

2024 Child Rights Progress Report on Physical Punishment

South Australia's progress on recommendations made
by the UN Committee on the Rights of the Child



About the Commissioner for Children and Young People

The [South Australian Commissioner for Children and Young People](#) is an independent position, established under the [Children and Young People \(Oversight and Advocacy Bodies\) Act 2016](#) (OAB Act). This legislation was introduced to the South Australian Parliament in response to the [Child Protection Systems Royal Commission 2014](#).

The Commissioner promotes and advocates for the rights, development and wellbeing of all children and young people in South Australia and seeks to change laws, policies, systems and practice to uphold children's rights.

The work of the Commissioner for Children and Young People is guided by the [United Nations Convention on the Rights of the Child](#) (UNCRC); the core international treaty established in 1989 to which Australia is a signatory. This important agreement sets out the civil, political, economic, social, and cultural rights of children around the world.

The Commissioner aims to ensure that as a part of the Australian Commonwealth, South Australia enacts its international obligations under this Convention.

Each year the Commissioner produces a series of Child Rights Progress reports measuring South Australia's progress against recommendations made by the UN Committee on the Rights of the Child (the Committee).

This year's progress reports comprise:

- Child Health
- Child Justice
- Child Protection
- Disability
- Education
- Environment
- Physical Punishment

Data reported in the data tables are the most accurate available at the time of writing.

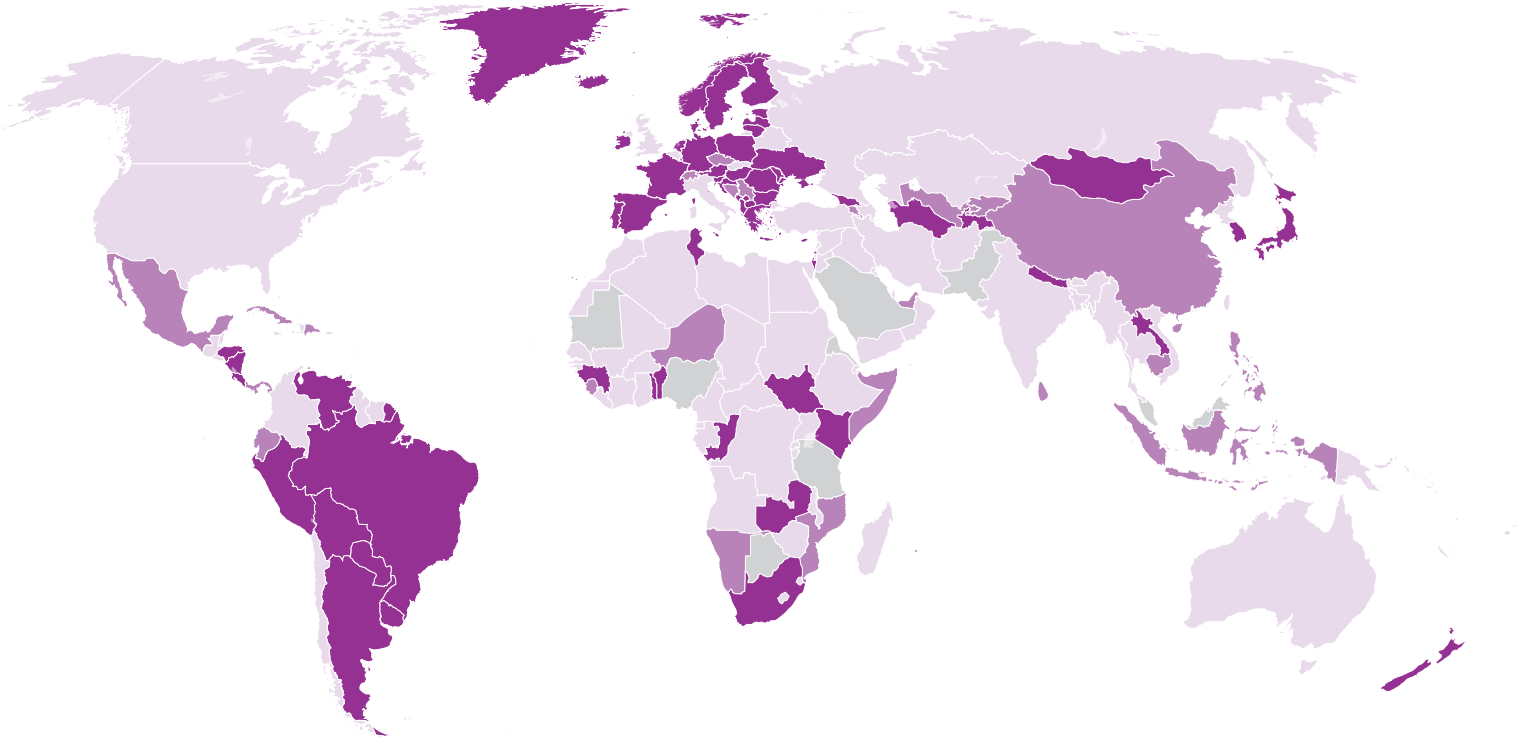


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Physical punishment around the world



Map adapted from End Corporal Punishment, Global progress, <https://endcorporalpunishment.org/global-progress/>

As at June 2024, 67 sovereign states have achieved prohibition of physical punishment in all settings including in the home (up from 65 in May 2023). The latest country to prohibit physical punishment was Tajikistan. A further 26 states have expressed a commitment to enacting full prohibition. Of those the Czech Republic and Switzerland have been included, with three states losing their committed status due to lack of progress. This includes Chile, Ghana and Myanmar¹.

- Countries where physical punishment is prohibited in all settings
- Countries where governments are committed to full prohibition of physical punishment
- Countries where physical punishment is prohibited in some settings
- Countries where physical punishment is not fully prohibited in any setting

Area of concern:

- Despite considerable evidence identifying the harm caused by physical punishment and repeated calls by the UNCRC for full prohibition, state and federal governments continue to permit violence against children by their parents.

Children do not have the same protections as adults when it comes to assault and the experience of physical punishment by children remains unacceptably high.

Background

The UNCRC was the first international convention to acknowledge that children have rights and that these rights should be protected. Australia ratified the UNCRC in 1990 and South Australia's *Children and Young People (Oversight and Advocacy Bodies) Act 2016* (OAB Act) states that all governmental authorities must seek to give effect to the UNCRC.

The Convention sets minimum standards and obligations for the protection of children and young people's rights, including their rights to have access to justice, education, health care and social services. All children have the right to have a say on all matters that affect them and for their views to be taken seriously. In making decisions about children their best interests should be the primary concern, as well as the right to be safe and to be free from discrimination.

Every five years, the Australian Government reports to the UNCRC Committee to explain how Australia is fulfilling its obligations in relation to child's rights. This means that the State must provide feedback on how they have fulfilled their obligations under the Convention in the areas over which they have responsibility such as crime, child protection, and health.

In response to Australia's fifth and sixth periodic reports, the Committee highlighted key areas of concern and made recommendations to ensure our governments at both the Commonwealth and State levels, fulfil their obligations under the Convention. One of the Committee's main areas of concern requiring urgent attention is physical punishment.

Rights in relation to Physical Punishment*

According to the Convention on the Rights of the Child, children should not be subjected to any form of violence. This includes children being safe from violence from parents/guardians (Art. 19) at school (Art. 28), and against cruel and degrading treatment (Art. 37). Specifically, the Committee on the Rights of the Child recommends:

- explicitly prohibiting physical punishment in law in all settings, including in the home, in public and private schools, in detention centres and in alternative care settings, and to repeal the legal defence of "reasonable chastisement"; and
- development of awareness-raising and education campaigns that promote positive and alternative forms of discipline and that underscore the adverse consequences of physical punishment.

*also called corporal punishment.

Australian context

According to the Australian Maltreatment Study a high proportion of Australians (62.5%) experienced corporal punishment in childhood. Approximately half of all parents surveyed (53.7%) had used corporal punishment. A quarter of Australians (26.4%) believe corporal punishment is necessary to raise children, while 73.6% do not view it as being necessary.²

The Parenting & Family Research Alliance (PAFRA) has led the Ending Physical Punishment of Australian Children campaign launched in 2023. PAFRA is a multidisciplinary collaboration that brings together dedicated experts to conduct research, communication and advocacy pertaining to parenting, families and evidence-based parenting support.

In May 2024, PAFRA released a Joint Statement calling for the end of physical punishment in all settings throughout Australia.

To date the Joint Statement has been endorsed by:

- Grandparents Victoria and Kinship Carers Victoria
- Australian Lawyers for Human Rights & President Kerry Weste
- Lawyers for Human Rights
- Multicultural Youth Advocacy Network (MYAN)
- Academy of Child and Adolescent Health
- College of Nursing and Health Sciences, Caring Future Institute, and
- Flinders University, and chairperson for Australian College of Children and Young People's Nurses (ACCYPN).

Why should Physical Punishment be outlawed?

Physical punishment is a legalised form of assault. All other forms of assault in South Australia has been outlawed, including adult to adult assault, child to adult assault, and child to child assault.

Some adults argue that physical punishment is justified to 'teach children a lesson'. But the fact is assault does not teach anyone a lesson. There is now overwhelming evidence to suggest that physical punishment is not an appropriate teaching method or behaviour management strategy for children and can have long term negative effects on their lives.

Research has found that the impact of physical punishment and severe maltreatment on children:

- has been associated with emotional and behavioural difficulties at school³

- does not reduce defiant or aggressive behaviour, nor does it promote long-term positive behaviour in children.⁴ (An analysis of 75 studies across 13 countries found that the use of ‘spanking’ was associated with negative child outcomes 99% of the time)⁵
- results in adverse effects on students in school, including on their academic performance and can lead to behavioural issues (for example, violent behaviour and aggressive conduct)⁶
- results in children being 2.6 times⁷ more likely to experience mental health problems than children who do not experience physical punishment
- results in children being 2.3 times⁸ more likely to go on to experience significant harm through more serious forms of physical abuse
- results in these children being more likely to believe that violence is accepted and encouraged by society, which may lead to them behaving in a more violent manner during adolescence and adulthood,⁹ and
- can negatively affect children’s brain development.¹⁰

South Australia’s progress on the latest recommendations made by the UN Committee in relation to physical punishment



No evidence that the UN Committee’s recommendation is being addressed



Some evidence that the UN Committee’s recommendation is being addressed



Clear evidence that the UN Committee’s recommendation is being addressed

Current Status

Australia should explicitly prohibit corporal punishment in law in all settings, including in the home, in public and private schools, in detention centres and in alternative care settings, and to repeal the legal defence of ‘reasonable chastisement.’

In South Australia, parents and guardians can still physically punish children under section 20(2) of the *Criminal Law Consolidation Act 1935*.¹¹ This Act provides for contact between persons that would generally be regarded as accepted within the community. There is also a common law defence of chastisement¹² where a child’s age, the reason for the punishment (did it occur to ‘teach the child a lesson’ or ‘because the person snapped’), the child’s behaviour and seriousness of the contact are all considered.

South Australia has prohibited physical punishment in all schools via the *Education and Children Services Act (2019)*, which outlaws physical punishment in pre-school services (s32) and in all South Australian schools (s83). The common law defence is, however, still available to educators if the conduct lies within “the limits of what would be generally accepted in the community as normal incidents of social interaction or community life.”¹³ The *Protective practices Behaviour guidelines for staff and volunteers working with children and young people*¹⁴ has been adopted by all schools in the state and makes corporal punishment a violation.

South Australia has adopted national provisions for early childhood services, enshrined in the *South Australian Education and Early Childhood Services (Registration and Standards) Act 2011*.¹⁵ Section 166 of this Act prohibits the use of physical punishment by providers, nominated supervisors, staff members, volunteers, and day care providers of an approved education and care service.

In residential care facilities, carers and employees are prohibited from physically punishing a child under the *Family and Community Services Regulations 2009*.¹⁶ However this has not stopped reports of children being arrested by the police to manage behaviour, which could result in some physical handling that could amount to assault.¹⁷

To develop awareness-raising and education campaigns that promote positive and alternative forms of discipline and that underscore the adverse consequences of corporal punishment.

- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

The Department for Education has some resources that can be accessed by educators on alternative behaviour management responses that attempt to promote positive and inclusive behaviour. This includes teachers promoting and modelling positive behaviour. There are also online courses for educators on positive behavioural management.

Parenting SA¹⁸ has free Parent Easy Guides for parents covering a variety of topics, including respectful relationships, positive approaches to guiding behaviour, being good role models and many others. There are also seminars that parents can attend.

The Adults Supporting Kids website, developed by the Department for Human Services (DHS) also provides information for parents, carers and guardians.

The government supported Families Growing Together¹⁹ program supports 'families by empowering them with the knowledge and skills they need to connect and grow together. This helps them lay strong foundations for their children and young people'. There are a few workshops on offer and these can all be accessed online.

Endnotes

- 1 End Corporate Punishment. *Review of states committed to prohibition of corporal punishment in all settings – Czech Republic and Switzerland*. Accessed at <https://endcorporalpunishment.org/committed-states-review/>.
- 2 Haslam, F; Malacova E; Higgins, D; Meinck, F; Mathews, B; Thomas, H; Finkelhor, D; Havighurst, S; Pacella, R; Erskine, H; Scott, L; and Lawrence, D (2023). *The prevalence of corporal punishment in Australia: Findings from a nationally representative survey* *Australian Journal of Social Issue*.
- 3 Crandall M, Chiu B, Sheehan K. Injury in the first year of life: risk factors and solutions for high-risk families. *Journal of Surgical Research* 2006;133:7–10
- 4 Australian Institute of Family Studies. August 2021. Child Family and Community Australia. *Physical Punishment in Australia*. CFCA Resource Fact Sheet. Available at https://aifs.gov.au/sites/default/files/publication-documents/2107_physical_punishment_resource_sheet_0.pdf.
- 5 Sophie S. Havighurst, Ben Mathews, Frances L. Doyle, Divna M. Haslam, Karl Andriessen, Carmen Cubillo, Sharon Dawe, David J. Hawes, Cynthia Leung, Trevor G. Mazzucchelli, Alina Morawska, Sarah Whittle, Carys Chainey, Daryl J. Higgins, Corporal punishment of children in Australia: The evidence-based case for legislative reform, *Australian and New Zealand Journal of Public Health*, Volume 47, Issue 3, 2023, 100044, ISSN 1326-0200, <https://doi.org/10.1016/j.anzjph.2023.100044>.
- 6 Australian Institute of Family Studies. August 2021. Child Family and Community Australia. *Physical Punishment in Australia*. CFCA Resource Fact Sheet. Available at https://aifs.gov.au/sites/default/files/publication-documents/2107_physical_punishment_resource_sheet_0.pdf.
- 7 Telfar S, McLeod GF, Dhakal B, Henderson J, Tanveer S, Broad HE, Woolhouse W, Macfarlane S, Boden JM. Child abuse and neglect and mental health outcomes in adulthood by ethnicity: Findings from a 40-year longitudinal study in New Zealand/Aotearoa. *Child Abuse and Neglect*. 2023 Nov 1;145:106444
- 8 Crandall M, Chiu B, Sheehan K. Injury in the first year of life: risk factors and solutions for high-risk families. *Journal of Surgical Research* 2006; 133:7–10
- 9 Rowland AG, Gerry F, Stanton M. Physical Punishment of Children. *The International Journal of Children's Rights* 2017;25(1):165-9.
- 10 Child Family and Community Australia, *Physical Punishment in Australia*. CFCA Resource Fact Sheet, Australian Institute of Family Studies, Available at https://aifs.gov.au/sites/default/files/publication-documents/2107_physical_punishment_resource_sheet_0.pdf.
- 11 *Criminal Law Consolidation Act SA (1935)*.
- 12 *Lumb v Police* [2008] SASC 198 (18 July 2008).
- 13 *Education and Children Services Act SA (2019)*.
- 14 Department for Education South Australia. 2019. *Protective practices Behaviour guidelines for staff and volunteers working with children and young people*. Accessed 20 November 2022 at <https://www.education.sa.gov.au/policies/shared/protective-practices-staff-interactions-children-young-people.pdf>.
- 15 *Education and Early Childhood Services (Registration and Standards) Act SA (2011)*.
- 16 Family and Community Services Regulations SA (2009).
- 17 Wright. P. *Final Report of the South Australian Dual Involved Project*. Guardian for Children and Young People, 2022. Accessed at 20 November 2023 at <https://gcyp.sa.gov.au/wordpress/wp-content/uploads/2022/07/OGCYP-Final-Report-of-the-South-Australian-Dual-Involved-Project.pdf>.
- 18 Go to <https://parenting.sa.gov.au/>.
- 19 Go to [DHS – Families Growing Together](https://dhs.sa.gov.au/families-growing-together).