

# **Corporal punishment of children in Tajikistan: Briefing for the Universal Periodic Review, 25<sup>th</sup> session, 2016**

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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 Tajikistan, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, the Human Rights Committee and the Committee Against Torture and recommendations made during the 1<sup>st</sup> cycle UPR of Tajikistan (accepted by the Government).**

**We hope the Working Group will note with concern the legality of corporal punishment of children in Tajikistan. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Tajikistan clearly prohibit all corporal punishment of children in all settings including the home.**

## **1 Review of Tajikistan in the 1<sup>st</sup> cycle UPR (2011) and progress since**

- 1.1 Tajikistan was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 12). The issue of corporal punishment of children was raised in the compilation of UN information<sup>1</sup> and the summary of stakeholders' information.<sup>2</sup> The Government accepted recommendations to prohibit all corporal punishment of children.<sup>3</sup>
- 1.2 Since the first cycle review in 2011, the Government has confirmed its commitment to prohibiting all corporal punishment of children, reporting to the Committee Against Torture in 2012 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”.<sup>4</sup> The Law on Education 2013 explicitly prohibits corporal punishment in schools and in preschool education. However, the Law on Prevention of Violence in the Family 2013 does not include comparably clear prohibition of corporal punishment in the home.
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Tajikistan. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Tajikistan clearly prohibit all corporal punishment of children in all settings including the home.**

<sup>1</sup> 25 July 2011, A/HRC/WG.6/12/TJK/2, Compilation of UN information, para. 33

<sup>2</sup> 22 July 2011, A/HRC/WG.6/12/TJK/3, Summary of stakeholders' information, para. 34

<sup>3</sup> 12 December 2011, A/HRC/19/3, Report of the working group, paras. 89(3), 89(4) and 90(28)

<sup>4</sup> [n.d.], CAT/C/TJK/Q/2/Add.1, Reply to list of issues, para. 45

## 2 Legality of corporal punishment in Tajikistan

### *Summary of current law and reforms needed in order to achieve prohibition*

Corporal punishment of children in Tajikistan is unlawful in schools, in preschool education and as a sentence for crime, but it is not fully prohibited in the home, alternative care settings, all forms of day care or in penal institutions. Achieving prohibition requires the enactment of legislation clearly prohibiting corporal punishment in these settings.

- 2.1 **Home (lawful):** There is no clear prohibition of all corporal punishment in childrearing. The Law on Prevention of Violence in the Family 2013 defines violence in the family as “the intentional illegal act of physical, mental, sexual and economic nature made within the family relations by one member of the family in relation to other member of the family which becomes the cause of infringement of its rights and freedoms, causing of physical pain or harm to its health or threat of causing such harm to health” (art. 1, unofficial translation). It defines physical abuse as “intentional illegal act of one member of the family in relation to other member of the family, as a result of use of physical force which becomes the reason of drawing of physical pain or harm to its health” (art. 1). One of the purposes of the Law is “assistance to increase of responsibility of parents for training and education of children” (art. 2). The Code on Administrative Offences 2008 punishes violence in the family which does not amount to a criminal offence (art. 93). But neither of these laws explicitly prohibits all corporal punishment by parents/carers.
- 2.2 The Family Code 1998 states that every child has the right to respect for human dignity (art. 55(2)) and the right to protection against abuse from parents and persons in *loco parentis* (art. 57(2)). Article 65(2) of the Code states (unofficial translation): “In exercising parental rights, parents have no right to harm the physical or mental health of children or their moral development. Methods of raising children should exclude neglectful, cruel or degrading treatment or abuse....” But the Code does not explicitly prohibit all forms of corporal punishment in childrearing. Similarly, 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 (art. 8), but it does not explicitly prohibit all corporal punishment. Provisions against violence and abuse in the Criminal Code 1998 and the Constitution 1994 do not prohibit all corporal punishment in childrearing.
- 2.3 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in all alternative care settings, where it appears to be lawful as for parents.
- 2.4 **Day care (partially prohibited):** Corporal punishment is prohibited in preschool education under article 25(3) of the Law on Education 2013. There is no explicit prohibition of corporal punishment in other early childhood care and in day care for older children.
- 2.5 **Schools (unlawful):** Corporal punishment is prohibited in the Law on Education 2013 (art. 25(3)).
- 2.6 **Penal institutions (lawful):** There is no prohibition of corporal punishment. The Code on Execution of Criminal Sanctions 2004 states that physical force may be used “if accomplishment of the tasks assigned to [the staff] is impossible by other methods” (art. 31, unofficial translation). It does not prohibit all forms of corporal punishment.
- 2.7 **Sentence for crime (unlawful):** There is no provision for judicial corporal punishment in the Criminal Code 1998 or the Code of Criminal Procedure 2009.

### 3 Recommendations by human rights treaty bodies

- 3.1 **CRC:** The Committee on the Rights of the Child has twice recommended prohibition of all corporal punishment in Tajikistan – in its concluding observations on the state party’s initial report in 2000 and on the second report in 2010.<sup>5</sup>
- 3.2 **CAT:** In 2013, the Committee Against Torture recommended prohibition of all corporal punishment of children in Tajikistan.<sup>6</sup>
- 3.3 **HRC:** In 2005 and again in 2013<sup>7</sup> the Human Rights Committee recommended to Tajikistan that corporal punishment of children be prohibited.

*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.*

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<sup>5</sup> 23 October 2000, CRC/C/15/Add.136, Concluding observations on initial report, paras. 28, 29, 34 and 35; 5 February 2010, CRC/C/TJK/CO/2, Concluding observations on second report, paras. 39 and 40

<sup>6</sup> 21 January 2013, CAT/C/TJK/CO/2, Concluding observations on second report, para. 16

<sup>7</sup> 18 July 2005, CCPR/CO/84/TJK, Concluding observations on initial report, para. 23; 22 August 2013, CCPR/C/TJK/CO/2, Concluding observations on second report, para. 15