



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

KAZAKHSTAN – COUNTRY REPORT

Summary of necessary legal reform to achieve full prohibition

Settings where explicit prohibition is necessary

home, alternative care settings

Is there a legal defence for corporal punishment which must be repealed?

?? – We have been unable to establish whether or not legislation confirms a right of parents and others with parental authority to administer physical punishment, but legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing. The near universal acceptance of corporal punishment in “disciplining” children necessitates a clear statement in law that all corporal punishment, however “light”, is prohibited.

Other legislative measures necessary

Alternative care – Explicit prohibition should be enacted in legislation applicable to all alternative care settings, including public and private day care, residential institutions, foster care, etc.

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment is lawful in the home. Provisions against violence and abuse in the Child's Rights Law N. 345-II (2002), the Marriage and Family Law N. 321-I (1998), the Criminal Code (1997) and the Law on Domestic Violence (2009) are not interpreted as prohibiting all corporal punishment of children.

Schools

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

Penal system

Corporal punishment is unlawful as a **sentence for crime**. There is no provision for judicial corporal punishment in the Criminal Code.

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions, including special educational or medical-educational institutions, under the Code for the Execution of Criminal Penalties (information unconfirmed).

Alternative care

Violence, including corporal punishment, is unlawful in other institutions and forms of childcare under Special Law No. 113-11 About children's villages of family type and youth homes (2000), Decree N. 1613 Statute on the family in children's villages (2001), the Order by the Head of the Health Agency N. 228 "On operational procedures in infant homes" (2000), Law No. 343-II On social, medical and pedagogical correctional support of children with special needs (2002), the Child's Rights Law, Law N. 591-II On prevention of crimes among youth and prophylaxis of child abandonment and street children (2004), Law N. 430-II On the health system (2003), the Education Law, and Ministerial Order N. 08-1/31 Guidelines on registering children, citizens of Kazakhstan, adopted by foreigners (2003). There is no explicit prohibition of corporal punishment in foster care or kinship care.

Prevalence research

A UNICEF report published in 2010 states that 54% of children aged 2-14 experienced physical punishment and/or psychological aggression in the home in 2005-2006. A quarter experienced physical punishment, while a much smaller percentage (7%) of mothers and caregivers thought that physical punishment was necessary in childrearing; non-violent discipline was also widely used, experienced by 77% of children. One per cent of children experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement) and half experienced psychological aggression (being shouted at, yelled at, screamed at or insulted). Boys were slightly more likely than girls to experience violent discipline (56% cf 51%). Children aged 5-9 were more likely to experience violent discipline than those of other ages: 57% of children aged 5-9 compared with 47% of children aged 2-4 and 55% of children aged 10-14. Children living in households with adults with a higher average level of education were less likely to experience violent

discipline than those living with less educated adults. No significant differences in children's experiences of violent discipline were found according to household size or engagement in child labour.¹

According to statistics from UNICEF on violence in the family, 10% of girls and women aged 15-49 think that a husband is justified in hitting or beating his wife under certain circumstances.²

A nationwide survey on violence against children was conducted in 2002 by the Association of Social Scientists and Politologists with the support of UNICEF, using anonymous questionnaires for parents and for children and in-depth interviews with education, health and childcare specialists. 1,100 children aged 7-18 years living with their parents, in institutions and on the street, 1,100 parents of children aged 5-18 years, and 220 specialists were included in the research. Specialists estimated that 60-80% of children are subject to violence by parents, adults and children, with the number increasing. Health workers reported an increase in the number of children coming to their facilities as a result of beating and torture in families. Interviews showed most victims were from "troublesome" families (49.5%) and families with a low level of education (28.7%), and children of all ages were susceptible. "Educational" measures reported by parents on their children included explanations (32%), reprimands (29.1%), moral punishment or bans (17.6%), scolding (16.4%) and physical punishment (2.3%). Scolding and physical punishment were most common for low-income families. One third (33%) of children reported encountering violence – on average 3.3% constantly suffer from brutal treatment, 16.3% frequently, 66.6% sometimes and 13.8% never. The perpetrators of the violence were reported as older children (44.5%), parents/relatives (23.9%), policemen (9.6%), teachers and educators (9.6%), youth groups (8.2%), and hooligans and bandits (4.2%). In all settings (at home, with relatives, boarding school, orphanage, remand centre, and special school), violence was most commonly carried out by older children followed by parents and relatives.³

A 2002 study in Kazakhstan found that 28% of children in children's homes were regularly subjected to violence, while 63% experienced violence "sometimes". Punishments included beatings, humiliation and forcing children to do strenuous work.⁴

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(19 June 2007, CRC/C/KAZ/CO/3, Concluding observations on second/third report paras. 36 and 37)

"The Committee appreciates that corporal punishment is unlawful in schools, the penal system and alternative care. However, the Committee regrets that there is no specific legal prohibition of corporal punishment in foster care, military schools, kinship care and the workplace, and that despite legal prohibitions for some areas, the de facto situation is that children are still victims of corporal punishment.

"The Committee urges the State party, while taking into account its general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/2006/8), to:

- a) explicitly prohibit in law corporal punishment of children in all settings;
- b) undertake public and professional awareness-raising;

¹ UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

² UNICEF (2009), *Progress for Children: A report card on child protection*, NY: UNICEF

³ Association of Social Scientists and Politologists/UNICEF (2002), *Violence against Children in the Republic of Kazakhstan February – March 2002*, Almaty: ASSAP/UNICEF

⁴ *Alternative Report of Non-Governmental Organisations of Kazakhstan to the Committee on the Rights of the Child* (2002)

- c) promote non-violent, positive, participatory methods of childrearing and education and knowledge among children of their right to protection from all forms of corporal punishment; and
- d) Seek assistance from, inter alia, UNICEF and WHO.”

Committee on the Rights of the Child

(10 July 2003, CRC/C/15/Add.213, Concluding observations on initial report, paras. 37 and 39)

“The Committee also notes that corporal punishment is forbidden in educational institutions but remains concerned that inappropriate methods of discipline, including corporal punishment, continue to be used in such institutions. The Committee is further concerned that appropriate measures have not been taken to effectively prevent and combat any form of ill-treatment and corporal punishment of children within the family.

“The Committee recommends that the State party take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment, within the family, schools and other institutions. The Committee further recommends that the State party, through, for example, public awareness campaigns, promote positive non-violent forms of discipline as an alternative to corporal punishment, especially in families, the schools and other institutions.”

Human Rights Committee

(21 July 2011, CCPR/C/KAZ/CO/1 Advance Unedited Version, Concluding observations on initial report, para. 15)

“While taking note of the existence of the Child Rights Law of 2002 and the prohibition of corporal punishment in schools and the penal system, the Committee expresses concern at the permissibility of corporal punishment in the home and foster care establishments where it continues to be accepted and practised as a form of discipline by parents and guardians (arts. 7 and 24).

The State party should take practical steps to put an end to corporal punishment in schools and institutions. It should also encourage non-violent forms of discipline as alternatives to corporal punishment in family settings, and should conduct public information campaigns to raise awareness about its harmful effects.”

Universal Periodic Review

Kazakhstan was examined in the first cycle of the Universal Periodic Review in 2010. No recommendations were made concerning corporal punishment of children. Examination in the second cycle is scheduled for 2014.

Report prepared by the Global Initiative to End All Corporal Punishment of Children
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