



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

## **BRIEFING ON KAZAKHSTAN FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, PRESESSIONAL WORKING GROUP – Jul 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),<sup>1</sup> 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 Kazakhstan. 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, 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 Kazakhstan, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home, and**
- **recommend to Kazakhstan, in the concluding observations on the third/fourth state party report, that corporal punishment is explicitly prohibited in all settings, including the home, as a matter of priority.**

<sup>1</sup> 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](http://www2.ohchr.org/english/bodies/crc/comments.htm).

## 1 The state party's report to CEDAW

1.1 The third/fourth state report of Kazakhstan to CEDAW (22 March 2012, CEDAW/C/KAZ/3-4) includes detailed information on the rights of the child in the family, including legal protections for children from methods of upbringing which involve cruel, brutal, degrading or humiliating treatment (paras. 202, 203, 205, 217 and 218). However, the Government gives no indication that girls and boys would be protected under these laws from corporal punishment which is not perceived as reaching the threshold for what is considered "harmful" or "abusive".

## 2 The legality corporal punishment of children in Kazakhstan

- 2.1 *Summary*: In Kazakhstan, corporal punishment is unlawful as a sentence for crime and in schools and the penal system; it is not fully prohibited in the home and all forms of alternative care.
- 2.2 *Home (lawful)*: There is no confirmation in law of a "right" of parents to punish their children, but there is no explicit prohibition of all forms of corporal punishment in childrearing: article 60 of the Marriage and Family Code 2011 states that the child "has the right to be educated by the parents, ensuring its interests, full development and respect for human dignity" (unofficial translation). Article 72 states that in the exercise of parental rights, parents "do not have the right to harm the physical and mental health or moral development of the child" and that "methods of education must exclude neglectful, cruel, brutal or degrading treatment or abuse, humiliation or exploitation". But it does not explicitly prohibit all corporal punishment, however light.
- 2.3 The Law on the Rights of the Child 2002 confirms the child's right to respect for human dignity the state's obligation to protect the child from physical and mental abuse and cruel, inhuman or degrading treatment (article 10) and confirms parents' duty to educate and care for children (article 24) but does not explicitly prohibit all corporal punishment. Similarly, there is no prohibition of all corporal punishment in childrearing in the Law on Prevention of Domestic Violence 2009: it defines domestic violence as "an intentional illegal act (action or failure to act) by one person in the sphere of the family and household relations concerning another (others) causing or containing threat of causing of physical and (or) mental suffering" (article 1(3)) and states that this can take the form of, among other things, physical abuse, defined as "intentional harm to health by use of force and causing of physical pain", but we have no evidence that this is interpreted as prohibiting all corporal punishment of children.
- 2.4 *Schools (unlawful)*: Corporal punishment is lawful under article 28 of the Law on Education 2007.
- 2.5 *Penal system – sentence for crime (unlawful)*: There is no provision for corporal punishment in criminal law.
- 2.6 *Penal system – disciplinary measure in penal institutions (unlawful)*: There is no provision for corporal punishment among the permitted disciplinary measures specified in the Criminal and Executive Code 1997 and in the Law on Prevention of Offenses Among Minors and the Prevention of Children's Neglect and Homelessness 2004.
- 2.7 *Alternative care settings (partial prohibition)*: Corporal punishment is unlawful in children's villages and institutions under the Law on Children's Villages of Family Type and Youth Homes 2000 (article 5 and 18). In other care settings, children have protection

from some but not all corporal punishment under article 10 of the Law on the Rights of the Child 2002 (see para. 2.3).

### **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 recommended the corporal punishment of children be prohibited in all settings, including the home, in Kazakhstan – in its concluding observations on the initial report in 2003 and on the second report in 2007.<sup>2</sup>
- 3.2 *HRC*: In 2011, the Human Rights Committee expressed concern about the legality of corporal punishment in the home and in foster care establishments. The Committee recommended measures to end corporal punishment in schools and institutions and the promotion of non-violent forms of discipline in family settings.<sup>3</sup>
- 3.3 *UPR*: Kazakhstan was examined in the first cycle of the Universal Periodic Review in 2010 (session 7). No recommendation was made specifically on corporal punishment, but the Government accepted recommendations to further refine its laws protecting children's rights.<sup>4</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>2</sup> 10 July 2003, CRC/C/15/Add.213, Concluding observations on initial report, paras. 37 and 39; 19 June 2007, CRC/C/KAZ/CO/3, Concluding observations on second/third report paras. 36 and 37

<sup>3</sup> 19 August 2011, CCPR/C/KAZ/CO/1, Concluding observations on initial report, para. 15

<sup>4</sup> 23 March 2010, A/HRC/14/10, Report of the working group, para. 95(9)