

JAPAN

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From Mr. Shigeyuki Tazawa, Coordinator, Campaign for Ending Violence against Children Japan, contact@kodomosukoyaka.net , or tazawa@sound.ocn.ne.jp

Campaign for Ending Violence against Children Japan was formed by civil society organizations in 2011. In the campaign, we have implemented advocacy and awareness-raising events aiming for legal prohibition of corporal punishment of children and non-violent and positive parenting. For instance, we invited UN Special Representative of the Secretary General on Violence against Children in February, 2012 and jointly advocated for prohibition of all violence against children, including corporal punishment of children. The secretariat is managed by Initiative for Ending Violence against Children Japan (Kodomo Sukoyaka Support-Net in Japanese), which was established in December, 2009 in order to promote children's rights and to prevent all violence against children.

Members

Child Line Japan (member of Child Helpline International)

Efa (Empowerment for All) Japan

General Research Institute of the Convention on the Right of the Child

Initiative for Ending Violence against Children Japan

Japan Network for Prevention of Child Abuse and Neglect

'miku'- Parenting Magazine

Network for the Convention on the Rights of the Child

Save the Children Japan

Importance of Prohibition of Corporal and Humiliating Punishment of Children

■ Importance of explicitly prohibiting corporal punishment of children

1. Corporal punishment is not explicitly prohibited in the **home**. The Civil Code states that a person with parental authority may discipline the child to the extent necessary (article 822). Article 14 of the Child Abuse Prevention Law does not rule out corporal punishment in upbringing.
2. Corporal punishment is prohibited in **schools** in article 11 of the Education Law. However, a ruling by the Tokyo High Court on 1 April 1981 suggested that this provision did not prohibit all physical punishment in all cases, and in 2007 a ministerial guideline issued to public schools relied on this in suggesting that some forms of physical punishment may be permitted in some circumstances.
3. Corporal punishment is not explicitly prohibited in **alternative care settings** under the power of those with parental authority to discipline children in the Civil Code and the Child Abuse Prevention Law (see above). Minimum Standards for Child Welfare Facilities (1948, amendment

1998) set a limit to disciplinary methods, but do not explicitly prohibit corporal punishment.

4. In the **penal system**, corporal punishment is not explicitly prohibited. The Constitution (1946) prohibits cruel punishments and the Act on Penal Detention Facilities and Treatment of Inmates and Detainees (2005) provides for the maintenance of discipline in penal institutions, but there is no explicit prohibition of corporal punishment.

■ **The reason we think it is absolutely necessary for Japan to explicitly prohibit all corporal punishment.**

5. Human Rights Obligations

➤ The Constitution of Japan

Explicit prohibition of corporal and humiliating punishment of children is harmonized with the Constitution of Japan. The following articles are particularly relevant to the harmonization;

- Article 11 - the people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.
- Article 18 - no person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.
- Article 31 - no person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.
- Article 36 - the infliction of torture by any public officer and cruel punishments are absolutely forbidden.

➤ The Convention on the Right of the Child

The Committee on the Rights of the Child first recommended prohibition of corporal punishment of children in the family and in childcare and other institutions in 1998. The recommendation was made again in 2004 and, most recently, in 2010. The General Comment No. 8 (2006) points out that prohibition of corporal punishment in the family, schools and other settings, is not only an obligation of states parties under the Convention. It is also a key strategy for reducing and preventing all forms of violence in societies (Para. 3).

➤ The UN study on Violence against Children

Prohibiting corporal punishment of children is one of the top priorities recommended by the Study and many children made a claim for it.

➤ The commitment and pledge by the Government of Japan

The government of Japan submitted a paper to the Human Rights Council on 30th of September, 2011. In the paper, the Government of Japan clearly states that the Government of Japan follows up on the UPR recommendations and the recommendations by human rights treaty bodies,

proactively promotes and protects human rights. We, as the civil society network, welcome this commitment and pledge and support it.

6. Increasing violence against children

Cases of alleged child abuse in Japan have risen to their highest level since records began 10 years ago. At the same time, the number of child abuse cases reported to Municipal Child Centres has increased at the highest in 2010. Responding to it, the Government of Japan revised the article 822 in Civil Code in 2011 and added the following phrase, ‘the best interests of the child’ when those with parental authority discipline their children. However, the parental authority itself remained the same as before. In addition, there are researches that show cases of violence committed by students, particularly ones in elementary schools are increasing recently. According to experts like school social workers and counseling staff, there are much more violence inflicted on those students in homes and other settings.

7. Children’s voices and complaints about violence that is ignored and condoned by many adults

Child Line Japan (member of Child Helpline International) receives around 700 phone calls from children and young people a day. There are many complaints about violence and harassments against themselves in those phone calls. It suggests that they are not secured in order to speak out in the family setting and schools or their voices are ignored and condoned by those who have parental authority.

8. Parent(s) attitudes

Public opinion generally tends to tolerate use of physical punishment by parents in Japan. Many people think that hitting a child as a way of parenting is unavoidable in some cases. According to a survey conducted by a national newspaper in August, 2010, 58% of parents responded regarded physical punishment as a necessary tool in upbringing and 65% of those parents experience use of physical punishment to their children. Another research explored the factors of approving the use of physical punishment among Japanese adults. The results of analysis show that gender and the experience of being a subject of violence in childhood are strongly related to the attitude toward approving physical punishment. Young people who suffered violence in childhood are likely to support the use of physical punishment by parents. In addition, women whose father was perceived to ignore her in childhood are likely to support the physical punishment. However, there are some promising surveys with awareness-raising on parenting. For instance, miku – parenting magazine conducted a web-based questionnaire about spanking, beating and hitting children in January, 2011. The percentage of the answers to the questionnaire was similar to the survey mentioned above, but there were many positive feedbacks and attitudes changed by awareness-raising on risks of using corporal punishment in upbringing and a way of non-violent and positive parenting.

9. Programs for parenting available in Japan

There are many parenting programs available in Japan. Most of them share value of non-violent upbringing and promote positive and problem-solving parenting. The examples are

Common Sense Parenting, My Tree Parenting, Nobody's Perfect, Positive Discipline and Triple P, and human rights and violence prevention programs for children and young people are also available in Japan.

10. Utilizing civil society organizations

There are thousands of civil society organizations working for child welfare and education and some of them have specialized skills and capacities in the field of preventing violence against children and responding it. We know that the cases of violence reported would be increasing dramatically if Japan enacts legal prohibition of corporal punishment of children, having a look to the situations in the countries after the legal prohibition set, especially in the family setting. However, as described above, utilizing civil society organizations more, we believe that the society of Japan will be able to respond it. Moreover, with awareness-raising by both public and civil society bodies, the society of Japan will be able to establish the foundation to prevent not only physical punishment, but also all other forms of violence against children. It must contribute to preventing conflicts, escalating tensions between parents and their children in many families, and promote children's rights.