



Global Initiative to
End All Corporal Punishment
of Children

BRIEFING ON GEORGIA FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 109th session (Oct/Nov 2013)

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1 The human rights obligation to prohibit corporal punishment

- 1.1 The legality and practice of corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity and to equal protection under the law, and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment – rights guaranteed in the International Covenant on Civil and Political Rights and other international human rights instruments.

This briefing describes the legality of corporal punishment of children in Georgia. 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 Georgia by the Committee on the Rights of the Child, and the recommendation to prohibit made during the Universal Periodic Review in 2011 (which the Government rejected), we hope the Human Rights Committee will:

- **raise the issue of corporal punishment of children in its List of Issues for Georgia, in particular asking what measures are being taken to explicitly prohibit corporal punishment in the home and all other settings, and**
- **recommend to Georgia, following its examination of the state party’s fourth report, that legislation is enacted and enforced which explicitly prohibits corporal punishment in all settings, including the home, as a matter of priority, together with appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

2 Georgia's report to the Human Rights Committee

- 2.1 Georgia's fourth report to the Committee (CCPR/C/GEO/4) includes details of measures taken to address domestic violence (paras. 16-20) but makes no mention of violent punishment which may lawfully be inflicted on children in the home and other settings.
- 2.2 The report refers briefly to protecting children from "all forms of violence" but again does not specifically mention corporal punishment. The near universal acceptance of a degree of violence in childrearing, together with deeply held views that parents and other adults have a "right" to physically punish children, means that corporal punishment is not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence. Efforts to address "all forms of violence" cannot fully protect children without law reform to *explicitly* prohibit corporal punishment. Georgia has not achieved this.

3 Legality and practice of corporal punishment of children in Georgia

- 3.1 Corporal punishment of children in Georgia is unlawful as a sentence for crime, in schools, in the penal system and possibly in care institutions, though it is not explicitly prohibited; it is lawful in the home, alternative care settings and in day care for children.
- 3.2 *Home (lawful)*. Provisions against violence and abuse in the Civil Code 1997, the Code of Administrative Offences, the Criminal Code 1999, the Law on Education 1997, the Law on the Elimination of Domestic Violence 2006 and the Constitution 1995 are not interpreted as prohibiting corporal punishment of children. In 2008, Minister for Education and Science Mr Giorgi Nodia signed the Council of Europe's petition against all corporal punishment of children. However, there appear to have been no moves towards law reform to enact explicit prohibition of corporal punishment in the home or any other setting. In rejecting the recommendation to prohibit all corporal punishment made during the UPR of Georgia in 2011 (see para. 4.3), the Government misleadingly stated that existing legislation already prohibits corporal punishment and law reform is not necessary.¹
- 3.3 UNICEF's major 2010 analysis of child discipline data from 2005-2006 found that 67% of 2-14 year olds in Georgia had experienced violent "discipline" (physical punishment and/or psychological aggression) in the month prior to the survey; a fifth were severely physically punished (hit or slapped on the face, head or ears or hit repeatedly with an implement).² In a study in 2007-2007, 80% of children were reported by parents/carers as having been physically "discipline", most commonly spanking on the buttocks, being shaken and having ears twisted.³
- 3.4 *Alternative care (? partial prohibition)*: In reporting to the Human Rights Committee in 2000, the Government stated that corporal punishment is prohibited in institutional care establishments.⁴ We have been unable to identify any prohibiting legislation in this respect. There is no explicit prohibition of corporal punishment in other alternative care settings (non-institutional forms of care, foster care, etc).
- 3.5 The 2011 report of the Public Defender of Georgia on the monitoring of residential childcare institutions documented corporal punishment in large residential institutions,

¹ 31 May 2011, A/HRC/17/11/Add.1, Report of the working group: Addendum

² UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

³ Lynch, M. A. et al (2008), *National Study on Violence against Children in Georgia*, UNICEF & IPSCAN

⁴ 26 February 2001, CCPR/C/GEO/2000/2, Second state party report, para.117

small group homes and schools attended by children living in childcare institutions, including children having their ears pulled, being beaten with a stick and being shaken.⁵ Similar findings were reported in the 2010 report.⁶ A study of foster care, small group homes and day care centres, children in day care centres and foster homes were physically punished in ways including being spanked, having their hair or ears pulled, being yelled at and being threatened.⁷

- 3.6 *Day care (lawful)*: There is no explicit prohibition of corporal punishment in formal early childhood care settings (nurseries, crèches, etc) or in formal day care for older children (after-school childcare, childminding, etc).
- 3.7 *Schools (unlawful)*: Corporal punishment is unlawful under article 19 of the Law on General Education, which states that school discipline must respect pupils' dignity, but it is not explicitly prohibited.
- 3.8 *Penal institutions (unlawful)*: There is no provision for corporal punishment as a "disciplinary" measure in the Law on Imprisonment, but it is not explicitly prohibited.
- 3.9 *Sentence for crime (unlawful)*: There is no provision for judicial corporal punishment.

4 Recommendations by human rights treaty bodies and during the UPR

- 4.1 *CRC*: The Committee on the Rights of the Child has three times recommended to Georgia that corporal punishment be prohibited in the home and other settings – in its concluding observations on the initial report in 2000, on the second report in 2003 and on the third report in 2008.⁸
- 4.2 *ECSR*: In 2012, the European Committee of Social Rights concluded that the situation in Georgia is not in conformity with the European Social Charter on the grounds that corporal punishment is not explicitly prohibited in the home.⁹
- 4.3 *UPR*: Georgia was examined in the first cycle of the Universal Periodic Review in 2011 (session 10). The Government rejected recommendations to prohibit corporal punishment in all settings, stating that it believes that "its existing national legal framework is in compliance with international standards and adequately protects children from any form of corporal punishment" and that "Georgia does not intend to amend the applicable legislation".¹⁰

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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⁵ Public Defender of Georgia (2012), *Report on the Monitoring of Residential Childcare Institutions for 2011*, Council of Europe & Public Defender of Georgia

⁶ Public Defender of Georgia (2010), *Annual Report for 2010: Monitoring of Children's Homes*, Council of Europe & Public Defender of Georgia

⁷ EveryChild (2011), *Advocacy for Participation to Protect Children's Rights: Georgia – Needs Assessment of the Alternative Child Care Services*

⁸ 28 June 2000, CRC/C/15/Add.124, Concluding observations on initial report, paras. 42 and 43; 27 October 2003, CRC/C/15/Add.222, Concluding observations on second report, paras. 44 and 45; 23 June 2008, CRC/C/GEO/CO/3, Concluding observations on third report, paras. 31 and 32

⁹ January 2012, Conclusions 2011

¹⁰ 6 March 2011, A/HRC/17/11, Report of the working group, paras. 106(26) and 106 (36); 31 May 2011, A/HRC/17/11/Add.1, Report of the working group: Addendum