

Corporal punishment of children in Belarus: Briefing for the Universal Periodic Review, 22nd session, 2015

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

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In Belarus, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and during the 1st cycle UPR in 2010 (accepted by the Government).

We hope the Working Group will note with concern the legality of corporal punishment in Belarus. We hope states will raise the issue during the review in 2015 and make a specific recommendation that legislation is enacted which would prohibit all corporal punishment in all settings, including the home.

1 Review of Belarus in the 1st cycle UPR (2010) and progress since then

1.1 Belarus was reviewed in the first cycle of the Universal Periodic Review in 2010 (session 8). The issue of corporal punishment was raised in the compilation of UN information¹ and the summary of stakeholders' information.² The following recommendation was made:³

“Forbid corporal punishment of children and take order in that matter (Brazil)”

1.2 The Government accepted the recommendation, but stated that it was already implemented, that “there are specific provisions enshrined in Belarusian legislation prohibiting child abuse, including the corporal punishment of children” and that “the Criminal Code and the Administrative Offences Code establish criminal and administrative liability, respectively, for causing grave, moderate or minor bodily harm, torture and other forms of violence”.⁴ However, according to our research there is no explicit prohibition of corporal punishment in the Law on the Rights of the Child or in any other legislation (see section 2, below).

1.3 We hope members of the Working Group will urge Belarus to enact legislation which clearly prohibits all corporal punishment of children in all settings, including in the home.

¹ 17 February 2010, A/HRC/WG.6/8/BLR/2, Compilation of UN information, para. 27

² 17 February 2010, A/HRC/WG.6/8/BLR/3, Summary of stakeholders' information, para. 24

³ 21 June 2010, A/HRC/15/16, Report of the working group, para. 98(24)

⁴ 15 September 2010, A/HRC/15/16/Add.1, Report of the working group: Addendum, paras. 65, 66 and 67

2 Legality and practice of corporal punishment in Belarus

- 2.1 **Summary:** In Belarus, corporal punishment is unlawful in the penal system and possibly in schools, but it is not prohibited in the home, alternative care settings and day care.
- 2.2 **Home (lawful):** Article 9 of the Law on the Rights of the Child 1993 states (unofficial translation): “Every child has the right to protect their identity against all types of exploitation and abuse. The State shall ensure the inviolability of the child, it shall be protected from all forms of exploitation, including sexual exploitation, from physical and mental abuse, cruel or degrading treatment, humiliation, and sexual harassment, including on the part of the parents (or guardians) and relatives” The Code on Marriage and the Family 1999 states in article 65 that the family is responsible for the education, maintenance and protection of children and that the family has “the pre-emptive right and duty to determine the forms, means and methods of childrearing”; articles 66-1, 67 and 80 protect the child from cruel treatment. The Code confirms the right of children “to live in peace, security and dignity” (art. 184) and “to defend their person, honour and dignity against all forms of exploitation and violence” (art. 189). But neither these provisions, nor the protections for children in the Criminal Code 1999, the Code on Administrative Offences 2003, the Crime Prevention (Principles) Act 2009 and the Constitution 1994, are interpreted as prohibiting all corporal punishment in childrearing.
- 2.3 According to statistics collected in Belarus under round 4 of the UNICEF Multiple Indicator Cluster Survey programme (MICS4), in 2011 64.5% of children aged 2-14 experienced physical punishment and/or psychological aggression.⁵ UNICEF’s major 2010 analysis of data on child discipline in the home from 2005-2006 found that 84% of 2-14 year olds had been violently “disciplined” in the month prior to the survey; 2% had experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement), 78% psychological aggression (being shouted at, yelled at, screamed at or insulted).⁶
- 2.4 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment. Article 30 of the Law on the Rights of the Child 1993 punished “teachers and other staff of children’s homes, boarding schools and other boarding institutions who commit anti-pedagogical or immoral acts against pupils”, but this article was repealed when the Act was amended in 2008. Under the Code on Marriage and Family 1999, orphans and children left without parental care have the right to “respect for their human dignity, protection of rights and legitimate interests” (art. 177), to “live in peace, security and dignity” (art. 184) and to “defend their person, honour and dignity against all forms of exploitation and violence” (art. 189). But the Code does not explicitly prohibit corporal punishment.
- 2.5 **Day care (lawful):** There is no explicit prohibition of corporal punishment in all early childhood care and in day care for older children.
- 2.6 **Schools (?unlawful):** Corporal punishment is considered unlawful under article 9 of the Law on the Rights of the Child 1993 (see para. 2.2, above) but there appears to be no explicit prohibition. There is no authorisation for corporal punishment in the Code on Education 2011: students are entitled to “protection of life and health in the educational process” (arts. 31(1.7) and 31(4.6)); teaching staff have the right to “choose pedagogically sound forms and methods of training and education” (arts. 52 and 89(1.4)) and must “respect the honour and dignity of students” (art. 53). The Government has stated that corporal punishment is prohibited in educational establishment regulations⁷ but we have been unable to identify explicit prohibition in regulations or law.

⁵ National Statistical Commission of the Republic of Belarus (2013), *Republic of Belarus Multiple Indicator Cluster Survey of Children and Women 2012: Preliminary Findings*, UNICEF

⁶ UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

⁷ 23 March 2010, CRC/C/BLR/3-4, Third/fourth state party report to the Committee on the Rights of the Child, para. 213

2.7 **Penal institutions (unlawful)**: Corporal punishment is considered unlawful as a disciplinary measure in penal institutions under article 9 of the Law on the Rights of the Child 1993 (see para. 2.2, above), but it is not explicitly prohibited. Article 36 of the Law on the Rights of the Child states that children in special educational or special health care institutions, which includes children in institutions for young offenders, have the right to humane treatment. Similarly, the Law on Prevention of Neglect and Offences of Minors 2003 states that juveniles in detention have the right to be treated “humanely, without degrading treatment” (art. 8). The Criminal and Executive Code 2000 does not include corporal punishment among permitted disciplinary measures in penal institutions (arts. 55, 61, 129, 130 and 185), though it does provide for the use of physical force, including for “the prevention and suppression of offences” and with implements including “rubber sticks” (arts. 78 and 79).

2.8 **Sentence for crime (unlawful)**: There is no provision for judicial corporal punishment in criminal law.

3 Recommendations by human rights treaty monitoring bodies

3.1 **CRC**: The Committee on the Rights of the Child has twice expressed concern at corporal punishment of children in Belarus and recommended its prohibition in the family and other settings – in its concluding observations on the second report in 2002⁸ and on the third/fourth report in 2011.⁹

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities.

⁸ 13 June 2002, CRC/C/15/Add.180, Concluding observations on second report, paras. 39 and 40

⁹ 8 April 2011, CRC/C/BLR/CO/3-4, Concluding observations on third/fourth report, paras. 39 and 40