



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

KAZAKHSTAN

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 7th session, 2010

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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, setting a goal of 2009.

Summary

This briefing describes the legality of corporal punishment of children in Kazakhstan, despite the repeated concerns and recommendations of the Committee on the Rights of the Child. We hope the Review will highlight the importance of prohibition of corporal punishment of children, and strongly recommend that the government introduce legislation as a matter of urgency to prohibit all corporal punishment of children in all settings, including the home.

1 Legality of corporal punishment in Kazakhstan

1.1 Corporal punishment is lawful in the **home**. Article 10(2) of the Child's Rights Law (2002, amended 2004) states that the government must ensure the protection of a child from all forms of physical and mental violence, violent, rude or degrading treatment or any other actions that infringe human rights fixed by the Constitution, but there is no explicit prohibition of corporal punishment. Provisions against violence and abuse in the Marriage and Family Law N. 321-I (1998, amended 2004) and the Criminal Code (1997, amended 2004) are not interpreted as prohibiting corporal punishment in childrearing.

1.2 In a nationwide survey on violence against children in 2002 experts estimated that 60-80% of children are subject to violence by parents, adults and children, and the number was increasing.¹

1.3 Corporal punishment is considered unlawful in **schools** under the Child's Rights Law and the Education Law N. 389-I (1999, amended 2004), though we have been unable to confirm explicit prohibition. It is not prohibited in military schools.

1.4 Corporal punishment is unlawful in the **penal system**.

1.5 In **alternative care settings**, corporal punishment is unlawful in institutions and forms of childcare under a number of laws, but there is no explicit prohibition of corporal punishment in foster care or kinship care.

2 Recommendations by human rights treaty monitoring bodies

2.1 In its concluding observations on the state party's second/third report in 2007, the **Committee on the Rights of the Child** expressed concern at the legality of corporal punishment in foster care, military schools, kinship care and the workplace, and recommended explicit prohibition in all settings (CRC/C/KAZ/CO/3, paras. 36 and 37). The Committee made similar recommendations in 2003 (CRC/C/15/Add.213, Concluding observations on initial report, paras. 37, 38 and 39).

¹ Association of Social Scientists and Politologists/UNICEF (2002), *Violence against Children in the Republic of Kazakhstan February – March 2002*, Almaty: ASSAP/UNICEF