



Global Initiative to
End All Corporal Punishment
of Children

**BRIEFING ON TAJKISTAN FOR THE COMMITTEE ON THE
ELIMINATION OF DISCRIMINATION AGAINST WOMEN
PRESESSIONAL WORKING GROUP – Feb/Mar 2013**

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The human rights obligation to prohibit corporal punishment – a key strategy in eliminating all forms of violence

The legality and practice of corporal punishment of girls breaches their fundamental rights to respect for their human dignity and physical integrity, to equality under the law and to protection from all forms of violence – rights guaranteed in the Convention on the Elimination of All Forms of Discrimination Against Women and other international human rights instruments. There are strong links between corporal punishment of children – girls and boys – and all other forms of violence, including gender-based violence. As the Committee on the Rights of the Child emphasised in its General Comment No. 8 (2006),¹ addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.

This briefing describes the legality of corporal punishment of children in Tajikistan. In light of General Recommendation No. 19 on Violence against women (1992), the links between corporal punishment of children and all other forms of violence including gender-based violence, the recommendations of treaty monitoring bodies and the Government’s acceptance of the UPR recommendations to prohibit, we hope the Committee on the Elimination of Discrimination Against Women will:

- **raise the issue of corporal punishment of girls in its List of Issues for Tajikistan, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home and all forms of alternative care, and**
- **recommend to Tajikistan, in the concluding observations on the fourth/fifth state party report, that corporal punishment is explicitly prohibited in all settings, including the home and all forms of alternative care, as a matter of priority.**

¹ General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” is available at www2.ohchr.org/english/bodies/crc/comments.htm.

1 Tajikistan's fourth/fifth report to CEDAW

1.1 At the time of preparing this briefing, the fourth/fifth report of Tajikistan (9 November 2011, CEDAW/C/TJK/4-5) is available only in Russian.

2 The legality and practice of corporal punishment of children in Tajikistan

2.1 *Summary:* Corporal punishment of children in Tajikistan is unlawful as a sentence for crime but it is not explicitly prohibited in the home, schools, penal institutions and alternative care settings. In reporting to the Committee Against Torture in 2012, the Government stated that “measures are being taken in the Republic of Tajikistan to improve domestic legislation, with a view to excluding the use of corporal punishment as a method of maintaining discipline in the family, schools and other educational establishments”.² It is unclear whether the Government was referring to the legislation adopted in 2011 – which does not achieve the necessary prohibition (see below) – or to an intention to undertake further law reform. Research shows that three out of four girls are physically punished by their parents.

2.2 *Home:* 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.

2.3 According to UNICEF's major analysis of child discipline published in 2010, 75% of girls aged 2-14, and 80% of boys, experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in Tajikistan in 2005-2006; nearly one in five children experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement), 73% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted).³

2.4 *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.

2.5 *Penal system:* Corporal punishment is unlawful as a sentence for crime. However, there is no prohibition of it as a disciplinary measure in penal institutions.

2.6 *Alternative care settings:* There is no explicit prohibition of corporal punishment.

3 Recommendations by human right treaty monitoring bodies and during the UPR

3.1 *CRC:* The Committee on the Rights of the Child has twice expressed concern about corporal punishment of children in Tajikistan and recommended that it be explicitly

² CAT/C/TJK/Q/2/Add.1, Written response to the List of Issues, para. 45

³ UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

prohibited in the family and other settings – in its concluding observations on the state party's initial report in 2000⁴ and on the second report in 2010.⁵

3.2 *HRC*: In 2005 the Human Rights Committee recommended that corporal punishment be prohibited in schools in Tajikistan.⁶

3.3 *CAT*: In 2012, the Committee Against Torture expressed concern at the widespread corporal punishment of children in the family, schools and other educational establishments in Tajikistan and recommended that legislation be adopted to explicitly prohibit corporal punishment in all settings.⁷

3.4 *UPR*: During the Universal Periodic Review of Tajikistan in 2011, a number of recommendations were made to prohibit all corporal punishment of children, including in the home.⁸ The Government accepted the recommendations, stating that it considers they have already been implemented and that measures would be taken to implement the law.⁹ As noted above, research by the Global Initiative indicates that the necessary law reform has not yet been achieved.

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⁴ 23 October 2000, CRC/C/15/Add.136, Concluding observations on initial report, paras. 28, 29, 34 and 35

⁵ 5 February 2010, CRC/C/TJK/CO/2, Concluding observations on second report, paras. 39 and 40

⁶ 18 July 2005, CCPR/CO/84/TJK, Concluding observations on initial report, para. 23

⁷ [November 2012], CAT/C/TJK/CO/2 Advance Unedited Version, Concluding observations on second report, para. 16

⁸ 12 December 2011, A/HRC/19/3, Report of the Working Group, paras. 89(3), 89(4) and 90(28)

⁹ *ibid.*, paras. 89(3) and 89(4) ; 27 February 2012, A/HRC/19/3/Add.1, Report of the Working Group: Addendum, para. 90(28)