



Global Initiative to
**End All Corporal Punishment
of Children**

REPUBLIC OF KOREA

**BRIEFING FOR THE HUMAN RIGHTS COUNCIL
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Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General’s Study on Violence against Children, as a highly significant issue, both for asserting children’s status as rights holders and for the prevention of all forms of violence.

The Global Initiative to End All Corporal Punishment of Children has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies and also regional human rights mechanisms have condemned all corporal punishment. In October 2006, the report of the UN Secretary General’s Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment, setting a goal of 2009.

This briefing describes the gaps in prohibition in the Republic of Korea, despite repeated recommendations by the Committee on the Rights of the Child.

We hope the Review will highlight with concern the Republic of Korea’s record of ignoring treaty body recommendations and strongly recommend that the government introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.

I: Legality of corporal punishment in Republic of Korea

The home

Corporal punishment is lawful in the **home**. Children have limited protection from violence under the Child Welfare Act, the Penal Code, the Special Act on Punishment of Domestic Violence, the Act on Prevention of Domestic Violence and Victim Protection, and the Constitution.

Research in 2005, carried out as part of a comparative study of children's experiences in 8 countries in Southeast Asia and the Pacific, sought the views of 152 children in the Republic of Korea. Nearly all (97.4%) reported having experienced corporal punishment in the home; 93.6% experienced corporal punishment at school. Punishments mentioned by children included being slapped, whipped, beaten with a broomstick, punched, kicked and pinched.¹

Schools and other settings

Corporal punishment is lawful in **schools** under article 18(1) of the Act on Primary and Secondary Education, which states: "The head of a school may discipline or otherwise guide students, under the conditions as determined by Acts and subordinate statutes or school regulations, as deemed necessary for education ..." Article 31(7) of the Enforcement Decree of the Act states: "When the chief of school educates pupils in accordance with the regulations specified in article 18, paragraph 1 of the Act, he/she shall employ such disciplinary or admonitory methods as not causing physical pain to pupils except in cases unavoidable for the purpose of education."

In the **penal system**, corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions.

There is no explicit prohibition of corporal punishment in **alternative care settings**.

II: Recommendations by human rights treaty monitoring bodies

The **Committee on the Rights of the Child** first recommended prohibition of corporal punishment of children in the Republic of Korea in 1996, in its concluding observations on the state party's initial report (CRC/C/15/Add.51, para. 22). In 2003, following examination of the second report, the Committee regretted the insufficient follow up to this recommendation (CRC/C/15/Add.197, para. 7), and stated (paras. 38 and 39):

"The Committee notes with great concern that corporal punishment is officially permitted in schools. The Committee is of the opinion that corporal punishment does not conform with the principles and provisions of the Convention, particularly since it constitutes a serious violation of the dignity of the child (see similar observations of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.79, para. 36 [re UK]). The fact that the Ministry of Education guidelines leave the decision on whether to use corporal punishment in schools to the individual school administrators suggests that some forms of corporal punishment are acceptable and therefore undermines educational measures to promote positive, non-violent forms of discipline.

"The Committee recommends that the State party:

a) implement the recommendation of the National Human Rights Commission that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions;

¹ Beazley, H., S. Bessell, et al., 2006, *What Children Say: Results of comparative research on the physical and emotional punishment of children in Southeast Asia and Pacific, 2005*, Stockholm, Save the Children Sweden

b) carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes to corporal punishment, and promote positive, non-violent forms of discipline in schools and at home as an alternative to such punishment.”