



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

ESTONIA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 10th session, 2011

From Peter Newell, Coordinator, Global Initiative

info@endcorporalpunishment.org

Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General's Study on Violence against Children, as a highly significant issue, both for asserting children's status as rights holders and for the prevention of all forms of violence.

The Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies, and regional human rights mechanisms, have condemned all corporal punishment. In October 2006, the report of the UN Secretary General's Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment as a matter of priority.

Summary

This briefing describes the legality of corporal punishment of children in Estonia despite the recommendations of the Committee on the Rights of the Child and other treaty monitoring bodies. We hope the Review will highlight the importance of prohibiting all corporal punishment of children in all settings, including the home, and urge the Government to ensure that legislation is drafted and enacted to achieve this.

1 Legality of corporal punishment in Estonia

1.1 Corporal punishment is lawful in the **home**. Provisions against violence and abuse in the Child Protection Act (1992), the Family Law (1994), the Code of Administrative Offences and the Penal Code (2002) are not interpreted as prohibiting all corporal punishment in childrearing. The Government is committed to prohibition and was expected to consider draft legislation which would prohibit in April 2010, but we have no information on progress.

1.2 There is no explicit prohibition of corporal punishment in **schools**, though it is considered unlawful under article 40.1 of the Child Protection Act, which states “Instruction shall not involve physical violence or mental abuse”, and the Basic Schools and Upper Secondary Schools Act (1993, amended 2004) which obligates the school to guarantee the student’s mental and physical security and the protection of his/her health.

1.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime. It is considered unlawful as a disciplinary measure in penal institutions, but it is not explicitly prohibited.

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

2 Recommendations by human rights treaty monitoring bodies

2.1 Following examination of the state party’s initial report in 2003, the **Committee on the Rights of the Child** recommended explicit prohibition of corporal punishment of children in all settings, including the home (CRC/C/15/Add.196, para. 31). In 2005, the **European Committee of Social Rights** concluded that the situation in Estonia is not in conformity with article 17(1) of the Revised European Social Charter because corporal punishment is not prohibited in the family (*Conclusions 2005*).