

Corporal punishment of children in Mongolia: 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 Mongolia, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, the Committee Against Torture, the Human Rights Committee and during the 1st cycle UPR in 2010 (accepted by the Government). Law reform to prohibit corporal punishment is under way.

We hope the Working Group will note with concern the legality of corporal punishment of children in Mongolia. We hope states will raise the issue during the review in 2015 and make a specific recommendation to Mongolia that legislation be adopted which prohibits all forms of corporal punishment of children in all settings, including the home, at the earliest opportunity.

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

1.1 Mongolia was reviewed in the first cycle of the Universal Periodic Review in 2010 (session 9). The issue of corporal punishment of children was raised in the compilation of UN information¹ and the summary of stakeholders' information.² The following recommendations were made and were accepted by the Government:³

“Continue harmonizing its domestic legislation in conformity with the Convention on the Rights of the Child, introduce legislation to prevent and end all forms of corporal punishment, and adopt effective measures for preventing children under the age of 18 from being involved in hazardous work (Italy);

“Adopt legislation to prevent and end all forms of corporal punishment, in accordance with the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Brazil)”

1.2 Since the initial review in 2010, prohibition of corporal punishment has been addressed in the context of a number of draft new laws, including a draft Criminal Law, a draft Family Law and a draft Child Protection Law. Parliamentary debate on the draft Criminal Law began early in 2014

¹ 10 August 2010, A/HRC/WG.6/9/MNG/2, Compilation of UN information, para. 27

² 5 August 2010, A/HRC/WG.6/9/MNG/3, Summary of stakeholders' information, para. 27

³ 4 January 2011, A/HRC/16/5, Report of the working group, paras. 84(15) and 84(18)

and is expected to be resumed in the autumn of 2014. **We hope members of the Working Group will recommend to Mongolia that legislation be adopted which prohibits all forms of corporal punishment of children in all settings, including the home, at the earliest opportunity.**

2 Legality and practice of corporal punishment in Mongolia

- 2.1 **Summary:** In Mongolia, corporal punishment of children is unlawful as a sentence for crime and in schools but it is not prohibited in the home, alternative care settings, all forms of day care or in penal institutions.
- 2.2 **Home (lawful):** Provisions against violence and abuse in the Family Law 1999, the Law on the Protection of the Rights of the Child 1996, the Domestic Violence Act 2004, the Law on Crime Prevention 1997 and the Criminal Code (amended 2002), are not interpreted as prohibiting all corporal punishment in childrearing. According to statistics from UNICEF on violence in the family, 79% of children 2-14 year olds experienced physical punishment and/or psychological aggression in the month before the survey in 2005-2006.⁴
- 2.3 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment. Research in 2005 found a high prevalence of corporal punishment in children's institutions: 85.1% of children reported being beaten, 38.8% subjected to verbal abuse, 38.8% slapped and 26% hit with rubber batons and subjected to harsh physical experiences and labour.⁵
- 2.4 **Day care (?partially prohibited):** Corporal punishment is possibly prohibited in preschools under the Law on Education 2002 as amended in 2006 and the Law on Preschool 2008, but we have yet to examine the full texts of these laws. There appears to be no explicit prohibition in other early childhood care (crèches, family centres, etc) or in all day care for older children (day centres, after-school childcare, childminding, etc).
- 2.5 **Schools (unlawful):** Corporal punishment is prohibited in amendments to the Education Law passed in 2006, though we have yet to examine the full text of the Law as amended. A 2005 study of nearly 600 children on corporal punishment in schools found that only 12 had not been subjected to any form of punishment; 71.1% reported being beaten at school and 41.9% reported experiencing verbal abuse.⁶
- 2.6 **Penal institutions (lawful):** There is no explicit prohibition in legislation of corporal punishment as a disciplinary measure in penal institutions.
- 2.7 **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 Mongolia and recommended it be prohibited in the home and other

⁴ UNICEF (2009), *Progress for Children: A report card on child protection*, NY: UNICEF; see also National Statistical Office/UNICEF (2007), *Mongolia "Child and Development 2005" survey (MICS-3), Final Report*, Ulaanbaatar, Mongolia

⁵ Save the Children UK/Gender Center for Sustainable Development (2005), *Corporal Punishment of Children: Views of children in some schools, kindergartens and institutions: Summary report*

⁶ Save the Children UK/Gender Center for Sustainable Development (2005), *Corporal Punishment of Children: Views of children in some schools, kindergartens and institutions: Summary report*

settings – in the concluding observations on the state party’s second report in 2005⁷ and on the third/fourth report in 2010.⁸

3.2 **CAT:** In 2011, the Committee Against Torture recommended that Mongolia “take urgent measures to explicitly prohibit corporal punishment of children in all settings”.⁹

3.3 **HRC:** In 2011, the Human Rights Committee noted the prohibition of corporal punishment in Mongolian education law but expressed concern at its use in other settings and recommended steps be taken to end corporal punishment in all settings.¹⁰

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.

⁷ 21 September 2005, CRC/C/15/Add.263, Concluding observations on second report, paras. 29 and 30

⁸ 29 January 2010, CRC/C/MNG/CO/3-4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 8, 37, 38, 41, 59 and 60

⁹ 20 January 2011, CAT/C/MNG/CO/1, Concluding observations on initial report, para. 23

¹⁰ 2 May 2011, CCPR/C/MNG/CO/5, Concluding observations on fifth report, para. 19