection Act and Offences Against the Person Act under review
Lesotho	Regulations under Children's Protection and Welfare Act being drafted; Domestic Violence Bill under discussion
Liberia	Constitution being amended; draft Domestic Violence Act under discussion
Malaysia	Child Act under review
Maldives	Children Bill under discussion
Morocco	Domestic Violence Bill under discussion

State	Immediate opportunities for abolition of corporal punishment
Mozambique	Draft Penal Code under discussion; Constitution under review
Myanmar	Child Law under review; draft National Education Law and draft Law on Rights of Persons with Disabilities under discussion; Constitution being amended
Nepal	Child Rights Bill, Civil Code Bill, Education Bill and Criminal Code Bill under consideration; new Constitution being drafted
Niger	Draft Children's Code under discussion
Nigeria	Violence Against Persons Bill under discussion; state child rights laws under consideration
Niue	Family Protection Bill under discussion
Pakistan	Prohibition of Corporal Punishment Bill, Islamabad Capital Territory Child Protection System Bill, Punjab Prohibition of Corporal Punishment Bill, Balochistan Child Protection Bill and Balochistan Corporal Punishment Bill under discussion
Papua New Guinea	Regulations under Family Protection Act being drafted; Education Act being revised
Paraguay	Bill which would prohibit corporal punishment under discussion
Qatar	Law on Persons with Special Needs being amended
Samoa	Child Care and Protection Bill under discussion
Saudi Arabia	Regulations implementing Child Protection Act being drafted
Senegal	Draft Children's Code under discussion; Penal and Family Codes being reviewed
Seychelles	Civil Code under review
Sierra Leone	Constitution under review; Domestic Violence Bill being drafted
Solomon Islands	Child and Family Welfare Bill and draft Federal Constitution under discussion
Sri Lanka	Children and Young Persons Ordinance being amended; Constitutional reform under discussion
Sudan	Rules under Child Act being drafted
Swaziland	Domestic Violence Bill under discussion
Timor-Leste	Draft Child Code under discussion
Tuvalu	Education Act under review
Uganda	Children's Act (Amendment) Bill under discussion
UR Tanzania	Draft Constitution under discussion

The Global Initiative is always pleased to offer advice and technical support in the drafting of prohibiting legislation: email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).

# Key elements of implementing and enforcing prohibition in schools

Implementing prohibition of corporal punishment in schools is not only about promoting positive, non-violent discipline, although that is an important part of it. To be effective, implementation requires a comprehensive range of measures to prevent the use of corporal punishment, including awareness raising about the law and children's right to full protection, equipping teachers with the necessary positive, non-violent disciplinary techniques and responding appropriately when the prohibition is breached.

When corporal punishment is prohibited in schools and all legal defences and authorisations for its use are repealed, children in schools will be protected by the criminal laws on assault. This should mean teachers and other adults involved in education can be prosecuted for assault if they inflict corporal punishment on learners: they and school students and their parents need to know the law and its implications. But prevention of corporal punishment is better than prosecution after a child has suffered. The following measures will support implementation of prohibition and non-violence in education:

- Conduct widespread public education and awareness raising, among adults and children, about the law change and the reasons for it.
- Establish a range of appropriate responses and sanctions to address any continued use of corporal punishment by teachers – e.g. make compliance with prohibition a condition of employment and breaching the prohibition punishable as misconduct, and place responsibility on school administrations and head teachers for ensuring corporal punishment is not used.
- Monitor compliance with prohibition through school inspection mechanisms, including confidential interviews with staff and children with all necessary safeguards.
- Establish independent reporting procedures for children, staff and other adults, ensuring protection for those who report the use of corporal punishment.
- Ensure clear direction and training for all providers of education at all levels (school heads/principals, teachers, assistants, volunteers and other adults who come into contact with children), through initial and in-service training on the law and on positive, non-violent disciplinary strategies, to support and enforce prohibition.

The overall aim is to stop corporal punishment being inflicted on children, in schools and wherever else they may be. Achieving prohibition in schools will have a greater impact (and be easier to enforce) when prohibition is achieved or actively promoted in the home, giving a clear and consistent message to all adults that hitting children is wrong.

*“Where, despite prohibition and positive education and training programmes, cases of corporal punishment come to light outside the family home – in schools, other institutions and forms of alternative care, for example – prosecution may be a reasonable response. The threat to the perpetrator of other disciplinary action or dismissal should also act as a clear deterrent. It is essential that the prohibition of all corporal punishment and other cruel or degrading punishment, and the sanctions that may be imposed if it is inflicted, should be well disseminated to children and to all those working with or for children in all settings. Monitoring disciplinary systems and the treatment of children must be part of the sustained supervision of all institutions and placements which is required by the Convention. Children and their representatives in all such placements must have immediate and confidential access to child-sensitive advice, advocacy and complaints procedures and ultimately to the courts, with necessary legal and other assistance. In institutions, there should be a requirement to report and to review any violent incidents.”*

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

# Advocacy for prohibition of corporal punishment in schools



## Promotion of prohibition by intergovernmental organisations

The **Council of Europe** promotes total abolition of corporal punishment of children in its 47 member states through its *Raise your hand against smacking!* campaign ([www.coe.int/t/dg3/children/corporalpunishment/default\\_en.asp](http://www.coe.int/t/dg3/children/corporalpunishment/default_en.asp)).

The **South Asia Initiative to End Violence Against Children**, a SAARC Apex Body for Children, campaigns for an end to the legality, social acceptance and practice of corporal punishment in schools and all other settings in Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka ([www.saievac.org/cp](http://www.saievac.org/cp)).

## International and national campaigns

**Plan International** ([www.plan-international.org](http://www.plan-international.org)) campaigns for the abolition of corporal punishment of children internationally. Its *Learn Without Fear* campaign focused particularly on violence in schools, including corporal punishment (<https://plan-international.org/what-we-do/protection/learn-without-fear>).

**Save the Children** ([www.savethechildren.net](http://www.savethechildren.net)) advocates for legal reform to prohibit all forms of physical and other humiliating punishment of children in schools, the home and all other settings.

The **Caribbean Coalition for the Abolition of Corporal Punishment of Children** ([www.endcorporalpunishmentcaribbean.org](http://www.endcorporalpunishmentcaribbean.org)) advocates for prohibition and elimination of corporal punishment of children across the Caribbean, where corporal punishment is lawful in schools in most states.

In many states where corporal punishment is not yet fully prohibited in schools, national organisations are advocating prohibition, including the Child Protection Alliance in **Gambia**, **India**'s National Commission for Protection of Child Rights, the Child Rights Coalition **Malaysia**, the Child Rights Network in **Nigeria**, the Society for the Protection of the Rights of the Child in **Pakistan**, Global Infancia in **Paraguay**, **Senegal**'s Coalition Nationale des Associations et ONG en Faveur de l'Enfance, **Sudan** Child Rights and the Commission for Human Rights and Good Governance in **UR Tanzania**.

*“The details of some of the incidents [we have considered] have stirred our conscience and left us feeling distraught at the thought of parents allowing their children to be beaten and teachers mercilessly beating their pupils for small indiscretions.... There cannot be any doubt that corporal punishment is detrimental to children’s well-being and has serious physical, psychological and emotional effects, as well as causing truancy and dropping out of school. This in turn exacerbates the cycle of illiteracy and poverty.... Article 28 of the Convention [on the Rights of the Child] is relevant to the issue before us and 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.”*

Bangladesh Supreme Court, 2011

## Taking legal action

Where states fail to prohibit all corporal punishment of children, advocates can use legal action as a way of “forcing” them to meet their human rights obligations to do so. Legal action has been taken against corporal punishment in many states worldwide, often focusing on school corporal punishment (see box). In many cases the legal action has led to law reform to prohibit corporal punishment in some or all settings of children’s lives.

### High level court rulings against corporal punishment

In 1982 the European Court of Human Rights found the UK to be in breach of the European Convention on Human Rights by not respecting parents’ objections to school corporal punishment (*Campbell and Cosans v UK*). This and other judgments of the Court and decisions of the European Commission on Human Rights on applications made by UK schoolchildren and their parents effectively led to abolition of corporal punishment in all state-supported education in the UK in 1987.

National high level court rulings declaring corporal punishment unconstitutional and condemning it in schools have been made in the following states:

**Bangladesh** – corporal punishment in schools and all settings (13 January 2011, Writ Petition No. 5684 of 2010)

**Fiji** – school and judicial corporal punishment (*Naushad Ali v State, Criminal Appeal No. HAA 0083 of 2001*)

**India** – corporal punishment in schools (*Parents Forum for Meaningful Education v Union of India and Another, 1 December 2000*)

**Namibia** – corporal punishment in schools and the penal system (*Ex parte Attorney General, Namibia: in Re Corporal Punishment by Organs of State, 1991(3)SA 76*)

**Nepal** – corporal punishment in schools and the home (*Mr Devendra Ale et al v Office of the Prime Minister & Cabinet et al, Supreme Court decision 6 January 2005*)

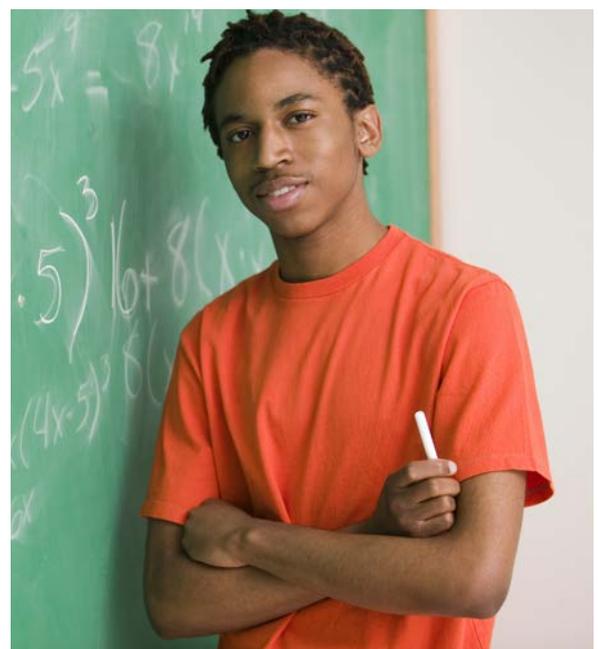
**South Africa** – corporal punishment in schools (*Christian Education South Africa v Minister of Education, Constitution Court CCT4/00*)

In other states, high level court rulings have condemned corporal punishment of children in settings other than schools – **Costa Rica** (corporal punishment by parents), **Israel** (parents), **Italy** (parents), **Zambia** (judicial corporal punishment) and **Zimbabwe** (judicial corporal punishment).

*“Children have rights no wit inferior to the rights of adults. Fiji has ratified the Convention on the Rights of the Child. Our Constitution also guarantees fundamental rights to every person. Government is required to adhere to principles respecting the rights of all individuals, communities and groups. By their status as children, children need special protection. Our educational institutions should be sanctuaries of peace and creative enrichment, not places for fear, ill-treatment and tampering with the human dignity of students.”*

Fiji High Court, 2002

The Global Initiative is interested in supporting legal action to speed prohibition of corporal punishment in any state and may be able to provide support and technical assistance; email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)



# Legality of corporal punishment of children in schools (May 2015)

## Corporal punishment prohibited in schools and all other settings

In the following 46 states, corporal punishment of children is prohibited in all settings: Albania, Andorra, Argentina, Austria, Benin, Bolivia, Brazil, Bulgaria, Cabo Verde, Congo (Republic of), Costa Rica, Croatia, Cyprus, Denmark, Estonia, Finland, Germany, Greece, Honduras, Hungary, Iceland, Israel, Kenya, Latvia, Liechtenstein, Luxembourg, Malta, Netherlands, New Zealand, Nicaragua, Norway, Poland, Portugal, Republic of Moldova, Romania, San Marino, South Sudan, Spain, Sweden, TFYR Macedonia, Togo, Tunisia, Turkmenistan, Ukraine, Uruguay, Venezuela

## Corporal punishment lawful in schools

In the following 73 states, corporal punishment is not yet fully prohibited in schools. A number of these advise against corporal punishment as a matter of policy, but this has yet to be confirmed in legislation. Many Governments (coloured **blue** below) have made a commitment to prohibition in all settings by clearly accepting recommendations made during the Universal Periodic Review of their overall human rights records and/or in other contexts.

State	Corporal punishment lawful in schools
<b>Angola</b>	Law protects from violence generally but there is no clear prohibition of all corporal punishment in schools
<b>Antigua and Barbuda</b>	Education Act 2008 authorises corporal punishment; Juvenile Act 1951 authorises “reasonable punishment”
<b>Australia</b>	Corporal punishment fully prohibited in education settings under state legislation in all states and territories except Northern Territory, Queensland and Western Australia
<b>Bahamas</b>	Penal Code 1873 authorises “justifiable force”
<b>Barbados</b>	Regulations under Education Act 1983 authorise corporal punishment; Prevention of Cruelty to Children Act 1904 confirms right “to administer punishment”
<b>Bhutan</b>	Penal Code 2004 authorises use of force for “discipline”; Code of Conduct and ministerial directives state corporal punishment should not be used but there is no prohibition in law
<b>Botswana</b>	Corporal punishment authorised in Education Act 1967, Education (Corporal Punishment) Regulations 1968, Education (Government and Aided Secondary Schools) Regulations 1978, Education (Primary Schools) Regulations 1980, Education (Private Primary Schools) Regulations 1991 and Children’s Act 2009
<b>Brunei Darussalam</b>	Education (School Discipline) Regulations 2004 authorise corporal punishment; Penal Code 1951 and Sharia Penal Code 2013 provide legal defence for corporal punishment

State	Corporal punishment lawful in schools
<b>Burkina Faso</b>	Law protects from violence generally but clearly prohibits corporal punishment in schools only in relation to primary schools
<b>Central African Republic</b>	Law protects from abuse but does not clearly prohibit all corporal punishment in schools; Family Code 1997 confirms power “to reprimand and correct”
<b>Comoros</b>	Family Code 2005 confirms power “to admonish”
<b>Côte d’Ivoire</b>	Law protects from violence and abuse generally and Ministerial circular states corporal punishment should not be used but there is no clear prohibition in law of all corporal punishment in schools
<b>Dominica</b>	Corporal punishment authorised in Education Act 1997; Children and Young Persons Act 1970 confirms right “to administer reasonable punishment”
<b>DPR Korea</b>	Law protects from violence and abuse generally and policy states corporal punishment should not be used but there is no clear prohibition in law of all corporal punishment in schools (unconfirmed)
<b>Egypt</b>	Children’s Act 1996 confirms “right to discipline”; Ministerial directive states corporal punishment should not be used but there is no prohibition in law (unconfirmed)
<b>Equatorial Guinea</b>	Education Act protects dignity but does not clearly prohibit corporal punishment; Civil Code 1889 authorises “reasonable and moderate correction”
<b>Eritrea</b>	Penal Code confirms “right to administer lawful and reasonable chastisement”; policy states corporal punishment should not be used in schools but there is no prohibition in law
<b>Gambia</b>	Ministerial directive advises against corporal punishment but there is no prohibition in law; Regulations under Education Act 1990 authorise corporal punishment; right of “reasonable chastisement” recognised in common law
<b>Ghana</b>	Code of Discipline under Education Act 1961 authorises corporal punishment; Children’s Act 1998 authorises “reasonable” and “justifiable” correction; Ministerial directive possibly advises against corporal punishment but there is no prohibition in law
<b>Grenada</b>	Education Act 2002 authorises corporal punishment; Criminal Code 1958 authorises “justifiable force” for purpose of “correction”
<b>Guatemala</b>	Law protects dignity but no clear prohibition of corporal punishment; Civil Code 1963 and Law on Integral Protection of Children and Adolescents 2003 confirm right of “correction”
<b>Guinea</b>	Law protects from violence generally and Ministerial circular possibly advises against corporal punishment but there is no clear prohibition in law of all corporal punishment in schools
<b>Guyana</b>	Criminal Law (Offences) Act 1894 and Summary Jurisdiction (Offences) Act 1894 confirm right “to administer reasonable and proper punishment”
<b>India</b>	Corporal punishment prohibited for 6-14 year olds in schools which are not primarily imparting religious instruction but no clear prohibition in relation to all schools; Penal Code 1860 provides legal defence for corporal punishment
<b>Indonesia</b>	Law protects from violence and abuse generally but there is no clear prohibition of all corporal punishment in schools
<b>Iran</b>	Law protects from violence and abuse generally and Government directive states corporal punishment should not be used but there is no clear prohibition in law of all corporal punishment in schools
<b>Iraq</b>	Penal Code 1969 confirms right to “discipline”

State	Corporal punishment lawful in schools
<b>Jamaica</b>	Corporal punishment prohibited in basic schools (for children under 6) but there is no clear prohibition of corporal punishment in other schools; right to inflict “reasonable and moderate” punishment recognised under common law
<b>Lebanon</b>	Penal Code authorises discipline “as sanctioned by general custom”
<b>Lesotho</b>	Children’s Protection and Welfare Act 2011 authorises “justifiable discipline/chastisement”
<b>Liberia</b>	Children’s Law 2011 authorises “justifiable correction/punishment”
<b>Malaysia</b>	Education Regulations (Student Discipline) 2006 authorise corporal punishment; Penal Code 1936 provides legal defence for corporal punishment and use of force by teachers
<b>Maldives</b>	Law protects from abuse generally and Ministry of Education advises against corporal punishment but there is no clear prohibition in law of all corporal punishment in schools; new Penal Code authorises use of force
<b>Mauritania</b>	Law protects from violence and abuse generally and Ministerial Order states corporal punishment should not be used but there is no clear prohibition in law of all corporal punishment in schools
<b>Morocco</b>	Law protects from violence and abuse generally and Ministerial direction advises against corporal punishment but there is no clear prohibition in law of all corporal punishment in schools
<b>Mozambique</b>	Law protects dignity and Government directive advises against corporal punishment but there is no clear prohibition in law of all corporal punishment in schools; Law for the Promotion and Protection of the Rights of the Child 2008 provides for “justifiable” discipline
<b>Myanmar</b>	Government directive advises against corporal punishment in schools but there is no prohibition in law; Child Law 1993 and Penal Code provide legal defence for corporal punishment
<b>Nepal</b>	General Code 1963 authorises use of “reasonable” force; 2005 Supreme Court ruling removed defence from Children Act 1992 but prohibition is not confirmed in legislation
<b>Niger</b>	Law protects from violence and abuse generally and Ministerial Order states corporal punishment should not be used but there is no clear prohibition in law of all corporal punishment in schools
<b>Nigeria</b>	Criminal Code (South) and Penal Code (North) confirm authority to “correct”
<b>Niue</b>	Law protects from abuse generally but there is no clear prohibition of all corporal punishment in schools
<b>Pakistan</b>	Corporal punishment prohibited for 5-16 year olds in Islamabad Capital Territory, Sindh Province and Punjab but no clear prohibition in other provinces; Penal Code 1860 provides legal defence for corporal punishment
<b>Palau</b>	Penal Code 2013 authorises use of force for “discipline”
<b>Panama</b>	Family Code 1994 confirms power “to reasonably and moderately correct” children
<b>Papua New Guinea</b>	Criminal Code 1974 authorises use of force “by way of correction”; policy states corporal punishment should not be used but there is no clear prohibition in law of all corporal punishment in schools
<b>Paraguay</b>	Law protects from violence and abuse generally but there is no clear prohibition of all corporal punishment in schools

State	Corporal punishment lawful in schools
<b>Qatar</b>	Law protects against violence and abuse generally and Code of Conduct for schools states corporal punishment should not be used but there is no clear prohibition in law of all corporal punishment in schools
<b>Republic of Korea</b>	Law prohibits direct physical punishment (involving physical contact) but not indirect physical punishment (no contact, e.g. painful positions); corporal punishment fully prohibited in Seoul
<b>Samoa</b>	Corporal punishment prohibited in government schools for 5-14 year olds but there is no clear prohibition in all schools; Infants Ordinance 1961 confirms right “to administer reasonable punishment”
<b>Saudi Arabia</b>	Law protects from violence and abuse generally and Ministerial circulars advise against corporal punishment but there is no clear prohibition in law of all corporal punishment in schools
<b>Senegal</b>	Corporal punishment prohibited in schools for 6-14 year olds but there is no clear prohibition in all schools; Family Code confirms “right of correction”
<b>Seychelles</b>	Policy states corporal punishment should not be used in schools but there is no prohibition in law; Children Act 1982 confirms right “to administer proper punishment”
<b>Sierra Leone</b>	Prevention of Cruelty to Children Act 1926 confirms right “to administer punishment”; Child Rights Act 2007 authorises “justifiable correction”
<b>Singapore</b>	Regulations under Education Act 1957 authorise corporal punishment; Penal Code 1872 provides legal defence for corporal punishment; right to impose “reasonable chastisement” recognised under common law
<b>Solomon Islands</b>	Penal Code confirms right “to administer reasonable punishment”
<b>Somalia</b>	Law protects from violence and abuse generally but there is no clear prohibition of all corporal punishment in schools; possibly prohibited in Somaliland
<b>Sri Lanka</b>	Penal Code 1883 provides legal defence for corporal punishment and use of force by teachers; Children and Young Persons Ordinance 1939 confirms right “to administer punishment”; Ministerial circular states corporal punishment should not be used but there is no prohibition in law of all corporal punishment in schools
<b>St Kitts and Nevis</b>	Education Act 2005 and Corporal Punishment Act 1967 authorise corporal punishment; right to inflict “reasonable chastisement” recognised in common law
<b>St Lucia</b>	Education Act 1999 authorises corporal punishment; Children and Young Persons Act 1972 confirms right “to administer reasonable punishment”
<b>St Vincent and the Grenadines</b>	Education Act 2005 authorises corporal punishment; Juveniles Act 1952 confirms right “to administer reasonable punishment”
<b>State of Palestine</b>	Corporal punishment prohibited in UNRWA schools and in East Jerusalem and Ministerial direction advises against corporal punishment in public schools generally but there is no prohibition in law of all corporal punishment in schools; right to impose “reasonable chastisement” recognised in common law
<b>Sudan</b>	Law prohibits “cruel penalties” but there is no clear prohibition of all corporal punishment in schools; prohibited in Khartoum State
<b>Suriname</b>	Law protects from violence and abuse generally but there is no clear prohibition of all corporal punishment in schools

State	Corporal punishment lawful in schools
<b>Swaziland</b>	Education Act 1982 and Education Rules 1977 authorise corporal punishment; Constitution 2005 confirms legality of “lawful and moderate chastisement”; Children’s Protection and Welfare Act 2012 authorises “justifiable” discipline
<b>Syrian Arab Republic</b>	Penal Code 1949 confirms right to discipline “as sanctioned by general custom”; Ministry of Education advises against corporal punishment but there is no prohibition in law
<b>Timor-Leste</b>	Law protects from violence and abuse generally but there is no clear prohibition of all corporal punishment in schools
<b>Trinidad and Tobago</b>	Children Act 1925 confirms right “to administer reasonable punishment”; Children (Amendment) Act 2000 and Children Act 2012 prohibit corporal punishment but have not been brought into force
<b>Tuvalu</b>	Education Act 1976 authorises corporal punishment; Penal Code 1965 confirms right “to administer reasonable punishment”
<b>Uganda</b>	Law protects from violence and abuse generally and Ministerial circular advises against corporal punishment but there is no prohibition in law of all corporal punishment in schools
<b>UR Tanzania</b>	In mainland Tanzania, National Education Act 1978 and Education (Corporal Punishment) Regulations 1979 authorise corporal punishment; Law of the Child Act 2009 authorises “justifiable” correction. In Zanzibar, Education Act 1982 authorises corporal punishment; Children’s Act 2011 confirms right to “discipline”
<b>USA</b>	Corporal punishment prohibited in all schools in 19 states and in public schools only in 31 states and District of Columbia
<b>Western Sahara</b>	Law protects from violence and abuse generally but there is no clear prohibition of all corporal punishment in schools (unconfirmed)
<b>Zimbabwe</b>	Criminal Law (Codification and Reform) Act 2004 authorises corporal punishment; Children’s Act 1972 confirms right “to administer reasonable punishment”

### Corporal punishment unlawful in schools but lawful in other setting(s)

In the following 79 states, corporal punishment is unlawful in schools but it is not prohibited in all other settings; in three of these (marked with an asterisk\*), high level court rulings have condemned corporal punishment in schools but this is yet to be confirmed through law reform. Many of these states (coloured **blue** below) are committed to prohibiting corporal punishment in all settings. For states in square brackets, full legal information is still to be confirmed but current information indicates corporal punishment is unlawful in schools.

**Afghanistan, Algeria, Armenia, Azerbaijan**, Bahrain, \***Bangladesh**, [Belarus], Belgium, **Belize**, Bosnia and Herzegovina, [Burundi], Cambodia, Cameroon, \*Canada, Chad, **Chile**, China, [Colombia], Cook Islands, [**Cuba**], Czech Republic, [Djibouti], **Dominican Republic**, DR Congo, **Ecuador, El Salvador**, Ethiopia, \***Fiji**, France, Gabon, Georgia, [Guinea-Bissau], Haiti, Ireland, Italy, Japan, Jordan, Kazakhstan, Kiribati, [Kuwait], Kyrgyzstan, Lao PDR, Libya, **Lithuania**, [Madagascar], [Malawi], Mali, [Marshall Islands], **Mauritius, Mexico**, [Micronesia], Monaco, **Mongolia, Montenegro**, Namibia, Nauru, Oman, **Peru, Philippines**, Russian Federation, Rwanda, [**Sao Tome and Principe**], **Serbia, Slovakia, Slovenia, South Africa**, Switzerland, Taiwan, **Tajikistan, Thailand**, Tonga, **Turkey**, UK, United Arab Emirates, Uzbekistan, Vanuatu, Viet Nam, Yemen, **Zambia**

**Antigua and Barbuda Education Act 2008, Botswana Education Act 1967, Brunei Darussalam Education (School Discipline) Regulations 2004, Dominica Education Act 1997, Grenada Education Act 2002, Malaysia Education Regulations (Student Discipline) 2006, St Kitts and Nevis Education Act 2005, St Lucia Education Act 1999, St Vincent and the Grenadines Education Act 2005, Swaziland Education Act 1982, Tuvalu Education Act 1976, Tanzania Education (Corporal Punishment) Regulations 1979, Zanzibar Education Act 1982 ...**

It is shocking and completely unacceptable that these and other laws authorising violent punishment of children in schools and setting out the details of how it must be inflicted remain in force today – more than 25 years since the adoption of the Convention on the Rights of the Child and nearly a decade since the recommendation of the UN Study on Violence against Children to urgently prohibit all corporal punishment of children. Laws in many more states do not specify in detail how children should be physically punished but provide a general authorisation to inflict “reasonable punishment” or to use force for purposes of discipline. While the majority of countries have prohibited corporal punishment in schools, still more than a third of UN member states have failed to achieve this fundamental reform. How can we pretend to be effectively promoting the right to education for all children, knowing that for far too many going to school means being subjected to physical punishment and other cruel, inhuman and degrading punishment?

This report charts progress towards prohibition of corporal punishment of children in schools and identifies the states where progress is not being made. It is both a call to action to end violent punishment of children in all places of learning and a tool for advocacy to make this happen through law reform and other measures.



Global Initiative to  
End All Corporal Punishment  
of Children

The Global Initiative to End All Corporal Punishment of Children promotes universal prohibition and elimination of corporal punishment and freely offers technical support and advice on all aspects of law reform.

[www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)

Save the Children opposes all corporal punishment and other humiliating punishment of children and works for its universal prohibition and elimination.

[resourcecentre.savethechildren.se](http://resourcecentre.savethechildren.se)



**Save the Children**