



GLOBAL INITIATIVE TO
**End All Corporal
Punishment of Children**

Ending corporal punishment of children

A short guide to effective law reform



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A short guide to effective law reform**

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Our aim

To end violence against children through universal prohibition and elimination of all corporal punishment – the most pervasive and accepted form of violence against children

We work as a catalyst to end all corporal punishment worldwide, by:

- 1** Providing a **global evidence base** on the legal status of corporal punishment, its prevalence and impact, and what works to prevent its use
- 2** Providing **technical support and legal analysis** to support governments and civil society to prohibit and eliminate corporal punishment
- 3** Supporting **national and international action and advocacy** with a wide range of resources, including bespoke guidance and assistance
- 4** Supporting a **global movement** of over 1,500 partners and supporters of universal prohibition of corporal punishment



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The passage of this landmark legislation will create a paradigm shift in the way we discipline children... from using a punitive to a problem-solving approach, from a violent to a more peaceful approach.

SENATOR RISA HONTIVEROS, SPONSOR OF THE POSITIVE DISCIPLINE BILL, PHILIPPINES, 2018



Introduction

Prohibition of corporal punishment is fundamental to child protection. The experience of states that have achieved effective prohibition shows that legal protection supports change in attitudes and behaviour. Law reform provides clarity to children, parents, teachers, social services and law enforcement that no violence against a child is acceptable. Law reform alone will not eliminate corporal punishment, but it is a necessary preventive measure to increase awareness of the harm of corporal punishment to children, to inform about children's right to protection and it provides an essential foundation for social norm and behaviour change. Parents, teachers and others must be educated and supported to use positive methods of discipline to ensure children grow up free from violence, with their rights respected. But this work faces persistent challenges and difficulties in legal systems that consider some level of violence against children as "reasonable" or "justifiable".

Children cannot wait any longer: we know more than ever about the impact of corporal punishment on children, adults and communities; there is greater consensus among the international community of the urgent need to prohibit all corporal punishment of children; and there is stronger commitment from governments all over the world to end violence against children than ever before. Now is the time to turn those commitments into action. With this guide, we aim to support governments and civil society working to end violence against children through effective prohibition of corporal punishment. The guide sets out the key stages of law reform, provides an overview of the work involved with essential hints and tips, and directs you to where more detailed information is available for each area of work.



Nearly half of one-year-old children in 29 countries experience shouting, yelling or screaming as a form of discipline; 3 in 10 are subjected to spanking.

UNITED NATIONS CHILDREN'S FUND, A FAMILIAR FACE: VIOLENCE IN THE LIVES OF CHILDREN AND ADOLESCENTS, UNICEF, NEW YORK, 2017



Understanding the need for prohibition

Corporal punishment of children is widely accepted around the world, both socially and legally. It is the most common form of violence against children in all regions. On average, about 80 per cent of children worldwide experience some form of violent “discipline” (physical punishment and/or psychological aggression) at home,¹ and an estimated 1.3 billion children aged 1–14 experienced corporal punishment in a single year.²

In addition, an ever-growing body of research confirms links between childhood experience of corporal punishment and a range of negative health and behavioural outcomes, many of which can persist into adulthood and perpetuate intergenerational cycles of violence. Evidence also shows that the enactment and implementation of laws banning all corporal punishment can contribute to significant reductions in its use.³

Despite all that we know about the use and harmful effects of corporal punishment, it remains lawful in most countries for parents to be physically and emotionally violent towards their children in the name of “discipline” or “correction”. In many countries, it is also lawful in other settings, including care facilities, schools and penal institutions, and in some jurisdictions, children convicted of an offence can even be sentenced to corporal punishment.

Where adults are legally protected from all assault, the legality of corporal punishment denies children their right to equal protection under the law and clearly discriminates against them. The legal and social acceptance of this form of violence against children is highly symbolic of children’s marginal and often secondary status in societies where children are not seen as individual rights-holders as confirmed by the Convention on the Rights of the Child 1989.

Children’s position today is like that of women in the past when it was perceived as men’s right to hit women because they were regarded as inferior and in need of control and discipline. The enactment of laws against domestic violence the world over testifies to the acceptance of women as equal human beings with an equal right to live free from violence. But children have been left behind.

Under the Sustainable Development Agenda, all states have committed to ending all violence against children by 2030 (Target 16.2). The INSPIRE strategies developed by the World Health Organization and other agencies to support governments in achieving Target 16.2, recognizes prohibition of corporal punishment as key to ending violence against children and to reduce violence in society long term.

However, the process of transforming society’s behaviour in childrearing and education, and its view of children, takes time. If states are to achieve substantial reductions in the prevalence of violent punishment of children by 2030 (SDG Indicator 16.2.1) they must urgently reform national legislation and work to make prohibition of all forms of corporal punishment of children a reality now.

International human rights law

The adoption of the Convention on the Rights of the Child in 1989 underlines that children have human rights, and it is the responsibility of governments to ensure those rights are realised. Under the Convention, governments must prohibit all forms of corporal punishment of children in all settings, including by parents in the home. The Committee on the Rights of the Child consistently highlights this obligation when it reviews states’ implementation of the Convention and clarifies the obligation in General Comment No. 8 (2006) on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia)” which informs much of this guide.

Many other UN and regional human rights treaty monitoring bodies have confirmed that governments must prohibit all corporal punishment of children. The issue is regularly raised under the Universal Periodic Review (UPR) process where states are examined by all UN member states on their overall human rights record. Many states express their commitment to law reform by accepting recommendations made under the UPR.

1. United Nations Children’s Fund, *Hidden in Plain Sight* (New York: UNICEF, 2014).

2. *Know Violence in Childhood, Ending Violence in Childhood. Global Report 2017* (New Delhi: Know Violence in Childhood, 2017).

3. See endcorporalpunishment.org/resources/research for full details.

Despite all that we know about its use and harmful effects, it remains lawful in most countries for parents to be physically and emotionally violent towards their children in the name of “discipline” or “correction”.



Reviewing current law

The first step in prohibiting corporal punishment is to fully review the national legal framework to clearly establish the legal status of corporal punishment in all settings, and what needs to change. Compiling a complete list of laws which need to be amended to achieve prohibition will inform how you draft prohibiting legislation, identify which government departments need to be involved and how best to work with or within Government and Parliament to achieve this change.

The website of the Global Initiative contains detailed reports on every state and territory worldwide, which identify relevant legislation and summarise the legality of corporal punishment in each setting. These provide a good starting point. As it is quite a technical task, a legal expert may be needed to complete your review. In particular, you will need to analyse laws and identify specific provisions that:

- prohibit the use of corporal punishment (in which case, examine the wording of the relevant provisions carefully – if the law does not clearly say that corporal punishment is prohibited, then it almost certainly is not)
- authorise its use and/or regulate how it should be carried out, e.g. in schools or as a sentence of the courts
- provide legal defences or justifications such as “reasonable chastisement”, “moderate correction”, “the use of force for correction” or similar (including in case law)
- are “silent” on the issue when they should explicitly prohibit corporal punishment, e.g. education law which does not refer to corporal punishment in schools.

Which laws to review

Analysis should include all relevant laws and regulations covering:

Homes or family settings

Parents, legal guardians and others with parental responsibility.

Alternative care

All settings where children are not being cared for by their parents or equivalent. This includes all care provided by the state and religious or private (including for-profit) organisations, foster care, residential institutions, children’s homes, orphanages, informal arrangements, places of safety, emergency care, reception facilities for unaccompanied migrant children, etc.

Day care

All settings, formal or informal, public or private, where children are temporarily cared for by others. This includes all early childhood care (nurseries, crèches, kindergartens, preschools, family centres, etc.) and all day care for children (day centres, after-school childcare, cultural and sports clubs, childminding, etc.).

Schools

All educational settings, including public, private, Government-subsidised and religious schools, covering pre-school, primary and secondary education, full and part time provision.

Employment

All situations of employment or child labour, including domestic, agricultural and factory work.

Penal system

This includes the use of corporal punishment as a “disciplinary” measure in penal institutions (prisons, juvenile detention centres, approved schools, etc.) and the sentencing of children to corporal punishment by the courts and under customary, traditional, religious or informal systems of justice.

Prohibition of corporal punishment may be a condition of licensing for providers of care, education or detention facilities. If this is the case, it is important to establish whether all or only some providers must be licensed. Laws or regulations sometimes prohibit corporal punishment by staff, but discipline policies may still allow parents to smack their own children on the premises.

What to look for

Constitutional rights

National constitutions that refer generally to the right to freedom from torture and other cruel treatment or the right to protection from violence or abuse do not require reform because prohibition in national laws would be in line with this principle. Constitutional reform is only necessary in the very few cases where they specifically allow corporal punishment.

Convention rights

When countries ratify regional or international human rights instruments like the Convention on the Rights of the Child, they sometimes incorporate them into their law so that the standards they set technically take precedence over domestic law. But incorporation alone is rarely interpreted at national level as protecting children from all corporal punishment by parents and other carers.

Protection from assault/abuse

Most countries have laws which make it a crime to hit or assault another person. Many have child protection laws prohibiting cruelty to children or all violence against children, and constitutions which guarantee protection from cruel, inhuman or degrading punishments. Given the traditional legal and social acceptance of corporal punishment, these laws are not enough to achieve prohibition.

Right of correction

In many countries, the right of parents, teachers and others to use “reasonable” punishment (chastisement, correction or similar) exists in case law, and in some this is confirmed in legislation. This constitutes a legal defence, so the law on assault does not apply to “disciplinary” assaults on children by parents and others. In other words, corporal punishment is considered to be “reasonable”. In other countries, the law is silent – there is no reference to corporal punishment in education law, family law or other relevant legislation. This does not mean that it is prohibited.

Customary/traditional/religious laws

In states with a plural legal system (where multiple legal systems operate alongside one another) corporal punishment may be lawful under customary and/or religious laws, which may recognise a “right of correction” or allow corporal punishment to be used as a sentence for children convicted of crime.

Case law

In some states, high-level judgments may have declared corporal punishment unconstitutional, struck down legislation authorising its use and/or called on the Government to enact prohibition in some or all settings. Depending on the national legal framework, these judgments often need to be confirmed in legislation, particularly when they relate to all settings, including the home.

Policy statements

In some states, governments have issued policies, guidance or circulars stating that corporal punishment must not be used. These are positive, and should be analysed in the review, but on their own they do not amount to prohibition. Prohibition must be achieved through legislation which has been passed by Parliament and can be enforced.

Broadening the evidence base

Calls for reform

In addition to reviewing the legal framework, it is also important to find out if there have been any significant challenges to corporal punishment in any settings, such as through government consultations, official reports recommending reform, parliamentary discussion, legal challenges or campaigns, including calls for reform from children and young people.

Research

Information on the prevalence and use of corporal punishment, its causes and its effects on children should also be collected as part of the evidence building phase. Citing a local study, survey or literature review can be effective in highlighting the importance of the issue and the urgent need to address it, as well as informing the strategy for law reform.

Drafting prohibiting legislation

Law reform to achieve prohibition means:

- repealing all laws authorising corporal punishment and regulating the administration of corporal punishment in schools and/or other settings;
- explicitly repealing all legal defences for the use of corporal punishment in childrearing; and
- enacting legislation which clearly prohibits all corporal punishment in all settings, without exception.

Repealing all defences and authorisations of corporal punishment

All legal provisions authorising and regulating corporal punishment and all legal defences for its use identified in the review of current law must be repealed. Once all authorisations and defences for corporal punishment are removed, the basic criminal law on assault will apply to children. This means that any assault, even in the context of punishment or “discipline”, will be unlawful. Children, like adults, will be equally protected by the criminal law wherever they are and whoever the perpetrator. But to send a clear message, explicit prohibition of corporal punishment should also be stated in specific legislation applying to the family, juvenile justice, education, child protection and any setting or institution where children are cared for.

Enacting clear prohibition of corporal punishment and other cruel and degrading punishment

Enacting clear prohibition involves deciding whether to amend existing laws or propose new legislation, or both, and getting the language right.

Amending existing law and enacting new legislation

Removal of legal defences and authorisations requires amending existing legislation. But simply removing the provisions that allowed corporal punishment is a “silent” reform and does not always send a clear message that it is no longer lawful. Because corporal punishment has traditionally been so widely socially accepted, the law must be absolutely clear so that adults and courts cannot misinterpret it.

Prohibition is clearly achieved when the repeal of the defence is accompanied by the insertion of a statement which makes it clear that assault can no longer be justified as punishment or correction.

Where there are no defences to be repealed, new legislation must be enacted to clearly prohibit all corporal punishment. Ideally, prohibition is included in legislation which recognises children’s rights wherever they are – home, alternative care settings, day care, school, penal systems and workplace – by inserting an article into existing child law, or by enacting a new law specifically to achieve prohibition.

Some countries which have achieved prohibition have enacted a new law prohibiting all corporal punishment and other cruel and degrading punishment, and included within this new law a clause amending and/or repealing other legal provisions on corporal punishment. The important thing is to ensure that no loopholes are left which could be construed as allowing corporal punishment in any setting.

Getting the language right

The only way to ensure clear, uncompromising prohibition of all corporal punishment is to use clear, uncompromising language in legislation.

As corporal punishment is almost universally accepted as a disciplinary measure in childrearing, it is not generally perceived as harmful, abusive or even violent. For this reason, legislation which prohibits “violence” or “inhuman or degrading treatment”, or which protects “physical integrity” or “personal honour and dignity”, does not do the job of prohibiting all corporal punishment. To clearly prohibit corporal punishment, the law must use the words “corporal punishment” (or “physical punishment”).

The terms “corporal punishment” and “physical punishment” have exactly the same meaning and are interchangeable. But prohibiting corporal punishment “which causes, or is likely to cause harm” misleadingly implies that there is a form or degree of corporal punishment that is not harmful, and the phrase should not be used. Law reform should aim to prohibit “corporal punishment and all other forms of cruel or degrading punishment”, reflecting the language in article 37 of the Convention on the Rights of the Child and in the Committee’s General Comment No. 8.

Very occasionally, it appears that a country does not have words for “corporal punishment” in the language or legal system. In this case, a way should be found to make the law absolutely clear that provisions against violence, assault and humiliation apply in the context of disciplining children as in other contexts. If a definition is considered necessary, this should reflect the definition of corporal punishment by the Committee on the Rights of the Child in General Comment No. 8 (2006), paragraph 11.

Sanctions

The primary aim of prohibition is to prevent violence against children by stopping parents from using violent or other cruel or degrading punishments and promoting positive parenting. Responses to cases of corporal punishment in the home should therefore, as a first response, focus on educational interventions to support parents moving on from violent discipline to positive methods of child rearing.

As the aim of prohibiting corporal punishment is to achieve equal protection for children from assault, it is not usually necessary to assign punitive sanctions specifically for corporal punishment, as when all authorisations and legal defences for its use are removed, the law on assault and its relevant sanctions should apply equally to children.

The *de minimis* principle (that the law does not concern itself with trivial matters) ensures that minor assaults are only prosecuted in exceptional circumstances. In this way, while all reports of violence against children should be appropriately investigated and children’s protection from harm assured, it is not that all cases of corporal punishment that come to the attention of the authorities should lead to prosecution – just as this would not happen in all cases of assault on adults.

In addition, the UN Convention on the Rights of the Child gives the child the right to have his or her best interests assessed and taken into account as a primary consideration in all actions or decisions that concern him or her. Given a child’s dependency, prosecuting a parent and/or separating a child from a parent are only likely to be determined as being in the best interests of a child in extreme cases where the safety and health of the child are at risk. In such cases, existing laws prohibiting abuse of children would likely already apply – prohibition of corporal punishment simply means that there is no legal defence of “reasonable chastisement” or “right of correction” so it is easier to protect children in the rare cases where they really need it.

Building a national strategy for law reform

The aim of a national strategy is to achieve law reform to prohibit all corporal punishment and other cruel and degrading punishment of children in all settings, including the home. If the Government is not actively working towards prohibition, a strategic approach led by Parliamentarians or civil society can start to prepare the groundwork. In developing the strategy, it is important to identify clearly and in detail:

- the changes that are necessary in legislation, and
- the steps to be taken towards making these changes happen.

The national strategy

A national strategy to achieve law reform to prohibit all corporal punishment of children should:

1

Be based on a full understanding of the **current legal status** of corporal punishment of children in all settings and the laws which need to be repealed/amended, including:

- legal defences for the use of corporal punishment by parents, teachers, etc, in criminal and any other law;
- laws/regulations authorising/regulating the infliction of corporal punishment, e.g. in relation to schools etc;
- laws which are “silent” on corporal punishment but which really should explicitly prohibit it, such as education law or child rights law.

2

Make full use of existing and emerging **opportunities for law reform**. These could include, for example, reviews of laws that are already happening or planned or new laws being developed, such as laws on juvenile justice laws or family violence. In many countries, laws relating to children are being revised to bring them into line with the UN Convention on the Rights of the Child or other human rights treaties that have been ratified.

Sometimes, cases before the courts or instances of corporal punishment that lead to injury or death generate media interest in the issue.

3

Take into account the **Universal Periodic Review** of your country and **Concluding Observations** of UN treaty bodies, particularly the Committee on the Rights of the Child, regarding corporal punishment of children. Were recommendations to prohibit made? Did the Government clearly accept UPR recommendations, indicating a clear commitment to prohibition? Or did the Government suggest that existing law is adequate, in which case particular attention should be given to communicating why current law does not adequately protect children from corporal punishment? Civil society organisations can also make submissions in advance of these reviews asking for the issue to be raised.

4

Make use of any relevant **Government commitment** to address corporal punishment, family violence or violence against children and mechanisms for tracking progress. This includes the Sustainable Development Agenda 2030 (Target 16.2 to end all forms of violence against children and Indicator 16.2.1 on the prevalence of physical punishment) and any Voluntary National Review under the Agenda or involvement with the Global Partnership to End Violence Against Children (such as Pathfinder status).

5

Identify **key parliamentarians and government officials** who support or are likely to support law reform, including:

- members of Parliament, government ministers, local government officials, state representatives, etc;
- any government officials who have spoken out publicly against corporal punishment.

The aim of a national strategy is to achieve law reform to prohibit all corporal punishment and other cruel and degrading punishment of children in all settings, including the home.



6

Identify all **organisations and individuals** that do – or are likely to – support law reform, with a view to building a coalition to achieve this shared goal. Not everyone you expect to support reform will do so, often due to time and competing priorities, but do not be disheartened – focus on building an alliance of like-minded organisations and individuals. Potential partners/actors include:

- children’s rights coalitions, children’s organisations, human rights organisations, human rights commissions or ombudsmen;
- legal and professional associations, women’s and community-based organisations already working in the area of law reform on family violence, interpersonal violence, children’s rights, child protection or non-discrimination;
- religious or traditional leaders who are already taking a leadership role on children’s rights, child protection or family violence issues;
- influential or trusted professionals, such as paediatricians or public health nurses, and prominent personalities who have spoken out publicly against corporal punishment;
- trusted journalists and media outlets and organisations that support, or are likely to support, law reform.

7

Take into account the **law reform process** in your country. It is important to understand how law reform works, including:

- The process of law-making and law reform – e.g. how are laws proposed, drafted, introduced into Parliament and finally enacted? Who are the key decision-makers and influencers? What are the key points for influencing the process and which stages are open to input from civil society?
- The law reform time frame – e.g. what is the average time frame for legal reform and what are the key stages that must be completed? When do key votes take place? What is the time frame for the strategy? What are the milestones to aim for along the way to law reform, e.g. discussion of the issue in Parliament, community consultations on the issue, tabling of a motion in Parliament, etc?

- Engaging in the law-making process – e.g. who are the key people/institutions that should be lobbied and who should do this lobbying – local politicians, ministries, teachers, care and justice professionals, parents, children? Who will be fundamental to passing the new law and how can their views be canvassed? Who will be the most formidable obstacles to law reform, who will be central to implementation of any new law, who are your allies – and how can all of these people be engaged in the process of pursuing law reform?

8

Take account of, and plan to address, any particular **obstacles and challenges** to reform that will need to be overcome. This includes, for example:

- Understanding the arguments made by those who are opposed to or fearful of reform, and identifying who is making these arguments – e.g. are there high-level court judgments supporting corporal punishment? Is there organised opposition or are there prominent individuals or high-level civil servants opposed to reform? What are the counter-arguments and how can they be communicated to alleviate fears about prohibition? Regional and international networks, including the Global Initiative, can support the development of key messages to help frame the debate.⁴
- Ensuring all population groups are considered and included – e.g. is the issue viewed differently by some groups or in some geographic locations? Are there particular traditions or practices among, for example, indigenous or minority populations? What are the most appropriate and effective ways to reach and engage all groups?
- Considering the media’s portrayal of the issues related to corporal punishment and its potential for supporting efforts aimed at reform.

Federal systems and devolved administrations

Particular challenges or opportunities may arise where authority to legislate to prohibit all corporal punishment of children is devolved from central government to regional or local governments, which may influence your strategy. For example, identifying

4. See for example our series of booklets answering frequently asked questions, available in over ten languages endcorporalpunishment.org/faqs.

which laws must be reformed to prohibit corporal punishment in each region can be difficult, especially in countries with a high number of regions. However, it is likely to be the only way to achieve prohibition, as responsibility for the relevant legislation in most federal states lies with local governments and, therefore, within local laws. So, while it is important that federal legislation prohibits corporal punishment, it is usually not enough.

Understanding of children's rights, the significance and dangers of corporal punishment and likely arguments against prohibition may vary between regions and require a localised strategy and messaging, and the engagement of local actors to support prohibition, which may differ by region. In addition, a common or comparable data source on children's experience of corporal punishment or violence across regions of a country may not be available. Where data is fragmented, it can be more difficult to coordinate a common approach to law reform and subsequent implementation and monitoring of impact.

There may be a formal structure in place to consider issues related to children and violence, either horizontally between ministries and regional governments, or vertically with central government. Where this exists, it can provide an opportunity to promote law reform in all regions, or for regions that have achieved prohibition to advise and assist neighbouring regions towards progress. In less formal federal systems, it may be more difficult to agree and achieve progress in all regions, or to coordinate effective implementation among ministries and regional governments following prohibition. It may be useful to secure local or regional resolutions of support, or similar, to show other regions and the national legislature where there is support for prohibition and to help build the case for law reform.

Working with Government and Parliament

It is important to build interest and support in Parliament as early as possible as it is Parliament that must accept new legislation or propose changes to existing legislation. Gaining cross-party support can be very important, but if Government has a majority in Parliament, then Government support can be sought first as legislation introduced by the Government is likely to be passed.

Building Government support

First, identify the Government department(s) responsible for legislation on corporal punishment and one or more responsible ministers and senior officials. If you are not working in Government, then identify an organisation or an alliance of organisations which has as much influence as possible with Government.

Identify children and young people who could be involved in approaching Government. Ensure inclusivity by engaging children of different backgrounds, gender, ethnicity, religion and ability, and ensure their rights are safeguarded throughout the process.

Write to the responsible minister(s) and senior official(s) to raise the issue and request a meeting to discuss it. This first approach could refer to:

- any relevant commitments made by the Government, including under the UPR, the Sustainable Development Agenda or other global fora
- recommendations made by the Committee on the Rights of the Child in its concluding observations on the state's reports under the Convention on the Rights of the Child and the Committee's General Comment No. 8
- the recommendations of the UN Secretary General's Study on Violence against Children
- a summary of the current legal status of corporal punishment in all settings
- a summary of the reforms needed to achieve full prohibition
- relevant national research.

Building Government support can be a long process, so keep following up letters, calls and requests. Visiting the offices of legislators, where possible, might be important for building relationships with staff.

Building support in Parliament

Arrange meetings with members of Parliament to explain the issue and ask for their support. Identify members of Parliament – as senior as possible – who are sympathetic to prohibition and who can champion the issue. A supportive Member of Parliament is best placed to campaign on the issue and build support within Parliament as they can set up and attend meetings that those outside of Parliament may not be able to. Civil society organisations can support champions in Parliament by:

- Discussing the issue with them in detail and providing them with relevant information and materials, including answers to common questions;
- Sitting with their staff in the gallery during Parliamentary discussions or debates, to help them answer questions from their colleagues as they are raised;
- Helping to prepare them for media interviews and questions about the issue.

Discuss and implement strategies for increasing support in Parliament and ensure there is a good level of support *before* encouraging open debate in Parliament to avoid provoking opposition prematurely, or at least ensure the champion is well prepared for debate.

Raise the issue in Parliament by:

Using written or oral Parliamentary questions

Request a Member of Parliament to ask questions to the Government about:

- the law on corporal punishment in different settings,
- what action the Government is taking to fulfil its human rights obligations to prohibit and eliminate corporal punishment,

- what is known about the prevalence of corporal punishment, or
- find a topical angle – for example, a case of corporal punishment in the media, a new research report, new human rights recommendations, etc.

Organising meetings/inquiries

Ask a member or group of members of Parliament or an appropriate Parliamentary committee to –

- call a meeting including representatives of NGOs, human rights institutions and children to discuss prohibiting and eliminating corporal punishment,
- initiate an inquiry into corporal punishment, or into violence against children including corporal punishment, calling for evidence from NGOs, children and others,
- initiate a debate in Parliament on ending corporal punishment,
- approach the headquarters of political parties, starting with those most likely to be sympathetic to prohibition; find out who is responsible for policy on children’s issues and find ways to get the issue raised within the political party structure – the members of the party may raise it in Parliament, or
- conduct policy forums with Members of Parliament and their staff where the issue can be introduced and children and parents can be invited to share their experiences and promote prohibition; how Members of Parliament raise or answer questions may reveal their views and help to inform the political mapping.

Ensure advocates are well informed and understand the existing law and the changes that are needed to achieve clear prohibition, are aware of any possible opportunities for law reform, and understand how legislation may be introduced into Parliament and the process by which bills (draft laws) become law. This will allow them to monitor the progress of the bill and be ready to intervene as necessary, which may include providing information, advice and encouragement to those supporting the bill within Parliament.

Develop a set of strong arguments for prohibition, and test them among supporters in Parliament. Be prepared to respond to “frequently asked questions” to dispel common fears and misperceptions about prohibition. Draft clear and concise briefings (more detail can be sent if requested), test them on sympathetic Parliamentarians and revise as necessary. Develop a database of members of Parliament, including contact details for them and their staff so that briefings can be emailed or hand delivered quickly and efficiently.

Developing good working relationships with the staff of Members of Parliament and any Committees that will consider the proposed legislation can be helpful in influencing the process and gathering information to inform your strategy. Concentrate efforts to those who may advance the legal reform process, using your political mapping. Briefing known opponents of prohibition who are unlikely to be converted may provoke more active opposition.

Using legal action and regional and international human rights mechanisms

In some countries, governments may be reluctant to introduce law reform or may even actively oppose prohibition. Depending on the circumstances, advocates may decide to use the national law or international human rights law to highlight the government's obligation to realise children's rights. You do not need to be a lawyer in order to use the law.

Using national legal systems

Incorporation of the UN Convention on the Rights of the Child (UNCRC)

The UNCRC is part of international human rights law, and ratification entails legal obligations to ensure full implementation, including the enactment of legislation prohibiting all corporal punishment of children.

In some states, when the UNCRC is ratified, it automatically becomes part of (is incorporated into) national domestic law and takes precedence over domestic law. This means that it can be used in courts to claim the rights that it guarantees. In other states, incorporation is not automatic but requires some action of Parliament. In some, the status of the UNCRC will only be established when someone takes a case to court. In all cases, however, the domestic law should be reviewed and reformed to bring it into line with the Convention.

Governments need to be reminded that the UNCRC imposes *legal* obligations under international law. The Vienna Convention on the Law on Treaties emphasises that accepting human rights instruments means taking on legal obligations, and states that the existence of domestic law which conflicts with these obligations cannot be used as an excuse for not complying fully.

Constitutional and other domestic laws

Most states have provisions in constitutions or other basic laws that conflict with laws authorising or justifying corporal punishment, such as laws protecting people's human dignity and physical integrity, prohibiting cruel or degrading punishment

or treatment, or stating everyone's right to equal protection under the law. These national legal provisions can be used to challenge corporal punishment in all or some settings, in addition to using the international instruments which the state has accepted. The complaint is against the state, and the final authority in the case depends on the national legal system.

Using a legal opinion

An expert legal opinion is extremely useful when progress towards prohibition is not happening or is being resisted. It is essential in challenging the legality of corporal punishment in the courts – and if this fails, the legal opinion provides a firm foundation for using international and/or regional human rights mechanisms. In every state, a legal opinion is very useful to support the campaign for prohibition.

In **commissioning a legal opinion**, ensure that:

- it is written by a lawyer who is knowledgeable about children's rights and is fully supportive of the human rights imperative to prohibit all corporal punishment of children
- it addresses the extent to which the law that allows corporal punishment is in conflict with the international human rights instruments that the state has ratified, including the UNCRC, and relevant provisions in the Constitution and other domestic laws, and how this conflict can be challenged in the national legal system and, if necessary, by using regional or international human rights mechanisms (see below).

The opinion can usefully cite the many important and clear judgments made in high-level national courts in other states, which support the case for full prohibition.⁵

In **using the legal opinion**, remember:

- its primary purpose is to enable legislation allowing corporal punishment to be challenged in the courts – but simply threatening to take legal action may be sufficient to provoke action

5. These are described at endcorporalpunishment.org/human-rights-law/national-high-level-court-judgments.

In some countries, governments may be reluctant to introduce law reform or may even actively oppose prohibition.



- the decision to take the challenge to the courts should follow a careful assessment of the risks of such action, especially the risk of losing the case and creating a bad precedent. Bad judgments can be challenged, but it is critical to ensure that the advocates are very good and are using all the right arguments
- taking or threatening legal action should be part of a comprehensive strategy to promote law reform and not an isolated approach to the issue.

Using international and regional human rights mechanisms

International and regional complaints/communications mechanisms provide a means to appeal to, and exert pressure on, national governments

in states which have ratified the relevant optional protocol or made the appropriate declaration on ratifying the main instrument. These mechanisms usually require that any possible use of national legal systems has been tried and has failed (a process known as “exhausting domestic remedies”) and they nearly always require an actual victim (or victims) to make a case.

Complaints/communications mechanisms are linked to the UN Convention on the Rights of the Child and a number of other international human rights treaties,⁶ as well as regional human rights treaties, including the American Convention on Human Rights and the American Declaration of the Rights and Duties of Man, the African Charter on the Rights and Welfare of the Child, the European Convention on Human Rights and the European Social Charter and Revised Social Charter.

6. See endcorporalpunishment.org/human-rights-law for full details.

Working with religious communities and faith-based organisations

Over 5 billion of the world's 7.5 billion people are said to profess a religious belief. Growing numbers of religious communities have become involved in the global movement to prohibit and eliminate corporal punishment, but many still mistakenly believe that physically punishing children is an effective form of discipline. In many societies, misuse of religious texts and teachings to justify violent punishment is common, and in some, corporal punishment is still used in traditional justice systems and through religious law. Religious justification for corporal punishment is complex and can present a challenge for those campaigning for law reform and social change.

Religious leaders are in a unique position to engage with communities, broaden religious support and mobilise multi-religious action towards prohibition. Many religious traditions have large, interconnected organisational structures ranging from isolated rural areas to national and global networks. Religious leaders have a clear mission towards their communities based on their moral and spiritual traditions, they often have relationships with key decision-makers and government ministers and are themselves represented in some governments. This places them in a unique position to lobby for change, disseminate information, broaden support for prohibition and work in partnership with others to promote reform.

Religious leaders can support law reform by:

- harnessing religious and spiritual assets and supporting multi-religious cooperation to advance children's right to protection from corporal punishment in all settings;
- challenging those who use sacred texts and religious teachings to justify and perpetuate violent punishment of children;
- emphasising that corporal punishment is inconsistent with the universal and core values of major world religions, including respect for human rights, compassion, equality, justice, equity, kindness and non-violence.

Working with religious communities

- Involve religious communities from the outset and ensure they are invited to campaign meetings, seminars and law reform workshops.
- Work in partnership with local religious leaders to conduct a mapping of religious groups and their attitudes towards children. Identify areas of organised opposition to law reform and work with religious leaders to address the challenges these pose.
- Use the Kyoto Declaration and discussion guide as a tool for developing partnerships and multi-religious cooperation towards law reform.
- Highlight the similarities between religious values and the UN Convention on the Rights of the Child and provide resources to familiarise religious communities with the Convention.
- Women are often under-represented as leaders of religious communities. Ensure women are involved in discussion and strategic planning and if necessary hold special meetings of women from diverse religious traditions to ensure their views are taken into account.
- Encourage multi-religious partnerships to adopt a common statement of solidarity to use as an expression of support for law reform and/or as a letter to members of parliament.
- Encourage religious communities to adopt child protection and safeguarding policies which explicitly denounce corporal punishment and enhance the status of the child.
- Ensure indigenous and minority groups and religions are included along with major faith-based communities and organisations.

Investing in multi-religious collaboration

When people of different religions come together with a common purpose and speak with one voice they can be a powerful influence in creating awareness of the harmful impact of corporal punishment on children's development and well-being. Multi-religious collaboration is a positive way of aligning diverse religious communities around the challenges of law reform and facilitating partnerships between religious communities, NGOs and civil society, governments and intergovernmental bodies. This approach involves recognising the skills, assets and expertise of religious communities and working cooperatively with them towards law reform.

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From prohibition to elimination

The primary purpose of prohibiting all corporal punishment of children is preventive and educational, rather than punitive. Reforming national legislation to achieve prohibition in all settings, including in the home, is therefore a milestone achievement. It sends a clear message to adults and children that corporal punishment is no longer acceptable and that the law protects children from all assault as it does for adults.

Once prohibition is in place, states and societies must ensure its effective implementation in the best interests of the child in order to achieve an end to corporal punishment. This will require society-wide measures to raise awareness and understanding of the law, aimed at changing social norms and attitudes around violence in child rearing. It will take time and require investment, but experience shows that it is possible.

Planning for implementation

A comprehensive national action plan is central to effective implementation. It could be a distinct plan or integrated into a national plan to eliminate all violence against children or family violence or on child protection. Where a national strategy was developed to achieve prohibition, this will help to inform the action plan and organisations, individuals and Parliamentarians that helped to achieve law reform will continue to play a key role.

The action plan must be child-centred and multi-sectoral and include:

- Mechanisms to support child participation in the development, implementation and evaluation of the plan
- Coordination mechanisms, including for all national and local services working with and for children and families, and all government departments and agencies responsible for children, families and public health
- Monitoring and evaluation mechanisms, built in from the beginning to ensure prohibition is achieving positive change in social norms and behaviours in parenting and education
- Adequate resourcing to support long term campaigning for social norm change, including child-centred budgets.

Awareness raising

Society-wide high-profile campaigns will be needed to raise awareness of the law, promote the purpose of prohibition and support changes in attitudes and behaviours around violence in child rearing. This requires identifying target audiences, developing key messages – in particular, to address specific obstacles – and identifying the most effective opportunities for communication.

Further information on all aspects of implementing prohibition is available in a series of reports from ‘Non-violent Childhoods: Moving on from corporal punishment in the Baltic Sea Region’⁷

The guidance includes:

A Step-by Step Guide on implementing the Convention on the Rights of the Child to achieve an end to corporal punishment

Ensuring non-violent childhoods: Guidance on implementing the prohibition of corporal punishment in domestic settings

Building supportive societies for non-violent childhoods: Awareness-raising campaigns to achieve an end to corporal punishment

Service providers as champions for non-violent childhoods: Service provision for children and parents to achieve an end to corporal punishment

Parenting for non-violent childhoods: Positive parenting to achieve an end to corporal punishment

Tracking progress towards non-violent childhoods: Measuring changes in attitudes and behaviour to achieve an end to corporal punishment

7. Available to download at endcorporalpunishment.org/resources/implementing-prohibition.

It should include long term and recurrent activities and targeted communications for groups where specific needs are identified.

Training and capacity building

All professionals working directly and indirectly with children will require training and capacity building to ensure understanding of the law, its preventive purpose and how to implement it in the best interests of the child. Relevant groups include policy makers, social services, carers, teachers and education professionals, medical and health professionals, the media, law enforcement and the judiciary and all others engaged with children and families.

Engaging civil society

Eliminating corporal punishment requires concerted action from services and institutions, coordinated by national and local government, engaging children, parents and other carers, families, communities and civil society. It should focus particularly on providing information and support to parents and carers on the use of positive discipline. Civil society partners that can support implementation non-profit services, professional organisations, the private sector, academia, the media, faith groups and other organisations.

Further reading and resources

Useful websites

Global Initiative to End All Corporal Punishment of Children

endcorporalpunishment.org

Includes information on:

- Prohibiting corporal punishment – Learn about human rights law, national high-level court rulings and current opportunities for law reform worldwide
- Global progress – The latest facts and figures on progress towards universal prohibition and detailed reports on every state and territory worldwide
- Implementing prohibition – Learn how to ensure prohibiting legislation is effective, and find links to resources on positive discipline
- Resources – A wide range of free resources in various languages, including a series of frequently asked questions and faith-based resources
- About us – Learn about the Global Initiative, growing support for prohibition worldwide, our work and how you can get involved

Save the Children Resource Centre

resourcecentre.savethechildren.net

Includes a wide range of resources aimed at ending corporal punishment of children and promoting positive discipline; subscribe for content updates.

Churches' Network for Non-violence

churchesfornon-violence.org

Includes examples of statements made by leaders of different faiths, reports, training materials, worship resources, submissions and exhibition materials.

UN Committee on the Rights of the Child

ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx

Includes information on Committee sessions and country reviews, general comments, link to the UN Secretary General's Study on Violence against Children and more.

African Committee of Experts on the Rights and Welfare of the Child

www.acerwc.africa

Includes information in English and French on Committee sessions and country reviews, general comments and Africa's Agenda for Children 2040.

Council of Europe

coe.int/en/web/children/corporal-punishment

Includes information on the regional campaign for prohibition and elimination of corporal punishment and useful materials to support reform in various languages.

Inter-American Children's Institute

iin.oea.org

Includes information in Spanish and English about prohibition of corporal punishment, a sample law to achieve prohibition and key messages to support law reform.

Non-violent Childhoods

childrenatrisk.eu/nonviolence

Includes a set of guidance materials to support effective implementation of laws prohibiting all corporal punishment, based on learning from states in the Baltic Sea Region.

Epoch New Zealand

epochnz.org.nz

Includes an archive of materials used during the successful campaign for prohibition, including briefings to MPs, submissions to government, media items and more.

Other useful resources

The following resources and more can be downloaded from **endcorporalpunishment.org**:

- *A Multi-Religious Commitment to Confront Violence against Children (The Kyoto Declaration) (2006)*
- *Inter-American Commission on Human Rights, Report on corporal punishment and human rights of children and adolescents (2009)*
- *African Committee of Experts on the Rights and Welfare of the Child, Statement on Violence against Children (2011)*
- *Statement by international health organisations in support of prohibition and elimination of all corporal punishment of children (2013, background updated 2015)*
- Gershoff, E T and Grogan-Kaylor, A, (2016) "Spanking and Child Outcomes: Old Controversies and New Meta-Analyses", *Journal of Family Psychology*
- Resolution adopted at the High Level Global Conference in Vienna, 1-2 June 2016, *Towards Childhoods free from Corporal Punishment*



GLOBAL INITIATIVE TO
**End All Corporal
Punishment of Children**

Providing support for law reform to prohibit and eliminate all corporal punishment of children worldwide.

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