

Progress towards prohibiting all corporal punishment in East Asia and the Pacific

Prepared by the Global Initiative to End All Corporal Punishment of Children
(www.endcorporalpunishment.org)

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Global Initiative to
End All Corporal Punishment
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The following table summarises the legal status of corporal punishment of children – and progress towards achieving prohibition – in all settings in all states in East Asia and the Pacific. As at May 2017, two states have achieved prohibition in all settings, including the home; governments of at least 11 others have expressed a commitment to enacting full prohibition. Three states have prohibited corporal punishment in all alternative care settings, three in day care, 18 in schools, 22 in penal institutions and 25 as a sentence for crime.

States with full prohibition in legislation

The following states have prohibited corporal punishment in all settings, including the home.

| State | Prohibited in the home | Prohibited in alternative care settings | Prohibited in day care | Prohibited in schools | Prohibited in penal institutions | Prohibited as sentence for crime |
|-------------|------------------------|---|------------------------|-----------------------|----------------------------------|----------------------------------|
| Mongolia | YES ¹ | YES | YES | YES | YES | YES |
| New Zealand | YES ² | YES | YES | YES | YES | YES |

States expressing commitment to law reform in UPR and other contexts

Governments in the following states have expressed a commitment to prohibition of all corporal punishment of children through unequivocally accepting recommendations to prohibit made during the Universal Periodic Review (UPR) of the state concerned.

| <i>States committed to law reform ...</i> | | | | | | |
|---|------------------------|---|------------------------|-----------------------|----------------------------------|----------------------------------|
| State | Prohibited in the home | Prohibited in alternative care settings | Prohibited in day care | Prohibited in schools | Prohibited in penal institutions | Prohibited as sentence for crime |
| Fiji ³ | NO | NO | NO | YES ⁴ | YES | YES |
| Indonesia ⁵ | NO | NO ⁶ | NO | NO | YES | SOME ⁷ |
| Kiribati ⁸ | NO | NO | NO | YES | NO | NO |

¹ Prohibited in Law on the Rights of Children 2016 and Law on Child Protection 2016

² Prohibited in Crimes (Substituted Section 59) Amendment Act 2007

³ Government accepted UPR recommendation to prohibit in all settings (2014)

⁴ Unlawful under 2002 High Court ruling, not yet confirmed in legislation

⁵ Government accepted UPR recommendations to prohibit in all settings (2017)

⁶ National Standards of Care for Child Welfare Institutions state corporal punishment should not be used but no prohibition in law

⁷ Lawful under Shari'a law

| States committed to law reform ... | | | | | | |
|---|-------------------------------|--|-------------------------------|------------------------------|---|---|
| State | Prohibited in the home | Prohibited in alternative care settings | Prohibited in day care | Prohibited in schools | Prohibited in penal institutions | Prohibited as sentence for crime |
| Marshall Islands ⁹ | NO | NO | NO | [YES] ¹⁰ | YES | YES |
| Micronesia ¹¹ | NO | NO | NO | [YES] | NO | YES |
| Palau ¹² | NO | NO | NO | NO | NO | YES |
| Papua New Guinea ¹³ | NO | SOME ¹⁴ | NO | NO | YES | YES |
| Philippines ¹⁵ | NO | YES | YES | YES | YES | YES |
| Samoa ¹⁶ | NO | NO | SOME ¹⁷ | SOME ¹⁸ | YES | YES |
| Thailand ¹⁹ | NO | NO | NO | YES | YES | YES |
| Timor-Leste ²⁰ | NO | NO | NO | NO | YES | YES |

States without a clear commitment to law reform

The following states have yet to make a clear commitment to prohibiting all corporal punishment.

| States without a clear commitment to law reform ... | | | | | | |
|--|-------------------------------|--|-------------------------------|------------------------------|---|---|
| State | Prohibited in the home | Prohibited in alternative care settings | Prohibited in day care | Prohibited in schools | Prohibited in penal institutions | Prohibited as sentence for crime |
| Australia | NO | SOME ²¹ | SOME ²² | SOME ²³ | SOME ²⁴ | YES |
| Brunei Darussalam ²⁵ | NO | NO | SOME ²⁶ | NO | NO | NO |
| Cambodia | NO | NO | NO | YES | YES | YES |
| China | NO ²⁷ | [NO] | SOME ²⁸ | YES | YES | YES |
| Cook Islands | NO | NO | SOME ²⁹ | YES | NO | YES |
| DPR Korea ³⁰ | NO | NO | NO | [NO] ³¹ | [YES] | [YES] |

⁸ Government accepted UPR recommendations to prohibit in all settings and repeal “reasonable punishment” defence (2015)

⁹ Government accepted UPR recommendations to prohibit (2015)

¹⁰ But some legislation still to be formally repealed

¹¹ Government accepted UPR recommendations to prohibit in all settings (2015)

¹² Government accepted UPR recommendations to prohibit (2011, 2016)

¹³ Government accepted UPR recommendation to prohibit in all settings (2011)

¹⁴ Corporal punishment of children “in the care of the Director” prohibited

¹⁵ Government accepted UPR recommendation to prohibit in the home and other settings (2012); bill which would prohibit under discussion (2016)

¹⁶ Government accepted UPR recommendation to prohibit in the home (2011)

¹⁷ Prohibited in early childhood centres

¹⁸ Prohibited in government schools for children aged 5-14

¹⁹ Government accepted UPR recommendations to prohibit in all settings (2012 and 2016)

²⁰ Government accepted UPR recommendation to prohibit (2011)

²¹ Prohibited in all residential centres and foster care in all states/territories except Northern Territory, Tasmania, Victoria and Western Australia

²² Prohibited in all states/territories except in Northern Territory and Tasmania; prohibition in childminding unconfirmed

²³ Prohibited in all states/territories except Northern Territory, Queensland and Western Australia

²⁴ Prohibited in all states/territories except Australian Capital Territory and Western Australia

²⁵ Government accepted some UPR recommendations to prohibit but rejected others (2009)

²⁶ Prohibited in childcare centres

²⁷ But corporal punishment of girls prohibited in Shenzhen Special Economic Zone

²⁸ Prohibited in nurseries and kindergartens

²⁹ Prohibited in institutions providing early childhood education

³⁰ Government accepted UPR recommendation to prohibit in all settings (2014)

| <i>States without a clear commitment to law reform ...</i> | | | | | | |
|--|------------------------|---|------------------------|-----------------------|----------------------------------|----------------------------------|
| State | Prohibited in the home | Prohibited in alternative care settings | Prohibited in day care | Prohibited in schools | Prohibited in penal institutions | Prohibited as sentence for crime |
| Japan ³² | SOME ³³ | NO | NO | YES ³⁴ | NO | YES |
| Lao PDR | NO | NO | SOME ³⁵ | YES | YES | YES |
| Malaysia | NO | NO | NO | NO | NO | NO ³⁶ |
| Myanmar | NO | NO | NO | NO ³⁷ | NO | YES ³⁸ |
| Nauru | NO | NO | [SOME] ³⁹ | YES | YES | [YES] |
| Niue | NO | NO | NO | NO | [YES] | YES |
| Republic of Korea ⁴⁰ | SOME ⁴¹ | SOME ⁴² | SOME ⁴³ | SOME ⁴⁴ | YES | YES |
| Singapore | NO | NO | SOME ⁴⁵ | NO | NO | NO |
| Solomon Islands ⁴⁶ | NO | NO | NO | NO | YES | YES ⁴⁷ |
| Taiwan | NO | NO | [SOME] ⁴⁸ | YES | YES | YES |
| Tonga | NO | NO | SOME ⁴⁹ | YES | [YES] | NO ⁵⁰ |
| Tuvalu ⁵¹ | NO | SOME ⁵² | NO | NO | SOME ⁵³ | SOME ⁵⁴ |
| Vanuatu | NO | NO | NO | YES | YES | SOME ⁵⁵ |
| Viet Nam | NO | NO | NO | YES | YES | YES |

³¹ Policy states corporal punishment should not be used but possibly no prohibition in law

³² Government accepted UPR recommendation to prohibit all corporal punishment (2008, 2012) but denied that “right to discipline” allows corporal punishment and stated that legislation adequately protects children from “excessive” discipline (2012)

³³ Prohibited in Kawasaki City by local ordinance

³⁴ But Tokyo High Court has ruled some physical punishment may be lawful in some circumstances

³⁵ Unlawful in early childhood education settings

³⁶ Government committed to prohibition (2007); bill which would prohibit (but not under Islamic law) under discussion (2015)

³⁷ Government directive advises against corporal punishment but no prohibition in law

³⁸ But some legislation still to be repealed

³⁹ Possibly prohibited in preschool education settings

⁴⁰ Government accepted UPR recommendations to prohibit in all settings (2012) but was unclear on need for prohibition in the home

⁴¹ Prohibited in Seoul

⁴² Prohibited in Seoul

⁴³ Prohibited in Seoul

⁴⁴ Law prohibits direct (with contact) but not indirect (no contact) physical punishment; fully prohibited in Seoul, Gyeonggi province, Gwangju City and Jeollabukdo province

⁴⁵ Prohibited in childcare centres

⁴⁶ Government accepted UPR recommendation to prohibit in all settings (2011) but stated review of Penal Code included assessing need for clarification on lawful corporal punishment

⁴⁷ But used in traditional justice

⁴⁸ Possibly prohibited in care centres

⁴⁹ Prohibited in preschool institutions

⁵⁰ 2010 Court of Appeal ruling stated “it might be argued” whipping is unconstitutional but did not declare it such

⁵¹ Government accepted 2008 UPR recommendation to prohibit but in 2013 accepted some UPR recommendations to prohibit and rejected others

⁵² Prohibited in hospital mental health wing

⁵³ Corporal punishment by police officers prohibited

⁵⁴ Island courts may order corporal punishment

⁵⁵ Permitted in rural areas under customary justice systems

Note

The above information 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. **Information in square brackets is unconfirmed.** 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 and updates: email info@endcorporalpunishment.org. For further details on all states see the individual state reports at www.endcorporalpunishment.org.

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