

Prohibiting and eliminating all corporal punishment of children with disabilities

Summary

Prohibiting and eliminating all corporal punishment is key for children with disabilities. Research shows the particular vulnerability of children with disabilities to punitive violence from their parents, teachers, caregivers and others. International human rights law makes clear their absolute right to protection from all corporal punishment in law and practice.

Recommendations

All those working for the rights of people with disabilities are urged to:

- highlight to governments their obligation under international human rights law to prohibit and eliminate all corporal punishment of children, including children with disabilities, and
- incorporate the issue of corporal punishment into their work on related topics such as violence against children, violence against adults with disabilities, children's rights in schools, care settings and the penal system and gender-based violence.

Briefing prepared by the
Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org



Global Initiative to
End All Corporal Punishment
of Children



Corporal punishment is a key issue for children with disabilities

Children with disabilities are especially likely to experience violence from adults,¹ including the most common form of violence against children: violent punishment by their parents, teachers, carers and others. All corporal punishment violates children's rights to physical integrity and respect for their human dignity. Yet violent punishment remains lawful in the family home and other settings of children's lives in a large majority of states worldwide.

In some states, legal defences, justifications or authorisations (for example, laws allowing so-called "reasonable punishment" or "moderate correction") explicitly allow parents and others to use force to punish children, while in others, the law does not address corporal punishment. The traditional social acceptance of violent punishment of children means that laws against violence and assault, including laws which aim to provide particular protection to people with disabilities, are not interpreted as prohibiting corporal punishment. Wherever corporal punishment is not prohibited, reform is required to ensure that the law clearly protects children from all violent punishment, however "light", in the family home and all other settings.

Progress towards universal prohibition

As at November 2014, 42 states across the world have prohibited all corporal punishment of children, including in their families; 48 have prohibited it in all forms of alternative care and a majority of states (122) have prohibited all school corporal punishment.



Children with disabilities are at increased risk of experiencing corporal punishment

UNICEF statistics from 62 countries published in 2014 show the huge scale of violent punishment of children: about 80% of children aged 2-14 were subjected to "violent discipline" (physical punishment and/or psychological aggression) in the home in the past month, and 17% experienced severe physical punishment (being hit on the head, ears or face or being hit hard and repeatedly).² A study published in 2013, which used UNICEF data on more than 45,000 2-9 year olds from 17 countries, found that children with disabilities were more

likely to be physically punished and more likely to experience severe physical punishment than children without disabilities. Caregivers of children with disabilities were more likely to believe that they needed to use physical punishment than caregivers of children without disabilities.³

Children with disabilities are also at increased risk in some schools: in the USA, school students with disabilities are up to twice as likely as students without disabilities to be "paddled" (beaten with a wooden paddle).⁴ In some countries, children with disabilities experience extremely severe corporal punishment in institutional settings. A 2014 report on orphanages in Russia documented widespread severe physical punishment of children with disabilities, including children being beaten and having cold water poured over their heads.⁵ Studies in Mexico⁶ and Serbia⁷ found that children with disabilities in psychiatric hospitals, institutions, care facilities and shelters were kept in permanent restraints, including being tied to chairs, tied up with bedsheets and kept in cribs.

"The absolute prohibition and total elimination of corporal punishment against boys and girls is a human rights imperative that at present must be connected, as an aim with indicators, to compliance with the Sustainable Development Goals and the post-2015 agenda."

(Maria Soledad Cisternas Reyes, Chairperson, Committee on the Rights of Persons with Disabilities, 2014)

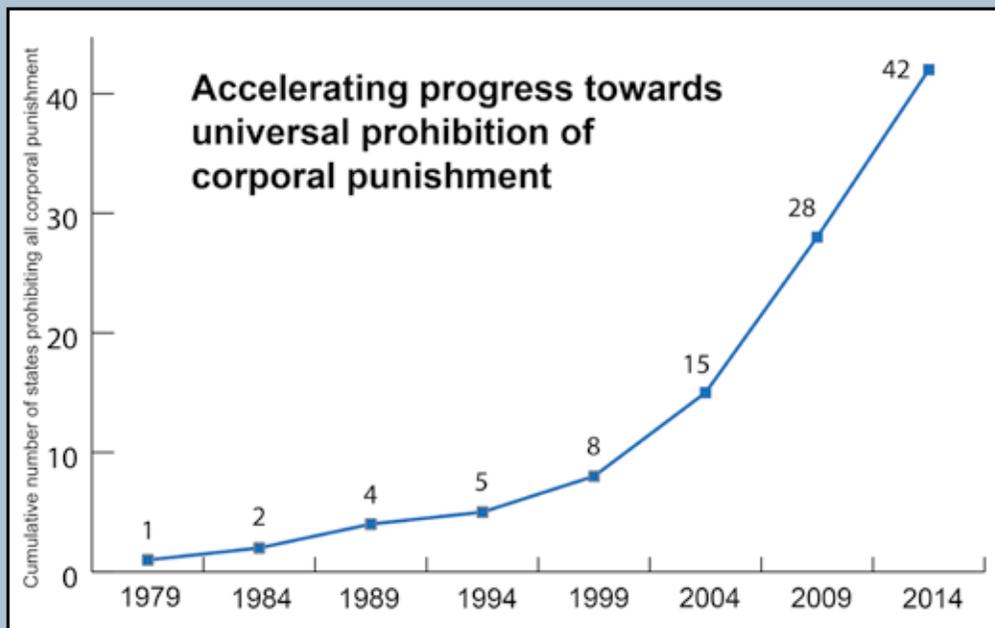


Compliance with international law requires prohibition of corporal punishment

The Committee on the Rights of the Child has consistently made it clear that the UN Convention on the Rights of the Child requires prohibition of all corporal punishment in all settings – the home, schools, penal systems, day care and alternative care settings. In its General Comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment the Committee consolidated and confirmed this obligation, and it systematically recommends prohibition after examining governments' implementation of the Convention.⁸

The UN Convention on the Rights of Persons with Disabilities states that children with disabilities have a right to enjoy human rights on an equal basis with other children (article 7) and that everyone has a right to life (article 10), to respect for their physical and mental integrity (article 17), to be free from exploitation, violence and abuse within and outside the home (article 16) and to be free from torture and cruel, inhuman or degrading treatment or punishment (article 15). The obligation to enact prohibition is also linked to the rights of children with disabilities to an education (article 24) and to the highest attainable standard of health (article 25). The UN Committee on the Rights of Persons with Disabilities has recommended prohibition of all corporal punishment of children with disabilities (see box).

The monitoring bodies of other international treaties and of regional human rights instruments increasingly recommend prohibition of corporal punishment. The issue is regularly raised in the Universal Periodic Review, in which the overall human rights record of every state in the world is reviewed every four/five years.



“The Committee is concerned at: ... the lack of an express ban on corporal punishment of children with disabilities....”

“The Committee urges the State party ... to follow up on the recommendations of the Committee on the Rights of the Child ... regarding the express prohibition of all forms of corporal punishment and ensure that the prohibition includes practices in institutions for children with disabilities....”

(UN Committee on the Rights of Persons with Disabilities, Concluding observations on El Salvador’s first report on its implementation of the Convention, 2013)⁹

“Children with disabilities, just as any other children, should enjoy a life free of all forms of violence. The international community and States must work together to guarantee that all children enjoy their right to dignity and integrity and are free of any form of corporal punishment.”

(Catalina Devandas Aguilar, Special Rapporteur on the rights of persons with disabilities, 2014)

About the Global Initiative

Launched in 2001, the Global Initiative to End All Corporal Punishment of Children aims to act as a catalyst for the prohibition and elimination of corporal punishment of children across the world. Supporters of its aims include UNICEF, UNESCO, International Disability Alliance, Disabled Peoples' International, Disability Rights International, Inclusion International, Rehabilitation International and many other international and national organisations.



Notes

1. Pinheiro, P. S. (2007), *World Report on Violence Against Children*
2. UNICEF (2014), *Hidden in Plain Sight: A statistical analysis of violence against children*, NY: UNICEF
3. Hendricks, C. et al (2014), "Associations Between Child Disabilities and Caregiver Discipline and Violence in Low- and Middle-Income Countries", *Child Development*, published online 29 July 2013
4. Human Rights Watch & American Civil Liberties Union (2009), *Impairing Education: Corporal Punishment of Students with Disabilities in US Public Schools*
5. Human Rights Watch (2014), *Abandoned by the State: Violence, Neglect, and Isolation for Children with Disabilities in Russian Orphanages*, NY: Human Rights Watch
6. Rosenthal, E. et al (2010), *Abandoned & Disappeared: Mexico's Segregation and Abuse of Children and Adults with Disabilities*, Disability Rights International & Comisión Mexicana de Defensa y Promoción de los Derechos Humanos
7. Ahern, L. et al (2007), *Torment not Treatment: Serbia's Segregation and Abuse of Children and Adults with Disabilities*, Mental Disability Rights International
8. Committee on the Rights of the Child (2006), *General Comment No. 8: 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), para. 11
9. 8 October 2013, CRPD/C/SLV/CO/1, Concluding observations on initial report, paras. 35 and 36

Credits

Photos from Colorado Medical Home Initiative and Florida Office on Disability and Health (inside pages). Photographs depict models and are used for illustrative purposes only.

Briefing prepared November 2014



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

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