**BRIEFING ON ARMENIA FOR THE COMMITTEE AGAINST TORTURE PRESESSIONAL WORKING GROUP, 68th session, Nov/Dec 2019**

*From the Global Initiative to End All Corporal Punishment of Children, June 2019*

**This briefing describes the legality of corporal punishment of children in Armenia. In light of the obligation under international human rights law to prohibit all corporal punishment of children, the recommendations of the UN Secretary General’s Study on Violence against Children, the repeated recommendations to prohibit made to Armenia by the Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights, the European Committee of Social Rights and during the Universal Periodic Review (which the Government accepted), and the Government’s commitment to enacting prohibition, as well as the new global commitment to ending all violence against children in the context of the 2030 Agenda for Sustainable Development, we hope the Committee Against Torture will:**

* **raise the issue of corporal punishment of children in its List of Issues Prior to Reporting for Armenia, in particular asking whether the 2017 amendments to the Family Code are interpreted as prohibiting all corporal punishment of children, however light, as defined by the UN Committee on the Rights of the Child, and**
* **recommend, in the concluding observations on its fifth report, that Armenia immediately enact legislation which clearly and explicitly prohibits all corporal punishment of children in all settings, including the home.**

**1 The legality of corporal punishment of children in Armenia**

1.1 ***Summary:*** Corporal punishment of children in Armenia is unlawful in care institutions, in schools and in the penal system but it is not yet prohibited in the home and in all alternative and day care settings.

1.2 ***Home (lawful):*** Corporal punishment is lawful in the home. The Family Code 2004 (amended 2017) states in article 53(1) (unofficial translation): “Parental rights may not be exercised contrary to the interests of children…. In the exercise of parental rights, parents are not entitled to harm the physical and mental health of children or their moral development. Methods of parenting must exclude any physical or psychological violence as a means of upbringing, as well as scornful, cruel, inhuman treatment, insults and exploitation….” Article 9 of the Rights of the Child Act 1996 states that children have a right to protection from all forms of violence and that no person, including parents, must inflict violence on the child or punishment which affects the child’s dignity, and article 22 protects the child’s right to honour and dignity. But there is no clear and explicit prohibition of all corporal punishment.

1.3 In 2010, the Government stated that it planned to analyse legislation relating to children with a view to harmonising domestic law with international standards.[[1]](#footnote-1) In the same year, the Government accepted the recommendations to prohibit corporal punishment of children made during its Universal Periodic Review.[[2]](#footnote-2) In 2011, the Government also stated its intention to amend the Rights of the Child Act to prohibit corporal punishment in the family and in other forms of care.[[3]](#footnote-3) In 2013, the Government reported to the Committee on the Rights of the Child that amendments to the Family Code which would prohibit all forms of corporal punishment were under consideration in Parliament.[[4]](#footnote-4)

1.4 In February 2014, approval was given to an Action Plan deriving from the National Strategy on Human Rights Protection, including measures on the rights of the child. The Plan envisaged the development of a concept and action plan to fight against violence against children, to be presented to the Government by the end of 2014.[[5]](#footnote-5) In May 2014, the Government reported to the Committee on Economic, Social and Cultural Rights that the adoption of the bill on domestic violence and related legislation had been postponed, with newly revised drafts expected to be submitted to the National Assembly by the end of 2015; the legislation would contain “comprehensive regulations” relating to corporal punishment. The Government also noted that amendments to the Family Code had been proposed to prohibit corporal punishment in institutions and in the family.[[6]](#footnote-6) In 2015, the Government accepted a recommendation to prohibit corporal punishment in all settings made during the Universal Periodic Review of Armenia and confirmed that prohibition will be included in draft amendments to the Family Code.[[7]](#footnote-7) Amendments to the Family Code adopted in December 2017 (see above) did not however enact a clear and explicit prohibition of all corporal punishment of children.

1.5 On the Law on Domestic Violence, the Armenian Gender Policy Strategic Action Plan for 2011-2015 identified the need “to ensure improvement of the legislation aimed to combat gender-based violence” and the goal in relation to this of “harmonization of the legal Acts currently in force with international norms” (para. 50); the Strategic Action Plan to Combat Gender-Based Violence 2011-2015 includes as a preventive goal harmonization of laws with international standards (goal 1.1) and including the issue of gender-based violence in parent education, associated with the outcome of “ruling out of violence in the family and creation of safe environment for the development of the child” (goal 1.6). Neither specifically refers to prohibition of corporal punishment. The Law on the Prevention of Violence within the Family was passed in December 2017. Article 3 of the Law defines physical and psychological violence as the intentional infliction of “severe” physical pain or mental suffering – this effectively protects children from some “severe” forms of corporal punishment but there is no explicit prohibition of all corporal punishment of children, however light.

1.6 The National Strategy and Action Plan on the Protection of the Rights of the Child 2017-2021 does not provide a separate activity on corporal punishment, but reportedly priorities the issue of social acceptance of violence in home as a serious concern, and provides several activities on public awareness raising.[[8]](#footnote-8) Other processes of law reform are also under way which provide opportunities for enacting prohibition, including the drafting of a new Criminal Code and a Law on the Rights and Social Inclusion of Persons with Disabilities.[[9]](#footnote-9) Armenia has been a Pathfinder country with the Global Partnership to End Violence Against Children since February 2016. This commits the Government to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals.

1.7 ***Alternative care settings (partially lawful):*** Corporal punishment is unlawful in care institutions under the Rights of the Child Act 1996 but there is no explicit prohibition and the law is not interpreted as prohibiting corporal punishment in non-institutional forms of care. Applicable law includes the Law “On social protection of children deprived of parental care” 2002: it does not explicitly prohibit corporal punishment.

1.8 ***Day care settings (lawful):*** There is no explicit prohibition of corporal punishment in all early childhood care and day care for older children. It is possibly considered unlawful in preschool settings under the Law on Education 1999 (see below).

1.9 ***Schools (unlawful):*** Corporal punishment is unlawful in schools under the Rights of the Child Act 1996 but there is no explicit prohibition. Article 49(2) of the Law on Education 1999 prohibits teaching methods that use physical or mental pressure.

1.10 ***Penal institutions (unlawful):*** Corporal punishment is considered unlawful as a disciplinary measure in penal institutions under the Rights of the Child Act 1996, the Criminal Code 2003 and the Constitution 1995, but there is no explicit prohibition. The Law on the Treatment of Arrestees and Detainees 2002 prohibits physical violence and inhuman or degrading actions and makes no provision for corporal punishment. Under the Penitentiary Code, the execution of a sentence must not be accompanied by physical violence or degrading treatment and no person sentenced to deprivation of liberty shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

1.11 ***Sentence for crime (unlawful):*** Corporal punishment is unlawful as a sentence for crime. It is not available as a sentence under the Criminal Code 2003 and article 11 of the Code states that no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. Article 17 of the Constitution 1995 states that “no one shall be subjected to torture or inhuman or degrading treatment or punishment” and “all persons arrested, detained or deprived of liberty shall have the right to be treated with humanity and with respect for dignity”; there are similar provisions in the Criminal Procedure Code. A draft new Criminal Procedure Code is under discussion (2015) which includes a chapter on juvenile justice.

**2 Recommendations by human rights treaty bodies and during the UPR**

2.1 ***CRC***: The Committee on the Rights of the Child has on three occasions recommended that Armenia prohibit all corporal punishment of children, in 2000, 2004 and 2013.[[10]](#footnote-10)

2.2 ***CESCR***: In 2014, the Committee on Economic, Social and Cultural Rights recommended that Armenia prohibit corporal punishment of children in all settings.[[11]](#footnote-11)

2.3 ***ECSR***: The European Committee of Social Rights has on three occasions concluded that the situation in Armenia was not in conformity with the European Social Charter because corporal punishment of children in the home is not prohibited.[[12]](#footnote-12)

2.4 ***UPR***: During the Universal Periodic Review of Armenia in 2010 and again in the UPR in 2015, recommendations were made to prohibit all corporal punishment of children and were accepted by the Government.[[13]](#footnote-13)

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*

[*www.endcorporalpunishment.org*](http://www.endcorporalpunishment.org)*;* [*info@endcorporalpunishment.org*](mailto:info@endcorporalpunishment.org)

1. Letter to former Council of Europe Commissioner for Human Rights Thomas Hammarberg, 21 December 2010 [↑](#footnote-ref-1)
2. 6 July 2010, A/HRC/15/9, Report of the working group, para. 93 [↑](#footnote-ref-2)
3. 7 February 2011, RAP/RCha/AR/IV(2011), National report to the European Committee of Social Rights, page 67 [↑](#footnote-ref-3)
4. 5 June 2013, CRC/C/SR. 1790, Summary record of 1790th meeting, paras. 3 and 38 [↑](#footnote-ref-4)
5. Letter from Yeghishe Kirakosyan, Deputy Minister of Justice, to the Global Initiative, 12 May 2014 [↑](#footnote-ref-5)
6. 12 May 2014, E/C.12/2014/SR.16, Summary record, paras. 13 and 33 [↑](#footnote-ref-6)
7. 13 April 2015, A/HRC/29/11, Report of the working group, para. 120(117); 5 June 2015, A/HRC/29/11/Add.1, Report of the working group: Addendum, para. 120(117) [↑](#footnote-ref-7)
8. April 2019, Communication with Save the Children Armenia [↑](#footnote-ref-8)
9. For example, see 2 July 2015, A/HRC/29/2 Advance Unedited Version, Report of the Human Rights Council on its twenty-ninth session, para. 496 [↑](#footnote-ref-9)
10. 8 July 2013, CRC/C/ARM/CO/3-4, Concluding observations on third/fourth report, paras. 24 and 25; 26 February 2004, CRC/C/15/Add.225, Concluding observations on second report, paras. 39 and 40; 24 February 2000, CRC/C/15/Add.119, Concluding observations on initial report, paras. 32 and 33 [↑](#footnote-ref-10)
11. 23 May 2014, E/C.12/ARM/CO/2-3 Advance Unedited Version, Concluding observations on second/third report, para. 19 [↑](#footnote-ref-11)
12. January 2016, Conclusions 2015; January 2012, Conclusions 2011; 2007, Conclusions XVIII-1, vol.1 [↑](#footnote-ref-12)
13. 6 July 2010, A/HRC/15/9, Report of the working group, para. 93(25); 27 January 2015, A/HRC/WG.6/21/L.8 Unedited Version, Draft report of the working group, para. 120.117 [↑](#footnote-ref-13)