



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

JAPAN

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 2nd session, 2008

From Peter Newell, Coordinator, Global Initiative

[*info@endcorporalpunishment.org*](mailto:info@endcorporalpunishment.org)

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 Japan, despite repeated recommendations by the Committee on the Rights of the Child.

We hope the Review will highlight with concern Japan’s record of ignoring treaty body recommendations and strongly recommend that Japan 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 Japan

The home

Corporal punishment is lawful in the **home**. Under the Civil Code a child is subject to “parental power” (article 818). The Penal Code provides protection from violence leading to bodily injury (article 204), physical violence without bodily injury (article 208) and intimidation (article 222), but does not prohibit all corporal punishment. The definition of abuse in the Revised Child Abuse Prevention Law (in effect from 2004) includes violence which causes or may cause bodily injury and “behaviour and words that inflict psychological trauma to a child” (article 2). Other applicable legislation includes the Law Concerning Punishment of Physical Violence and Others.

Schools and other settings

Corporal punishment is unlawful in **schools** under the School Education Law (1947). In early 2007, the government definition of corporal punishment was amended so that ordering students out of the classroom and giving after-school detention, for example, no longer constitutes physical punishment. New Ministerial guidelines prohibit teachers from inflicting corporal punishment, including causing physical pain. According to official figures, boards of education nationwide punished 4,086 teachers in the fiscal year 2005, including 447 teachers who physically punished students.¹

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

In **alternative care settings**, corporal punishment is reportedly prohibited in day care and residential institutions for children. However, heads of Child Welfare Institutions exercise parental authority until someone is found to exercise parental authority or guardianship and it would seem that corporal punishment could be administered in such circumstances. It is lawful in foster care as for parents.

II: Recommendations by human rights treaty monitoring bodies

In 2004, following examination of the state party’s second report, the **Committee on the Rights of the Child** expressed concern at the use of corporal punishment in schools, institutions and the family (CRC/C/15/Add.231, para. 35). The Committee recommended that the state party (para. 36):

- “... 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.”

The Committee made similar recommendations in its previous recommendations following examination of the state part’s initial report in 1998 (CRC/C/15/Add.90, para. 45).

¹ Figures from the Ministry of Education, reported in *The Japan Times Online*, 4 January 2007