

Corporal punishment of children in Japan

LAST UPDATED February 2020

Also available online at

www.endcorporalpunishment.org

Child population 19,827,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Law reform has been achieved. Corporal punishment is unlawful in all settings, including the home.

Prohibition of corporal punishment

Home

Corporal punishment is prohibited in the home. The Act amending the Child Abuse Prevention Law 2000 and the Child Welfare Act 1947 adopted in June 2019 – which will come into force on 1 April 2020 – amended article 14(1) of the Child Abuse Prevention Law 2000 to state (unofficial translation): “A person who exercises parental authority over a child shall not discipline the child by inflicting corporal punishment upon him/her or by taking other forms of action that go beyond the scope necessary for the care and education of the child, stipulated in the provision of Article 820 of the Civil Code, and shall give due consideration to appropriate exercise of parental authority over the child.” Article 14(2) states “Persons with parental authority cannot escape criminal punishment for the crimes of violence, injury or other crimes of abuse committed against the children simply because they have been entrusted to their parental authority.” Article 1 of the Child Welfare Act 1947 (amended 2016) states that all citizens shall endeavour to ensure that children are “brought up in good mental and physical health” and that they shall “be kindly treated”. Corporal punishment is also prohibited in Kawasaki City by local ordinance.

During the debates in 2019 on the Bill amending the Child Abuse Prevention Law 2000 and the Child Welfare Act 1947, the Government stated that corporal punishment would not be allowed on any occasion.¹ A Supplementary Resolution was also adopted in June 2019 which stated that the Ministry of Health, Labour and Welfare would develop guidelines on the scope of the amendments, and further committed the Government to raise awareness of the harmful effects of corporal punishment to the general public and provide parents with information and support on alternative methods of discipline. The guidelines were issued on 20 February 2020 by the Committee on the Promotion of Parenting without Corporal Punishment. They refer to the UN Convention on the Rights of the Child, defining corporal punishment as punishment that causes some degree of pain or discomfort, however light, and stating that other humiliating and degrading punishments also violate children’s rights. They also state that (unofficial translation): “Corporal punishment is an unacceptable act. No one should use corporal punishment of children, regardless of the parental authority.”²

¹ Statement by Prime Minister Abe, 10 May 2019

² Information provided by Save the Children Japan, February 2020

According to article 820 of the Civil Code, “a person who exercises parental authority holds the right and bears the duty on care and education for the children’s interests” (unofficial translation). Article 822 of the Civil Code, as amended in 2011, states (unofficial translation): “A person who exercises parental authority can discipline the child within limits for the purpose of supervision, care and education....” The right to discipline has been under review since July 2019 along with other issues relating to family law. It is expected article 822 will be repealed or amended to bring it in line with the ban on corporal punishment, with the 2019 Supplementary Resolution having recommended its repeal.³

Japan became a Pathfinder country with the Global Partnership to End Violence Against Children in 2018, which committed the Government to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals. It has been reported that in March 2019 the Tokyo Metropolitan Government adopted an ordinance banning corporal punishment and other degrading treatment against children by guardians⁴ – we have been unable to check this text but the prohibition under article 14(1) of the Child Abuse Prevention Law 2000 applies.

Alternative care settings

Corporal punishment is unlawful in alternative care settings under article 14(1) of the Child Abuse Prevention Law 2000 (see under “Home”). The 2019 Act amending the Child Abuse Prevention Law 2000 and the Child Welfare Act 1947 amended the Child Welfare Act 1947 to explicitly prohibit corporal punishment by heads of child guidance centres (article 33-2(2)) and by heads of child welfare institutions and foster parents (article 47-3).

Minimum Standards for Child Welfare Facilities 1948 address abuse of disciplinary methods. On 29 March 2012, the Ministry of Health, Labour and Welfare renewed guidelines for the management of alternative care facilities which recommend that management guidelines for such facilities should state that corporal punishment should not be used.

Day care

Corporal punishment is unlawful in formal early childhood care (nurseries, crèches, children’s centres etc) and formal care for older children (after-school childcare, childminding, etc under article 14(1) of the Child Abuse Prevention Law 2000 (see under “Home”). Article 47-3 of the Child Welfare Act 1947 (amended 2019) explicitly prohibits corporal punishment by heads of child welfare institutions – this includes nursery centres, children’s recreational facilities and day care for children with disabilities.

In 2009, the Ministry of Health, Labour and Welfare renewed its guidelines for the management of day care facilities: the Manual for the guidelines state that corporal punishment should not be used in childcare.

Schools

Corporal punishment is prohibited in schools under article 11 of the Education Law 1947, which states that disciplinary punishment may be inflicted but “in no case is corporal punishment

³ Information provided by Save the Children Japan, February 2020

⁴ See <https://mainichi.jp/english/articles/20190218/p2a/00m/0na/001000c>, accessed 4 March 2019; and information provided by Save the Children Japan, April 2019

permitted” (art. 11). Prohibition was reiterated in 2019 amendments to article 14(1) of the Child Abuse Prevention Law 2000 (see under “Home”).

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 14(1) of the Child Abuse Prevention Law 2000 (see under “Home”). The Constitution 1946 prohibits cruel punishments. The Act on Penal Detention Facilities and Treatment of Inmates and Detainees 2005 provides for the maintenance of discipline in penal institutions and does not mention corporal punishment. This and the Juvenile Training School Act and Juvenile Classification Home Act also provide for juveniles’ protection from all forms of violence.⁵

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for corporal punishment in the Penal Code or the Criminal Procedure Code.

Universal Periodic Review of Japan’s human rights record

Japan was examined in the first cycle of the Universal Periodic Review in 2008 (session 2). The following recommendation was made:⁶

“Prohibit expressly all forms of corporal punishment of children and promote positive and non-violent forms of discipline (Italy)”

Japan accepted this recommendation. However, Japan’s mid-term progress report in 2011 simply describes existing law on the issue and gives no indication of any progress towards prohibiting all corporal punishment of children.⁷

Examination in the second cycle took place in 2012 (session 14). The national report describes legal provisions aimed at ensuring parental discipline is “reasonable” and does not amount to “child abuse” but does not mention law reform to explicitly prohibit all forms of corporal punishment in childrearing.⁸ During the review the following recommendation was made:⁹

“Expressly prohibit corporal punishment in all settings (Hungary)”

The Government accepted the recommendation.¹⁰ However its 2017 mid-term report reported only on the criminalisation of assault and injury and stated that the “meaning of “corporal punishment” [was] not absolutely clear”.¹¹

⁵ 4 December 2018, CRC/C/JPN/Q/4-5/Add.1, Reply to list of issues, paras. 32, 33 and 34

⁶ 30 May 2008, A/HRC/8/44, Report of the working group, para. 60(17)

⁷ Government of Japan, March 2011, Mid-term progress report by Japan on its implementation of recommendations made in May 2008, pp. 9-10

⁸ 6 August 2012, A/HRC/WG.6/14/JPN/1, National report to the UPR, paras. 47, 48, 49, 50 and 51

⁹ 14 December 2012, A/HRC/22/14, Report of the working group, para. 147(126)

¹⁰ 8 March 2013, A/HRC/22/14/Add.1, Report of the working group: Addendum, para. 147(126)

¹¹ January 2017, Mid-term report on the progress made in the implementation of the recommendations issued at the second cycle of the Universal Periodic Review

Third cycle examination took place in 2017 (session 28). The following recommendations were made:¹²

“Explicitly prohibit corporal punishment in all settings by law (Montenegro);

“Expressly prohibit corporal punishment in all settings (Zambia)”

“Step up efforts to combat violence against children, including prohibition of corporal punishment (Russian Federation)”

The Government supported the recommendations.¹³

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(1 February 2019, CRC/C/JPN/CO/4-5 Advance unedited version, Concluding observations on fourth/fifth report, paras. 4, 25 and 26)

“The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party’s attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: ... corporal punishment (para. 26)...”

“The Committee notes that corporal punishment in schools is prohibited by law. However, it is seriously concerned that:

(a) The prohibition in schools is not effectively implemented;

(b) Corporal punishment in the home and in alternative care settings is not fully prohibited by law;

(c) The Civil Code and the Child Abuse Prevention Act, particularly, allow the use of appropriate discipline and are unclear as to the permissibility of corporal punishment.

“With reference to its general comment No. 8 (2006) on corporal punishment, the Committee recalls its previous concluding recommendation (para. 48) and urges the State party to:

(a) Explicitly and fully prohibit all corporal punishment, however light, in law, particularly in the Child Abuse Prevention Act and the Civil Code, in all settings, including in the home, in alternative care and day care settings and in penal institutions;

(b) Strengthen its measures to eliminate corporal punishment in practice in all settings, including by intensifying its awareness-raising campaigns and promoting positive, non-violent and participatory forms of child-rearing and discipline.”

Committee on the Rights of the Child

(20 June 2010, CRC/C/JPN/CO/3, Concluding observations on third report, paras. 7, 8, 47, 48, 56 and 57)

“The Committee welcomes the efforts made by the State party to address some of the concerns and recommendations (CRC/C/15/Add.231) made upon consideration of the State party’s second report

¹² 4 January 2018, A/HRC/37/15, Report of the working group, paras. 161(126), 161(127) and 161(186)

¹³ 1 March 2018, A/HRC/37/15/Add.1 Advance unedited version, Report of the working group: Addendum

(CRC/C/104/Add.2) in February 2004, but regrets that a number of them have not been fully implemented or have not been addressed at all. The Committee reiterates those concerns and recommendations in the present document.

“The Committee urges the State party to make every effort to address the recommendations it made in its concluding observations on the second periodic report which have not yet been implemented (including those contained in ... paragraph 35 on corporal punishment ...) and to comprehensively address the concerns contained in the present concluding observations.

“While noting the explicit prohibition of corporal punishment in schools, the Committee expresses concern at reports that the prohibition is not effectively implemented. The Committee notes with concern the ambiguous ruling of the Tokyo High Court in 1981 which refrained from prohibiting all physical punishment. Furthermore, it is concerned that corporal punishment in the home and in alternative care settings is not expressly prohibited by law and that the Civil Code and the Child Abuse Prevention Law, particularly, allow the use of appropriate discipline and are unclear as to the admissibility of corporal punishment.

“The Committee strongly recommends that the State party:

a) explicitly prohibit corporal punishment and all forms of degrading treatment of children in all settings by law, including the home and alternative care settings;

b) effectively implement the ban on corporal punishment in all settings;

c) undertake communications programmes, including campaigns, to educate families, teachers, and other professionals working with and for children on alternative, non-violent forms of discipline.

“The Committee welcomes measures such as amendments to the Child Abuse Prevention Law and the Child Welfare Law, which provide and enforce mechanisms for the prevention of abuse. The Committee remains concerned, however, that the notion of ‘parental authority’ giving the right to exercise ‘comprehensive control’ in the Civil Code as well as undue parental expectations, puts children at risk of violence at home. It notes with concern that the incidence of child abuse continues to rise.

“The Committee recommends that the State party strengthen current efforts to address the problem of child abuse, including by:

a) conducting public education programmes about the negative consequences of abuse and neglect and preventive programmes, including family development programmes, promoting positive, non-violent forms of discipline....”

Committee on the Rights of the Child

(26 February 2004, CRC/C/15/Add.231, Concluding observations on second report, paras. 35 and 36)

“The Committee notes with concern that corporal punishment, although legally prohibited in schools, is widely practised in schools, institutions and the family.

“The Committee recommends that the State party:

a) prohibit corporal punishment in institutions and the home;

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

c) strengthen complaints mechanisms for children in institutions and schools to ensure that they deal with complaints of ill-treatment effectively and in a child-sensitive manner.”

Committee on the Rights of the Child

(5 June 1998, CRC/C/15/Add.90, Concluding observations on initial report, paras. 24 and 45)

“The Committee is concerned at the frequency and level of violence in schools, especially the widespread use of corporal punishment and the existence of numerous cases of bullying among students. While legislation prohibiting corporal punishment and such measures as hot lines for victims of bullying do exist, the Committee notes with concern that current measures have been insufficient to prevent school violence.

“In light of, inter alia, articles 3, 19 and 28.2 of the Convention, the Committee recommends that a comprehensive programme be devised and its implementation closely monitored in order to prevent violence in schools, especially with a view to eliminating corporal punishment and bullying. Additionally, it recommends that corporal punishment be prohibited by law in the family and in child-care and other institutions. The Committee also recommends that awareness-raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention.”

Committee Against Torture

(28 June 2013, CAT/C/JPN/CO/2, Concluding observations on second report, para. 23)

“Noting that child abuse is prohibited under article 3 of the Act on Child Abuse Prevention, the Committee shares concern raised by the Committee on the Rights of Child (CRC/C/JPN/CO/3, para. 47) that corporal punishment in the home and in alternative care settings is not expressly prohibited by law and that the Civil Code and the Act on Child Abuse Prevention allow the use of appropriate discipline and are unclear as to the admissibility of corporal punishment in some cases (art. 16).

The State party should explicitly prohibit corporal punishment and all forms of degrading treatment of children in all settings by law.”

Human Rights Committee

(20 August 2014, CCPR/C/JPN/CO/6, Concluding observations on sixth report, para. 25)

“The Committee observes that corporal punishment is only prohibited explicitly in schools, and expresses concern at its prevalence and social acceptance (arts. 7 and 24).

The State party should take practical steps, including through legislative measures, where appropriate, to put an end to corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment, and should conduct public information campaigns to raise awareness about its harmful effects.”

Prevalence/attitudinal research in the last ten years

According to an online survey of 20,000 respondents aged 20 or older by Save the Children Japan in July 2017, 60% think that hitting children is an acceptable form of discipline. Nearly 60 percent said they would tolerate yelling at children and 50 percent said they would tolerate glaring. Of the 1,030 respondents with children, 70% said they had hit them for disciplinary purposes.

(“Majority of public tolerant of physical discipline for kids: Save the Children Japan” Japan Times, 16 February 2018
<https://www.japantimes.co.jp/news/2018/02/16/national/social-issues/save-children-japan-poll-finds-majority-adults-tolerant-physical-discipline-kids/#.W6jX4GhKiUK>)

A survey was conducted by the Chiba Prefectural Board of Education in the 2017 academic year covering roughly 496,000 students at 1,165 public schools, but the education board withheld results regarding the number of students who said they were subject to or witnessed corporal punishment, and stated that there were no suspected physical punishment cases found in follow-up surveys by schools. It has been reported, however, that there were four guidance measures taken in connection with physical punishment cases during the academic year, including a reprimand, none of which were reportedly mentioned in the survey responses.

(“308 school students in Chiba Pref. felt 'sexual harassment' by teachers: survey”, The Mainichi, 11 June 2018
<https://mainichi.jp/english/articles/20180611/p2a/00m/Ona/006000c>)

A Government survey of public, national and private schools found that in the 2012-2013 academic year, 6,721 teachers at 4,152 schools nationwide inflicted corporal punishment on 14,208 students. Eighty per cent of the teachers were in public schools; only 3% were disciplined for their use of corporal punishment. In elementary schools, 60% of corporal punishment cases took place during class. In junior high and high schools, just over 20% of cases took place in class, and 40% took place during club activities. In 60% of cases, teachers hit students with their hands, in 10% teachers kicked students. Other forms of corporal punishment included punching students and hitting them with a stick or other object. In 20% of cases, children were physically injured, including fractures, sprains and eardrum damage.

(Reported in *The Japan Times*, 10 August 2013)

In a survey of 510 college athletes (427 male and 83 female), 62% said violent punishment is acceptable in school athletics programmes. One third (33%) said they had been physically punished at school. Students who had been physically punished were more likely to think violent punishment was acceptable (73% of those who had been physically punished compared to 57% of those who had not) and to say they would use violence if they became a teacher or athletics coach.

(Reported in *The Asahi Shimbun*, 13 May 2013)

According to Japan’s report to the UN Human Rights Committee in 2012, the number of cases of corporal punishment in schools handled by human rights organisations was 211 in 2006, 263 in 2007, 198 in 2008, 268 in 2009 and 337 in 2010.

(9 October 2012, CCPR/C/JPN/6, Sixth state party report to the Human Rights Committee, para. 312)

In a survey of parents conducted by a national newspaper in August 2010, 58% of respondents regarded physical punishment as a necessary tool in childrearing.

(Reported in Campaign for Ending Violence against Children (2012), *Briefing for the Human Rights Council Universal Periodic Review 14th session*)

In a survey of 1,592 first- and second-year university students, 1.4% reported being slapped, kicked, punched or having something thrown at them by a teacher “often” or “very often” when they were at school.

(Masuda, A. et al (2007), “Intra- and extra-familial adverse childhood experiences and a history of childhood psychosomatic disorders among Japanese university students”, *BioPsychoSocial Medicine*, 1 (9), 1-7, cited in UNICEF East Asia and Pacific Regional Office (2012), *Child Maltreatment: Prevalence, Incidence and Consequences: A Systematic Review of Research*, Bangkok: UNICEF)