



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

BRIEFING ON TAJIKISTAN FOR THE COMMITTEE AGAINST TORTURE PRESESSIONAL WORKING GROUP – May/June 2012

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This briefing describes the legality of corporal punishment of children in Tajikistan. 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 of human rights treaty monitoring bodies and the Government’s acceptance of the relevant recommendation during the UPR, we hope the Committee against Torture will:

- **raise the issue of corporal punishment of children in its List of Issues for Tajikistan, in particular asking what measures have been taken to ensure the law explicitly prohibits corporal punishment in all settings, including the home and all forms of alternative care, and**
- **recommend to Tajikistan, in the concluding observations on the second state party report, that legislation is enacted and enforced which explicitly prohibits corporal punishment in all settings, including the home, as a matter of urgency, together with appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

Tajikistan’s report to CAT

The second state party report to the Committee against Torture (CAT/C/TJK/2) provides information on juvenile justice and the key role of the Government Commission on Children’s Rights with regard to protection from cruel treatment, but it makes no reference to violence which may lawfully be inflicted on children in the guise of “discipline”.

Corporal punishment of children in Tajikistan

In Tajikistan, corporal punishment is unlawful as a sentence for crime but it is not explicitly prohibited in the home, schools or alternative care settings.

With regard to the **home**, there appears to be no confirmation in legislation of a right of parents to impose “reasonable chastisement” or similar (information unconfirmed) and during the Universal

Periodic Review of Tajikistan in 2011, the Government accepted recommendations to prohibit corporal punishment of children, stating that it considers these have already been implemented (A/HRC/19/3, Report of the Working Group, paras. 89(3) and 89(4)). However, while the Family Code (2011) states that every child has the right to respect for human dignity (article 55) and that in bringing up their children parents must not use neglectful, cruel, degrading or abusive means (article 65), and the Law on Parental Responsibility for Education and Upbringing of Children (2011) states that parents have a responsibility to respect the honour and dignity of children and protect them from ill-treatment (article 8), there is no explicit prohibition of all corporal punishment in childrearing. Provisions against violence and abuse in the Criminal Code (2010) and the Constitution (1994) do not prohibit all corporal punishment in childrearing. According to a major UNICEF report published in 2010, 78% of children aged 2-14 experienced violent discipline (physical punishment and/or psychological aggression) in the home in 2005-2006.¹

In **schools**, article 39 of the Education Act (2004) protects students from humiliating and other unlawful acts against their dignity, but the Act does not explicitly prohibit corporal punishment.

In the **penal system**, corporal punishment is unlawful as a sentence for crime: there is no provision for it in the Criminal Code or the Code of Criminal Procedure (2010). Cruel, inhuman or degrading treatment or punishment is prohibited in the Penal Enforcement Code (article 10), the Constitution (article 18). There is no prohibition of corporal punishment as a disciplinary measure in penal institutions.

There is no explicit prohibition of corporal punishment in **alternative care settings**.

Recommendations by human rights treaty bodies and during the UPR

The **Committee on the Rights of the Child** has twice recommended prohibition of corporal punishment in all settings, including the home – in its concluding observations on the state party's initial report in 2000 (CRC/C/15/Add.136, paras. 28, 29, 34 and 35) and on the second report in 2010 (CRC/C/TJK/CO/2, paras. 39 and 40).

In 2005, the **Human Rights Committee** recommended that corporal punishment be prohibited in schools in Tajikistan (CCPR/CO/84/TJK, Concluding observations on initial report, para. 23).

Tajikistan was examined in the first cycle of the **Universal Periodic Review** in 2011. The Government accepted recommendations to prohibit corporal punishment of children, stating that it considers they have already been implemented (A/HRC/19/3, Report of the Working Group, paras. 89(3) and 89(4)).

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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¹ UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF