

Corporal punishment of children in Viet Nam



Global Initiative to
End All Corporal Punishment
of Children

Report prepared by the Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org), last updated March 2015

Child population

25,078,280 (UNICEF, 2013)

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings and day care.

There appears to be no defence of “reasonable chastisement” or similar enshrined in legislation, but legal protections from violence and abuse are not interpreted as prohibiting all corporal punishment. The near universal social acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment is acceptable. All corporal punishment and other cruel or degrading forms of punishment should be prohibited in the home and all other settings where adults have authority over children.

Alternative care settings – Corporal punishment should be prohibited in alternative care settings (foster care, institutions, places of safety, emergency care, etc).

Day care – Corporal punishment should be prohibited in all early childhood care (nurseries, crèches, kindergartens, preschools, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Detailed country report

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. Provisions against violence and abuse in the Law on the Protection, Care and Education of Children 1991 (amended 2004), the Penal Code 1999, the Law on Marriage and the Family (art. 26), the Civil Code 2005 and the Law on Domestic Violence Prevention and Control 2007 are not interpreted as prohibiting all corporal punishment in childrearing.

The Law on Domestic Violence Prevention and Control 2007 defines domestic violence as “purposeful acts of certain family members that cause or may possibly cause physical, mental or economic injuries to other family members” (article 1). It lists acts of domestic violence, including “corporal beating, ill-treating, torturing or other purposeful acts causing injuries to one’s health and life” and “insulting or other intended acts meant to offend one’s pride, honour and dignity” (article 2). But the law does not clearly prohibit physical punishment intended to “discipline” children.

The Criminal Code includes provisions against cruel treatment of other people, including against “aged persons, children, pregnant women or disabled persons” (article 110). It includes a specific provision against cruel treatment of family members (article 151). The Civil Code confirms the right of all individuals to “safety of life, health and body” and states that “no one may infringe upon the life, health and body of other persons” (article 32). But the Codes do not explicitly prohibit all corporal punishment of children.

The Marriage and Family Law 2000 states that parents “have the obligations and rights to love, look after, rear, care for, and protect the legitimate rights and interests of, their children” and that parents must not “discriminatorily treat, ill-treat or persecute their children, or hurt their honour” (article 34). It does not explicitly prohibit all physical punishment in childrearing.

The Law on Child Protection, Care and Education 2004 protects children from a number of violent acts, including “torturing, maltreating, affronting” children (art. 7). The Law also states that children have the right to “have their life, body, dignity and honour protected by their respective families, the State and society” (art. 14) and that “the family, State and society have the responsibility to protect children’s life, body, dignity and honor” (art. 26). But the Law does not send a clear message that all corporal punishment are prohibited.

In November 2013, the new Constitution 2013 was adopted. Article 20(1) protects human dignity but does not clearly prohibit all corporal punishment: “Every one shall enjoy inviolability of the person and the legal protection of his or her life, health, honor and dignity; and is protected against torture, harassment and coercion, and any forma of violation of his or her life and health, and offence of honor and dignity.” Similarly, article 37(1) prohibits violence and abuse against children but it does not explicitly prohibit all forms of corporal punishment (unofficial translation): “Children enjoy protection, care and education by the family, the State and society; and are allowed to participate into children affairs. Infringement, maltreatment, abandonment, abuse, and exploitation of labor and other forms of violating children rights are strictly prohibited.”

In reporting to the UN Committee on the Rights of the Child in 2012, the Government stated that corporal punishment is unlawful in the family, school and education centres under the Constitution and other laws.¹ However, as noted above there is no explicit prohibition, and the Government also stated its intention to include a provision on corporal punishment in draft amendments to the Law on the Protection, Care and Education of Children.²

Alternative care settings

There is no explicit prohibition of corporal punishment in alternative care settings, where corporal punishment is lawful as for parents (see under “Home”).

Day care

There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children.

Schools

Corporal punishment is unlawful in schools under article 75 of the Education Law 2005, which states that teachers must not “disrespect the honour, dignity of learners, hurt or abuse them physically”. There are a number of other legal provisions regarding protection of students’ honour and dignity, including Decree No. 163/2003/ND-CP regulating education in commune, ward and town, the Primary Universal Education Law, and Decree 338-HDBT 26/10/1991 on the implementation of the Primary Universal Education Law.

¹ 24 May 2012, CRC/C/VNM/Q/3-4/Add.1, Written replies to the List of Issues, para. 73; 31 July 2012, CRC/C/SR.1703, Summary record of 1703rd meeting, para. 9

² 22 August 2012, CRC/C/VNM/C0/3-4, Concluding observations on third/fourth report, para. 45; 31 July 2012, CRC/C/SR.1703, Summary record of 1703rd meeting, para. 9

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 7(9) of the Law on the Protection, Care and Education of Children 1991, which prohibits “applying measures that offend or lower the honor or dignity of, or applying corporal punishments to, juvenile offenders”. Other applicable laws include the Penal Code 1999 (art. 298), the Code of Criminal Procedure (art. 6) and Decree No.114/2006/ND-CP on punishment of administrative violations on population and children (art. 21). Ordinance No.33/CP 1997 on residential schools, which accommodate children in conflict with the law, provides for children’s honour and dignity but does not explicitly prohibit corporal punishment as a disciplinary measure. In 2012, the Penal Code and the Criminal Procedure Law were being reviewed.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in criminal law.

Universal Periodic Review of Viet Nam’s human rights record

Viet Nam was examined in the first cycle of the Universal Periodic Review in 2009 (session 5). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:³

“Continue fulfilling its obligations under the international treaties to which it is a party (Algeria);

“Continue to improve in the following areas: poverty eradication, rights of the child, women’s rights and rights of persons with disabilities (Singapore)

“Continue the reforms under way, notably the attention to the promotion of the rights of women and children, providing for the necessary protection and their personal development (Tunisia)”

The second cycle review of Viet Nam took place in 2014 (session 18). No specific recommendations on corporal punishment were made. However, the following recommendations were made and were accepted by the Government:⁴

“Fully address recommendations and issues of concern raised by the Committee on the Rights of the Child with regard to child abuses and allocation of economic resources (Albania)

“Strengthen the national system of investigating complaints of child abuse and neglect, eliminate violence against children, and establish policies to protect children from all forms of violence (Poland)”

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(22 August 2012, CRC/C/VNM/C0/3-4, Concluding observations on third/fourth report, paras. 45 and 46)

“The Committee is concerned about the prevalence of corporal punishment in the home and that many parents still find it appropriate to use slapping as a means of discipline. While noting the State party’s

³ 5 October 2009, A/HRC/12/11, Report of the working group, paras. 99(1), 99(73) and 99(82)

⁴ 2 April 2014, A/HRC/26/6, Report of the working group, paras. 143(69) and 143(120)

declaration during the dialogue that it intends to include a provision on corporal punishment in the amendment to the 2004 Law on Protection, Care and Education of Children, the Committee remains concerned that the State party has not yet passed legislation explicitly prohibiting all forms of corporal punishment in all settings, including in the home, despite the Committee's previous recommendation (CRC/C/15/Add.200, para. 34 (e)).

“The Committee recommends that the State party reform its domestic legislation, including the envisaged amendment to the 2004 Law on Protection, Care and Education of Children, to ensure the explicit prohibition of all forms of corporal punishment in all settings, taking into account the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, and general comment No. 13 (2011) on the right of the child to freedom from all forms of violence. The Committee further recommends that the State party raise awareness among parents and the general public on the negative impact of corporal punishment on the well-being of children, and on positive alternative methods of discipline in accordance with the rights of the child, also through the effective implementation of the National Programme on Child Protection for 2011-2015.”

Committee on the Rights of the Child

(18 March 2003, CRC/C/15/Add.200, Concluding observations on second report, paras. 33 and 34)

“The Committee is concerned that children in the State party are subject to various forms of violence and ill-treatment, including child abuse and neglect, and corporal punishment.

“The Committee recommends that the State party:

- e) explicitly prohibit corporal punishment in the home, schools and all other institutions;
- f) carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment.”

Prevalence/attitudinal research in the last ten years

In a study which involved interviews with 30 men aged 24 and above, all but one of the participants reported experiencing physical punishment from their parents during childhood. Physical punishment was most frequently linked to fathers, and related to their role as educator and disciplinarian. Experience of school corporal punishment was also common. The study found that violence was commonly seen as a disciplinary tool to establish and maintain men's authority, most often within the family setting, and that this was linked to the men's childhood experiences of corporal punishment. It recommended working to end school corporal punishment and promoting programmes and awareness on the impact of corporal punishment on child development as part of preventing gender-based violence.

(Duc, D. T. et al (2012), *“Teach the wife when she first arrives”*: Trajectories and pathways into violent and non-violent masculinities in Hue City and Phu Xuyen district, Viet Nam, Partners for Prevention, UN Women & UN Population Fund)

According to statistics collected in 2010 under round 4 of the UNICEF Multiple Indicator Cluster Survey programme (MICS4), 73.9% of children aged 2-14 experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in the month prior to the survey. Fifty-five per cent experienced physical punishment, while a smaller percentage (17.2%) of mothers and caregivers thought physical punishment was necessary in childrearing. More than half the children (55.4%) experienced psychological aggression (being shouted at, yelled at, screamed at or insulted), 3.5% experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement).

(General Statistical Office (2011), *Viet Nam Multiple Indicator Cluster Survey 2011, Final Report*, Ha Noi: General Statistical Office)

A study on drug detention centres in and around Ho Chi Minh City found that corporal punishment, including beatings, forced labour and confinement in “punishment rooms”, was common. In 2007, 3.5% of detainees in Ho Chi Minh City centres were children, and the study included one centre for youths.

(Human Rights Watch (2011), *The Rehab Archipelago: Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam*)

A 2010 UNICEF analysis of data from 2005-2006 found that 94% of children aged 2-14 experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in the month prior to the survey. Nearly two thirds experienced physical punishment, while a smaller percentage (45%) of mothers and caregivers thought physical punishment was necessary in childrearing; non-violent discipline was also widely used, experienced by 96% of children. One child in ten was severely physically punished (hit or slapped on the face, head or ears or hit over and over with an implement), 90% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted). Boys were slightly more likely than girls to experience violent discipline (95% compared to 92%). Children living in households with adults with a higher average level of education were less likely to experience violent discipline than those living with less educated adults. No significant differences in children’s experience of violent discipline were found according to age, household size or engagement in child labour.

(UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF)

Large scale comparative research into the views and experiences of 3,322 children and 1,000 adults in 8 countries in Southeast Asia and the Pacific (Cambodia, Fiji, Hong Kong, Indonesia, Mongolia, Philippines, Republic of Korea and Viet Nam) was carried out by Save the Children in 2005. The research in Viet Nam involved 499 children (225 boys, 273 girls) from urban rural and remote areas, and 306 adults (85 men, 219 women). Methods included research diaries, drawings, body maps, attitude survey, sentence completion, and discussions. Physical punishments mentioned by children in Viet Nam included hitting with implements, punching, kicking, pinching, twisting body parts, throwing objects, electric shocks. At home, punishment by family members included having an arm broken, being beaten on the buttocks until raw then a mixture of salt and chilli rubbed on the wounds, being beaten with a thick stick, having an ear twisted until torn and bleeding, electrocution with wires, excess labour, kneeling on the spiky peel of durian fruit, standing naked outside the house, standing under the weight of a buffalo yoke, having the head repeatedly submerged in water, hanging on a tree and beaten until unconscious, being hung on an electricity pole, being hung on a wall by the hands, being hung upside down from a tree, being tied next to an ants nest, being tied to a bicycle and forced to run alongside it, and being whipped while hanging from a tree. Punishments by teachers at school included being confined under a bed, standing in front of class and being denounced by classmates, being hit on the forehead by a ruler thrown by teacher, being hit on head by a box of chalks, not being allowed to eat, being stripped naked and beaten on the back, and two children being forced to slap each other on their cheeks. Of those who were hit, 50% were hit with an implement (34.8% with sticks etc, 15.2% with a whip, lash or belt), 45.5% slapped with the hand, 4.5% kicked. Of children who mentioned body parts where they were hit, 26% reported being hit on the head and neck, 27% on the limbs, 11% on the back, 13% buttocks, 5% chest, 4% stomach, and 1% genitalia. In the home 81% of children experienced physical punishment, 19% emotional punishment; in school 69% experienced physical punishment, 31% emotional.

(Beazley, H. 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)

A major study into child abuse in Vietnam found that physical punishment was very widespread, with 70% of the 178 children and young people (aged 8-25) who participated reporting having been “spanked” on the bottom or hand with a hand during their childhood and over half having been hit with an implement. Participants living in reform schools and social protection centres were more likely to

experience physical punishment than those living elsewhere: 80% had been hit with a hand, 75% with an implement. The results of the qualitative element of the research suggested that while many adults thought physical punishment was acceptable, most of the children and young people rejected the use of physical punishment, believing that more humane and effective forms of discipline could be used instead.

(UNICEF Viet Nam (2006), *Child Abuse in Viet Nam: Final Report into the Concept, Nature and Extent of Child Abuse in Viet Nam*)

Report prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
March 2015