



Global Initiative to
End All Corporal Punishment
of Children

**Committee on the Rights of the Child: Day of General Discussion
“Children without parental care”
16 September 2005, Palais Wilson, Geneva**

**SUBMISSION FROM THE GLOBAL INITIATIVE TO END ALL
CORPORAL PUNISHMENT OF CHILDREN
(www.endcorporalpunishment.org)**

Children’s lives are scarred by corporal punishment and other inhuman or degrading treatment or punishment by parents and other carers in every country in the world.

Available research suggests that many children who are without parental care have experienced corporal punishment – both light and severe – in the family context, and many go on to experience such punitive treatment within institutions and other alternative care settings, both public and private. The vast majority of physical maltreatment of children is delivered in a punitive context – it is corporal or physical punishment. Corporal punishment kills thousands of children every year and seriously injures very many more.

The Committee on the Rights of the Child has consistently upheld all children’s right to protection from all corporal punishment and all other inhuman or degrading treatment or punishment. It has stated that the Convention on the Rights of the Child requires legal prohibition of all corporal punishment in all settings, linked to awareness-raising of children’s right to protection and public education to promote positive, non-violent forms of discipline. It has made formal recommendations to more than 130 states in all continents. The Committee’s position has been backed by other human rights treaty bodies, by Special Rapporteurs and by regional human rights mechanisms.

Despite the clear human rights imperative to eliminate all corporal punishment through prohibition and other measures, global progress is slow. Only about 30 states worldwide have prohibited corporal punishment by law in all alternative care settings, leaving at least three quarters of the world’s children legally unprotected from assault in the name of discipline in so-called “care” settings. In many states the legal defence of “reasonable chastisement” or similar is available in criminal and/or civil law to those *in loco parentis* who choose to physically punish children and young people under their authority; in some the use of the cane or whip is specified in law as a disciplinary method for those in “care”.

Global summary of the legal status of corporal punishment of children in alternative care settings
State-by-state analysis by the Global Initiative to End All Corporal Punishment of Children
(www.endcorporalpunishment.org), July 2005

STATE	Prohibited in alternative care settings	STATE	Prohibited in alternative care settings	STATE	Prohibited in alternative care settings
Afghanistan	NO	Burundi	NO	El Salvador	???
Albania	NO	Cambodia	NO ¹	Equatorial Guinea	NO
Algeria	NO	Cameroon	NO	Eritrea	NO
Andorra	NO	Canada	SOME ²	Estonia	NO
Angola	NO	Cape Verde	YES ³	Ethiopia	SOME ⁴
Antigua & Barbuda	NO	Central African Republic	???	Fiji	NO
Argentina	NO	Chad	NO	Finland	YES
Armenia	NO	Chile	NO	France	NO
Australia	SOME ⁵	China	???	Gabon	???
Austria	YES	Colombia	NO ⁶	Gambia	NO
Azerbaijan	NO	Comoros	NO	Georgia	NO
Bahamas	NO	Congo, Republic of	???	Germany	YES
Bahrain	???	Cook Islands	NO	Ghana	NO
Bangladesh	NO	Costa Rica	NO ⁷	Greece	NO ⁸
Barbados	SOME ⁹	Cote d'Ivoire	NO	Grenada	SOME ¹⁰
Belarus	NO	Croatia	YES	Guatemala	NO
Belgium	YES	Cuba	NO	Guinea	NO
Belize	SOME ¹¹	Cyprus	YES	Guinea-Bissau	???
Benin	NO	Czech Republic	YES	Guyana	NO ¹²
Bhutan	NO	Democratic People's Republic of Korea	???	Haiti	YES
Bolivia	NO	Democratic Republic of the Congo	NO	Honduras	NO
Bosnia & Herzegovina	NO	Denmark	YES	Hungary	YES
Botswana	NO	Djibouti	???	Iceland	YES
Brazil	NO ¹³	Dominica	NO	India	NO
Brunei Darussalam	NO	Dominican Republic	???	Indonesia	NO
Bulgaria	YES	Ecuador	SOME ¹⁴	Iran, Islamic Republic of	NO
Burkina Faso	SOME ¹⁵	Egypt	NO	Iraq	???

¹ But prohibited in draft Minimum Standards

² Prohibited in state provided care in Alberta, British Columbia and Manitoba; in Ontario prohibited in provincially-licensed childcare programmes and foster homes and for all children receiving services from a child protection agency or other service provider licensed or approved by the province; in Quebec there is no right of correction under the Civil Code but the right of correction in the Federal Criminal Code applies

³ Information unconfirmed

⁴ Prohibited in institutions by the Constitution, but "reasonable chastisement" defence available

⁵ Prohibited in child care centres except in Northern Territory; prohibited in residential centres in New South Wales, Queensland, South Australia and Victoria; prohibited in foster care in Queensland, South Australia, Tasmania and New South Wales, but "reasonable chastisement" defence available in all but the last

⁶ Bill 32 (2004) proposes explicit prohibition

⁷ Possibly prohibited in institutions; 2004 draft Law on the Abolition of Corporal Punishment Against Minors proposes explicit prohibition in all settings

⁸ Prohibited in operating manuals for residential and day care institutions

⁹ Prohibited in state-arranged foster care and pre-school settings, and in day care centres and children's residential centres run by the Child Care Board, but lawful in private foster care

¹⁰ Prohibited in child care homes by licensing requirements

¹¹ Prohibited in residential care facilities and in day care centres

¹² Prohibited in childcare and childminding services in the Children's Bill

¹³ 2003 Bill No. 2,654 proposes explicit prohibition

¹⁴ Prohibited in institutions but possibly lawful in other care settings

¹⁵ Prohibited in educational institutions

STATE	Prohibited in alternative care settings
Ireland	SOME ¹⁶
Israel	YES
Italy	YES
Jamaica	YES
Japan	SOME ¹⁸
Jordan	YES ²⁰
Kazakhstan	SOME ²²
Kenya	SOME ²³
Kiribati	NO
Kuwait	???
Kyrgyzstan	SOME ²⁷
Lao People's Democratic Republic	NO
Latvia	YES
Lebanon	NO
Lesotho	NO ²⁸
Liberia	NO
Libyan Arab Jamahiriya	???
Liechtenstein	YES
Lithuania	YES
Luxembourg	NO
Madagascar	NO
Malawi	SOME ³⁰
Malaysia	NO
Maldives	SOME ³¹
Mali	SOME ³³
Malta	NO
Marshall Islands	NO
Mauritania	NO
Mauritius	NO
Mexico	NO
Micronesia, Federated States of	NO
Monaco	NO

STATE	Prohibited in alternative care settings
Mongolia	???
Morocco	NO
Mozambique	???
Myanmar	NO
Namibia	SOME ¹⁹
Nauru	???
Nepal	NO
Netherlands	SOME ²⁴
New Zealand	SOME ²⁶
Nicaragua	NO
Niger	NO
Nigeria	NO
Niue	???
Norway	YES
Oman	NO
Pakistan	NO
Palau	NO
Palestine	NO
Panama	NO
Papua New Guinea	NO
Paraguay	NO
Peru	NO
Republic of Korea	NO
Republic of Moldova	NO
Romania	YES
Russian Federation	NO
Rwanda	NO
St Kitts & Nevis	NO
St Lucia	NO
St Vincent & the Grenadines	NO
Samoa	NO
San Marino	NO

STATE	Prohibited in alternative care settings
Saudi Arabia	NO
Senegal	NO
Serbia & Montenegro	NO
Seychelles	YES ¹⁷
Sierra Leone	NO
Singapore	SOME ²¹
Slovakia	YES
Slovenia	SOME ²⁵
Solomon Islands	NO
Somalia	NO
South Africa	YES
Spain	YES
Sri Lanka	NO
Sudan	NO
Suriname	NO ²⁹
Swaziland	NO
Sweden	YES
Switzerland	YES
Syrian Arab Republic	NO
Taiwan	???
Tajikistan	NO
Thailand	NO
The Former Yugoslav Republic of Macedonia	YES
Timor-Leste, Democratic Republic of	NO ³²
Togo	NO
Tonga	???
Trinidad & Tobago	NO ³⁴
Tunisia	NO
Turkey	NO
Turkmenistan	???
Tuvalu	NO
Uganda	???

¹⁶ Prohibited in pre-school settings except for childminders caring for children of relatives, children of the same family or up to three children from different families; prohibited in foster care and residential care services by guidance

¹⁷ Information unconfirmed

¹⁸ Prohibited in day care centres and residential institutions (information unconfirmed)

¹⁹ Unlawful in state institutions under 1991 Supreme Court ruling, but not confirmed in legislation

²⁰ Information unconfirmed

²¹ Prohibited in child care centres

²² Prohibited in children's villages, youth homes and other institutions, but no prohibition in foster care

²³ Prohibited in institutions

²⁴ Prohibited in residential care institutions

²⁵ Prohibited in day care centres and residential schools

²⁶ Prohibited in pre-school settings and early childhood centres, except in the case of guardians, and in state day care and residential institutions

²⁷ Prohibited in residential institutions

²⁸ But possibly prohibited in state institutions in Child Protection and Welfare Bill

²⁹ Prohibited in a draft Children's Home Bill for presentation in early 2005

³⁰ Prohibited in state institutions by Constitution but possibly not confirmed in legislation

³¹ Prohibited in the Education and Training Centre for Children

³² Prohibited by policy in child care centres, orphanages and boarding houses from April 2005

³³ Information unconfirmed

³⁴ Prohibited in health care and psychiatric institutions as a matter of policy

STATE	Prohibited in alternative care settings
Ukraine	YES
UAE	NO
UK	YES
United Republic of Tanzania	NO
USA	SOME ³⁵

STATE	Prohibited in alternative care settings
Uruguay	NO
Uzbekistan	NO
Vanuatu	NO
Venezuela	NO
Viet Nam	NO

STATE	Prohibited in alternative care settings
Western Sahara	???
Yemen	NO
Zambia	NO
Zimbabwe	NO

DEPENDENT TERRITORIES, ETC.

TERRITORIES	Prohibited in alternative care settings
China: Hong Kong	SOME ³⁶
China: Macao	???
Denmark: Faroe Islands	NO
Denmark: Greenland	???
France: French Guiana	NO
France: French Polynesia	NO
France: Guadeloupe	NO
France: Martinique	NO
France: New Caledonia	NO
France: Réunion	NO
France: Wallis & Futuna Islands	NO

STATE	Prohibited in alternative care settings	STATE	Prohibited in alternative care settings
Netherlands Antilles	YES	UK: Isle of Man	NO ³⁷
Netherlands Aruba	NO	UK: Jersey	NO ³⁸
New Zealand: Tokelau	???	UK: Montserrat	???
Norway: Spitzbergen	???	UK: Pitcairn Islands	YES
UK: Anguilla	???	UK: St Helena	SOME ³⁹
UK: Bermuda	NO	UK: Turks & Caicos Islands	NO
UK: British Virgin Islands	???	US: American Samoa	NO
UK: Cayman Islands	NO	US: Guam	???
UK: Falkland Islands	NO	US: Northern Mariana Islands	???
UK: Gibraltar	NO	US: Puerto Rico	NO
UK: Guernsey	NO ⁴⁰	US: Virgin Islands	NO

³⁵ Prohibited in all alternative care settings in 30 (out of 51) states and in certain settings in other states

³⁶ Prohibited in childcare centres and mutual help childcare centres

³⁷ Prohibited in care institutions and in foster care as a matter of policy

³⁸ Prohibited in care institutions and foster care as a matter of policy

³⁹ Prohibited in residential institutions

⁴⁰ Prohibited in care institutions and foster care as a matter of policy; as at March 2005, consideration was being given to explicit prohibition in all alternative care settings in draft legislation

APPENDIX: RECOMMENDATIONS

In the recommendations to be issued following this day of General Discussion, particularly concerning the theme of meeting the challenges of out-of-home care, we hope the Committee will propose that all states should:

- 1. without delay explicitly prohibit by law corporal punishment and all other inhuman or degrading treatment or punishment of children, in all alternative care settings, state provided and privately operated, formal and informal.** *This requires removal of any legal defences or justifications for violent or degrading punishment and implementation of explicit prohibition;*
- 2. ensure appropriate and effective enforcement of prohibition.** *Children have a right to equal protection under the criminal law on assault and it is essential that the law should send a clear message that assaulting a child is as unlawful as assaulting anyone else;*
- 3. link prohibition with comprehensive awareness-raising of all children's right to protection and with the promotion of positive, non-violent forms of discipline and education.** *These should be built into every state's existing varied contacts with children facing separation from their family and children without parental care, through child protection services, health services, pre-school and school systems, and in the training of all professionals working in this field;*
- 4. commission confidential interview research studies with children without parental care, carers and others working with these children to reveal as accurately as possible the extent of violent and humiliating punishment and other forms of violence suffered by them, in the whole range of alternative care settings.** *This should provide baseline data to enable progress towards reducing and eliminating violence against children to be measured.*