

Corporal punishment of children in Uzbekistan: Briefing for the Universal Periodic Review, 30th session, 2018

*From the Global Initiative to End All Corporal Punishment of
Children, September 2017*



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

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In Uzbekistan, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights.

We hope the Working Group will note with concern the legality of corporal punishment of children in Uzbekistan. We hope states will raise the issue during the review in 2018 and make a specific recommendation that Uzbekistan draft and enact legislation as a matter of priority to clearly prohibit all corporal punishment of children, however light, in every setting of their lives.

1 Review of Uzbekistan in the 2nd cycle UPR (2013) and progress since

- 1.1 Uzbekistan was reviewed in the second cycle of the Universal Periodic Review in 2013 (session 16). The issue of corporal punishment of children was raised in the summary of stakeholders' information.¹ During the review, no recommendation was made specifically on corporal punishment. Since 2013, the Government has repeatedly declared that corporal punishment was prohibited in all settings, in particular referring to the 2014 Guardianship and Custody Act. But this Act does not explicitly prohibit corporal punishment, which is still lawful in Uzbekistan.
- 1.2 **We hope the Working Group will note with concern the legality of corporal punishment of children in Uzbekistan. We hope states will raise the issue during the review in 2018 and make a specific recommendation that Uzbekistan draft and enact legislation as a matter of priority to clearly prohibit all corporal punishment of children, however light, in every setting of their lives.**

¹ 30 January 2013, A/HRC/WG.6/16/UZB/3, Summary of stakeholders' views, para. 16

2 Legality of corporal punishment in Uzbekistan

Summary of current law and opportunities for achieving prohibition

Corporal punishment of children in Uzbekistan is lawful in the home and in alternative care and day care settings. It is unlawful in schools, penal institutions and as a sentence for a crime. The Domestic Violence Bill and the potential amendments to the Family Code provide opportunities for enacting an explicit prohibition of corporal punishment of children in all settings, including the home.

- 2.1 **Home (lawful):** According to article 10 of the Law On Guarantees of the Rights of the Child 2008, the state shall protect the child from “all forms of exploitation, including physical, mental and sexual abuse, torture or other cruel, brutal or degrading treatment”; article 11 states that the child “has the right to be protected from abuse by parents or persons replacing the parents” (unofficial translation). The Family Code 1998 states that the child has the rights “to education by their parents, ensuring its interests, full development and respect for human dignity” (art. 65) and “to be protected from abuse by parents” (art. 67); article 75 states: “In the exercise of parental rights, parents have no right to harm the physical and mental health of children, or their moral development. Methods of educating children must exclude neglectful, cruel or degrading treatment, abuse and exploitation.” Failure by parents or guardians with regarding to childrearing and educational responsibilities for their children is punishable under the Code on Administrative Responsibility 1994 (art. 47); more severe corporal punishment is punishable under and the Criminal Code 1995.
- 2.2 It is unclear as to whether or not the law is interpreted as prohibiting all corporal punishment in childrearing. Under examination by the Committee on the Rights of the Child in 2013, the Government stated that corporal punishment is prohibited “in the private sphere” but did not confirm that this includes by parents in the home.² In May 2014, the Government informed the Committee on Economic, Social and Cultural Rights that corporal punishment was prohibited in all settings, including the home, but gave no details and the Committee went on to recommend prohibition.³ In reporting to the Human Rights Committee in 2015, the Government stated that Uzbekistan “follows a policy of prohibiting the corporal punishment of children” but in terms of law referred only to regulations for schools and institutions and to provisions in the Guardianship and Custody Act of 2 January 2014 on monitoring the conditions of care and upbringing of children.⁴ This Act protects children from situations which pose a risk to their life or health or when parents do not fulfil their obligations towards their children, and sets out the rights and obligations if guardians and custodians and the rights of wards – including the rights to “respectful and humane treatment” and to “care of their maintenance, upbringing, education and health” (art. 33, unofficial translation) – but there is no clear prohibition of all corporal punishment in childrearing.
- 2.3 In 2009, the Government acknowledged the inadequacy of the law in relation to corporal punishment by parents and persons replacing them and stated that work had begun on

² 11 June 2013, CRC/C/SR.1799, Summary record of 1799th meeting, para. 54

³ 16 May 2014, E/C.12/2014/SR.24, Summary record, para. 57

⁴ 9 March 2015, CCPR/C/UZB/Q/4/Add.1, Reply to list of issues, paras. 104, 105, 106 and 107

amending the Family Code prohibiting violence against family members.⁵ We do not know if the above quoted Family Code provisions reflect these amendments or if further reform is planned. A draft law on domestic violence is under discussion: as at June 2015 it was being reviewed by Government bodies and NGOs.⁶

- 2.4 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in alternative care settings. Children are protected from some but not all corporal punishment under article 10 of the Law on Guarantees of the Rights of the Child 2008 and article 75 of the Family Code 1998.
- 2.5 **Day care (lawful):** There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children. Children are protected from some but not all corporal punishment under article 10 of the Law on Guarantees of the Rights of the Child 2008 and article 75 of the Family Code 1998.
- 2.6 **Schools (unlawful):** Corporal punishment is considered unlawful in schools under article 10 of the Law On Guarantees of the Rights of the Child 2008 (see below), but it is not explicitly prohibited. The Law On Education 1997 is silent on the issue. In 2009, the Government was considering amendments to the law on education and other laws and regulations governing education institutions which would prohibit corporal punishment. In reporting to the Committee on the Rights of the Child in 2010, the Government stated that corporal punishment “is prohibited in general and special education establishments under specific provisions in the relevant regulations, standard rules and statutes” and “accordingly, ‘childfriendly school’ principles are introduced in the educational institutions, and all conditions necessary for development along those lines are created”.⁷ We have found no legal texts which include explicit prohibition of corporal punishment.
- 2.7 **Penal institutions (unlawful):** Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 10 of the Law On Guarantees of the Rights of the Child 2008, though it is not explicitly prohibited. The Criminal Procedure Code 1994 states that “no one shall be subjected to torture or other cruel or humiliating or degrading treatment” (art. 17) and prohibits “inhumane treatment of persons held in custody”. The Criminal and Executive Code 1997 does not include corporal punishment among permitted disciplinary measures in penal institutions, though it does provide for the use of physical force when other methods fail, including the use of rubber truncheons, handcuffs, dogs, water cannons; these should not be used against minors “when their age is obvious or known” (art. 71). According to the Law on Prevention of Neglect and Offences Among Minors 2010, individual preventive work with minors must be carried out “humanely, without degrading the honor and human dignity” (art. 24). In 2012, a Juvenile Justice Act was being drafted:⁸ we have no details of its provisions.
- 2.9 **Sentence for crime (unlawful):** There is no provision for judicial corporal punishment in the Criminal Code 1995, the Criminal Procedure Code 1994, the Code on Administrative Responsibility 1994 and the Law on Prevention of Neglect and Offences Among Minors 2010. Article 7 of the Criminal Code states: “Penalties and other measures of legal influence shall not be aimed to cause physical suffer or humiliation of human dignity.” Minors who commit offences are often dealt with by the mahalliyas (associations of families living in the same area

⁵ 19 October 2009, CEDAW/C/UZB/Q/4/Add.1, Written reply to the Committee on the Elimination of Discrimination Against Women, Q11

⁶ 23 June 2015, CEDAW/C/UZB/Q/5/Add.1, Reply to list of issues, response to Question 7

⁷ 26 January 2012, CRC/C/UZB/3-4, Third/fourth state party report, para. 702

⁸ 26 January 2012, CRC/C/UZB/3-4, Third/fourth state party report, para. 935

acting as organs of local authority) rather than the courts: we do not know if corporal punishment could be imposed in this context.

3 Recommendations by human rights treaty bodies

- 3.1 **CRC**: The Committee on the Rights of the Child has three times recommended prohibition of corporal punishment in all settings in Uzbekistan – in its concluding observations on the initial report in 2001,⁹ the second report in 2006¹⁰ and the third/fourth report in 2013.¹¹
- 3.2 **CESCR**: In May 2014, the Committee on Economic, Social and Cultural Rights recommended prohibition of corporal punishment in all settings in Uzbekistan, including the home, school and alternative care.¹²

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The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and since 2011 the Committee on the Rights of Persons with Disabilities.

⁹ 7 November 2001, CRC/C/15/Add.168, Concluding observations on initial report, paras. 39, 40, 45 and 46

¹⁰ 2 June 2006, CRC/C/UZB/CO/2, Concluding observations on second report, paras. 44 and 45

¹¹ 10 July 2013, CRC/C/UZB/CO/3-4, Concluding observations on third/fourth report, paras. 38, 39, 40 and 41

¹² 23 May 2014, E/C.12/UZB/CO/2 Advance Unedited Version, Concluding observations on second report, para. 20