

Corporal punishment of children in Uzbekistan

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Child population 10,081,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Uzbekistan's commitment to prohibiting corporal punishment

Uzbekistan expressed its commitment to prohibiting all corporal punishment of children by clearly accepting the recommendations to do so made during the Universal Periodic Review of Uzbekistan in 2018.

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings, day care and schools.

There appears to be no confirmation in law of a “right” of parents and others with parental authority to “administer punishment” but the near universal acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment is acceptable. Prohibition should be enacted of all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults have authority over children.

Alternative care settings – Prohibition of corporal punishment should be enacted in relation to all alternative care settings (foster care, institutions, places of safety, emergency care, etc).

Day care – Corporal punishment should be prohibited in all early childhood care (nurseries, crèches, preschools, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Schools – Prohibition should be enacted of corporal punishment in all schools, public and private.

Current legality of corporal punishment

Home

Corporal punishment appears to be lawful in the home. According to article 10 of the Law On Guarantees of the Rights of the Child 2008, the state shall protect the child from “all forms of exploitation, including physical, mental and sexual abuse, torture or other cruel, brutal or degrading treatment”; article 11 states that the child “has the right to be protected from abuse by parents or persons replacing the parents” (unofficial translation). The Family Code 1998 states that the child has the rights “to education by their parents, ensuring its interests, full development and respect for human dignity” (art. 65) and “to be protected from abuse by parents” (art. 67); article 75 states: “In the exercise of parental rights, parents have no right to harm the physical and mental health of children, or their moral development. Methods of educating children must exclude neglectful, cruel or degrading treatment, abuse and exploitation.” Failure by parents or guardians with regarding to childrearing and educational responsibilities for their children is punishable under the Code on Administrative Responsibility 1994 (art. 47); more severe corporal punishment is punishable under and the Criminal Code 1995.

It is unclear as to whether or not the law is interpreted as prohibiting all corporal punishment in childrearing. In 2009, the Government acknowledged the inadequacy of the law in relation to corporal punishment by parents and persons replacing them and stated that work had begun on amending the Family Code prohibiting violence against family members.¹ We do not know if the above quoted Family Code provisions reflect these amendments or if further reform is planned. Under examination by the Committee on the Rights of the Child in 2013, the Government stated that corporal punishment is prohibited “in the private sphere” but did not confirm that this includes by parents in the home.² In May 2014, the Government informed the Committee on Economic, Social and Cultural Rights that corporal punishment was prohibited in all settings, including the home, but gave no details and the Committee went on to recommend prohibition.³ In reporting to the Human Rights Committee in 2015, the Government stated that Uzbekistan “follows a policy of prohibiting the corporal punishment of children” but in terms of law referred only to regulations for schools and institutions and to provisions in the Guardianship and Custody Act of 2 January 2014 on monitoring the conditions of care and upbringing of children.⁴ This Act protects children from situations which pose a risk to their life or health or when parents do not fulfil their obligations towards their children, and sets out the rights and obligations of guardians and custodians and the rights of wards – including the rights to “respectful and humane treatment” and to “care of their maintenance, upbringing, education and health” (art. 33, unofficial translation) – but there is no clear prohibition of all corporal punishment in childrearing.

During its Universal Periodic Review in July 2018, the Government reported that the law on combatting domestic violence had been adopted.⁵ However, a later report from the Government stated that under a “programme of practical measures” adopted in July 2018 a Bill was to be

¹ 19 October 2009, CEDAW/C/UZB/Q/4/Add.1, Written reply to the Committee on the Elimination of Discrimination Against Women, Q11

² 11 June 2013, CRC/C/SR.1799, Summary record of 1799th meeting, para. 54

³ 16 May 2014, E/C.12/2014/SR.24, Summary record, para. 57

⁴ 9 March 2015, CCPR/C/UZB/Q/4/Add.1, Reply to list of issues, paras. 104, 105, 106 and 107

⁵ 9 July 2018, A/HRC/39/7, Report of the Working Group, para. 57

“prepared on the prevention of domestic violence”.⁶ We have no further information. The Government signalled its commitment to prohibition by clearly accepting the recommendation to prohibit in all settings made during the same Universal Periodic Review in 2018.⁷

Alternative care settings

There is no explicit prohibition of corporal punishment in alternative care settings. Children are protected from some but not all corporal punishment under article 10 of the Law on Guarantees of the Rights of the Child 2008 and article 75 of the Family Code 1998 (see under “Home”).

Day care

There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children. Children are protected from some but not all corporal punishment under article 10 of the Law on Guarantees of the Rights of the Child 2008 and article 75 of the Family Code 1998 (see under “Home”).

Schools

Corporal punishment is considered unlawful in schools under article 10 of the Law On Guarantees of the Rights of the Child 2008 (see under “Home”), but it is not explicitly prohibited. The Law On Education 1997 is silent on the issue.

In 2009, the Government was considering amendments to the law on education and other laws and regulations governing education institutions which would prohibit corporal punishment. In reporting to the Committee on the Rights of the Child in 2010, the Government stated that corporal punishment “is prohibited in general and special education establishments under specific provisions in the relevant regulations, standard rules and statutes” and “accordingly, ‘childfriendly school’ principles are introduced in the educational institutions, and all conditions necessary for development along those lines are created”.⁸ We have found no legal texts which include explicit prohibition of corporal punishment.

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 10 of the Law On Guarantees of the Rights of the Child 2008 (see under “Home”), though it is not explicitly prohibited. The Criminal Procedure Code 1994 states that “no one shall be subjected to torture or other cruel or humiliating or degrading treatment” (art. 17) and prohibits “inhumane treatment of persons held in custody”. The Criminal and Executive Code 1997 does not include corporal punishment among permitted disciplinary measures in penal institutions, though it does provide for the use of physical force when other methods fail, including the use of rubber truncheons, handcuffs, dogs, water cannons; these should not be used against minors “when their age is obvious or known”

⁶ 10 January 2019, CCPR/C/UZB/5, Fifth report, para. 91

⁷ 9 July 2018, A/HRC/39/7, Report of the Working Group, para. 101(194)

⁸ 26 January 2012, CRC/C/UZB/3-4, Third/fourth state party report, para. 702

(art. 71). According to the Law on Prevention of Neglect and Offences Among Minors 2010, individual preventive work with minors must be carried out “humanely, without degrading the honor and human dignity” (art. 24). In 2012, a Juvenile Justice Act was being drafted:⁹ we have no details of its provisions.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in the Criminal Code 1995, the Criminal Procedure Code 1994, the Code on Administrative Responsibility 1994 and the Law on Prevention of Neglect and Offences Among Minors 2010. Article 7 of the Criminal Code states: “Penalties and other measures of legal influence shall not be aimed to cause physical suffer or humiliation of human dignity.” Minors who commit offences are often dealt with by the mahallyas (associations of families living in the same area acting as organs of local authority) rather than the courts: we do not know if corporal punishment could be imposed in this context.

Universal Periodic Review of Uzbekistan’s human rights record

Uzbekistan was examined in the first cycle of the Universal Periodic Review in 2008 (session 3). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:¹⁰

“Continue with positive work to ensure the progress of the rights of children and their full wellbeing (Cuba);

“Promote legislation in conformity with UNICEF and ILO standards regarding the rights of the child (Saudi Arabia);

“Continue to dedicate resources to promote the right to education and the rights of children (Philippines)”

The second cycle review of Uzbekistan took place in 2013 (session 16). No recommendations were made specifically on corporal punishment of children, but the following recommendations were made and were accepted by the Government:¹¹

“Continue the efforts to strengthen the national legal framework for human rights (Morocco);

“Take steps to fully implement the ratified international documents (Kazakhstan);

“Concentrate on the implementation of international human rights instruments that have been ratified by the country (Afghanistan);

“Strengthen national mechanisms for the protection of the rights of socially vulnerable groups of the population, including women, children and persons with disabilities (Russian Federation)”

Third cycle examination took place in 2018 (session 30). The following recommendation was made and supported by the Government:¹²

⁹ 26 January 2012, CRC/C/UZB/3-4, Third/fourth state party report, para. 935

¹⁰ 9 March 2009, A/HRC/10/83, Report of the working group, paras. 104 (16), 104 (17) and 104(22)

¹¹ 5 July 2013, A/HRC/24/7, Report of the working group, paras. 135(5), 135(6), 135(7) and 135(28)

¹² 9 July 2018, A/HRC/39/7, Report of the Working Group, para. 101(194)

“Enact a legislation in order to explicitly prohibit corporal punishment of children in all settings, including at home (Montenegro)”

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(10 July 2013, CRC/C/UZB/CO/3-4, Concluding observations on third/fourth report, paras. 38, 39, 40 and 41)

“While welcoming the implementation of a national programme of action for the application of the Convention against Torture, the Committee regrets that the definition of torture in Article 235 of the State party Penal Code does not fully comply with the definition stipulated in the Convention against Torture as stated by the Committee against Torture in its latest concluding observations on the State party (CAT/C/UZB/CO/3, para. 5,). Furthermore, the Committee remains gravely concerned about continued reports of torture and ill-treatment being routinely used in investigations, including of persons under the age of 18 years. The Committee is also deeply concerned about the use of solitary cells (“*kartcers*”) as punishment in juvenile prisons. Furthermore, the Committee is seriously concerned about the frequent use of forced labour as a form of punishment for children in government institutions such as schools and orphanages.

“With reference to the Committee’s general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment as well as general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee urges the State party to:

- a) further strengthen its measures to effectively investigate the allegations of torture and ill-treatment of persons under 18, and take all measures to bring the alleged perpetrators to justice with commensurate sanctions;
- b) ensure that the conditions and treatment of children in juvenile prisons are in full compliance with the Convention and the United Nations Rules on the Protection of Juveniles Deprived of their Liberty (A/RES/45/113), including by ceasing the use of solitary cells (“*kartcers*”); and,
- c) prohibit, by law, the use of forced labour as a form of punishment for children in government institutions such as schools and orphanages.

“While noting the statement regarding the prohibition of corporal punishment in all settings made by the State party during the interactive dialogue with it, the Committee is concerned that, in practice, corporal punishment continues to occur frequently in the domestic context and in alternative care settings.

“With reference to the Committee’s general comment No. 8 (2006) on the right of the child to protection from corporal punishment, the Committee urges the State party to:

- a) ensure that its legislation explicitly prohibits corporal punishment in all settings, including in the home and alternative care, and establish monitoring and reporting mechanisms to enforce such a prohibition;
- b) undertake targeted awareness-raising, including campaigns, to promote positive, non-violent and participatory forms of child-rearing and discipline instead of corporal punishment; and,
- c) conduct research to learn about the public opinion and attitudes of professionals, parents and children on corporal punishment in order to better target awareness-raising and training

programmes, and ensure that positive parenting and non-violent communication become well-known.”

Committee on the Rights of the Child

(2 June 2006, CRC/C/UZB/CO/2, Concluding observations on second report, paras. 44 and 45)

“While noting that corporal punishment is prohibited in schools, the Committee notes with concern the reports that it is widely practiced in the family and in institutions.

“The Committee recommends that the State party take 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 (2006), and:

- a) prohibit corporal punishment by law in institutions and the family and ensure that legislation is properly enforced in schools and institutions, and complied with in the family;
- b) carries out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes about corporal punishment, and promote positive, non-violent forms of discipline in schools, in institutions and at home.”

Committee on the Rights of the Child

(7 November 2001, CRC/C/15/Add.168, Concluding observations on initial report, paras. 39, 40, 45 and 46)

“The Committee is deeply concerned by numerous and continuing reports of ill-treatment of persons under 18 by the militia, including psychological intimidation, corporal punishment, including for purposes of extorting confessions. The Committee deplores the insufficient efforts to investigate allegations of torture, as well as the failure to prosecute alleged perpetrators.

“In the light of article 37 of the Convention, and recalling the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly in its resolution 34/169 of 17 December 1979, the Committee urges the State party to:

- a) take all necessary effective steps to prevent incidents of ill-treatment from occurring;
- b) implement the recommendations made by the Human Rights Committee (CCPR/CO/71/UZB), and the Committee against Torture (A/55/44, paras. 76-81);
- c) provide the militia with training on how to deal with persons under 18;
- d) ensure children are adequately informed of their rights when they are arrested and detained;
- e) ensure that complaints procedures are simplified so that responses are appropriate, timely and child-sensitive, and provide rehabilitative support for victims.

“The Committee is concerned that there is insufficient information and awareness of the ill-treatment and abuse of children within the family, schools and institutions.

“The Committee recommends that the State party:

- a) conduct a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address them;
- b) take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, schools, and in institutions, taking into account WHO’s ‘European Strategies and Recommendations for Child Protection’;

c) carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment....”

Committee on Economic, Social and Cultural Rights

(23 May 2014, E/C.12/UZB/CO/2 Advance Unedited Version, Concluding observations on second report, para. 20)

“The Committee is concerned about the persistence of corporal punishment, which is not explicitly prohibited under the law (arts. 7, 10 (3), and 13).

The Committee urges the State party to ensure the prohibition of corporal punishment in all settings, including in the home, at school and in alternative care, and to conduct training and awareness-raising campaigns. It refers the state party to its recommendation on discipline in schools as contained in its general comment no. 13 (1999) on the right to education.”

Prevalence/attitudinal research in the last ten years

None identified.