

**BRIEFING ON BELARUS FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 114TH session (Jun/Jul 2015)**

*From Dr Sharon Owen, Research and Information Coordinator, Global Initiative,* [*sharon@endcorporalpunishment.org*](mailto:sharon@endcorporalpunishment.org)

**This briefing describes the legality of corporal punishment of children in Belarus. In light of the obligation under international human rights law to prohibit all corporal punishment of children, the recommendations of the UN Secretary General’s Study on Violence against Children, and the recommendations to Belarus by the Committee on the Rights of the Child and during the UPR (accepted by the Government), we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues Prior to Reporting for Belarus, asking what progress is being made towards fulfilling the obligation to prohibit corporal punishment in all settings including the home, and**
* **in the concluding observations on the state party report, recommend to Belarus that legislation be drafted and enacted as a matter of priority to clearly prohibit all corporal punishment of children in all settings, including the home.**

**1 The legality of corporal punishment of children in Belarus**

1.1 ***Summary:*** Corporal punishment of children in Belarus is unlawful in the penal system and possibly schools, but it is lawful in the home, alternative care settings and day care.

1.2 ***Home (lawful):*** Article 9 of the Law on the Rights of the Child 1993 states that every child “has the right to protect their identity against all types of exploitation and abuse” and that the State shall protect the child “from all forms of exploitation, including sexual exploitation, from physical and mental abuse, cruel or degrading treatment, humiliation, and sexual harassment, including on the part of the parents (or guardians) and relatives”. But this is not interpreted as prohibiting all corporal punishment in childrearing.

1.3 The Code on Marriage and the Family 1999 states in article 65 that the family is responsible for the education, maintenance and protection of children and that the family has “the pre-emptive right and duty to determine the forms, means and methods of childrearing”; articles 66-1, 67 and 80 protect the child from cruel treatment. The Code confirms the right of children “to live in peace, security and dignity” (art. 184) and “to defend their person, honour and dignity against all forms of exploitation and violence” (art. 189). But the Code does not clearly prohibit all corporal punishment of children.

1.4 ***Alternative care settings (lawful):*** There is no explicit prohibition of corporal punishment in alternative care settings. Under the Code on Marriage and Family 1999, orphans and children left without parental care have the right to “respect for their human dignity, protection of rights and legitimate interests” (art. 177), to “live in peace, security and dignity” (art. 184) and to “defend their person, honour and dignity against all forms of exploitation and violence” (art. 189). But the Code does not explicitly prohibit corporal punishment.

1.5 ***Day care (lawful):*** There is no explicit prohibition of corporal punishment in all early childhood care and in day care for older children.

1.6 ***Schools (?unlawful):*** Corporal punishment is considered unlawful in schools under the Rights of the Law on the Rights of the Child 1993 but there appears to be no explicit prohibition. There is no authorisation for corporal punishment in the Code on Education 2011: students are entitled to “protection of life and health in the educational process” (arts. 31(1.7) and 31(4.6)); teaching staff have the right to “choose pedagogically sound forms and methods of training and education” (arts. 52 and 89(1.4)) and must “respect the honour and dignity of students” (art. 53). The Government has stated that corporal punishment is prohibited in educational establishment regulations[[1]](#footnote-1) but we have been unable to identify explicit prohibition in regulations or law.

1.7 ***Penal institutions (unlawful):*** Corporal punishment is considered unlawful as a disciplinary measure in penal institutions under the Law on the Rights of the Child 1993 but it is not explicitly prohibited. Article 36 of the Law states that children in special educational or special health care institutions have the right to humane treatment. Similarly, the Law on Prevention of Neglect and Offences of Minors 2003 states that juveniles in detention have the right to be treated “humanely, without degrading treatment” (art. 8). The Criminal and Executive Code 2000 does not include corporal punishment among permitted disciplinary measures in penal institutions (arts. 55, 61, 129, 130 and 185), though it does provide for the use of physical force, including for “the prevention and suppression of offences” and with implements including “rubber sticks” (arts. 78 and 79).

1.8 ***Sentence for crime (unlawful):*** There is no provision for judicial corporal punishment in criminal law.

**2 Recommendations by human rights treaty bodies and during the UPR**

2.1 ***CRC:*** The Committee on the Rights of the Child has twice recommended to Belarus that corporal punishment be prohibited in all settings, including the home – in its concluding observations on the second state party report in 2002[[2]](#footnote-2) and on the third/fourth report in 2011.[[3]](#footnote-3)

2.2 ***UPR:*** In 2010, the Government accepted a recommendation made during the Universal Periodic Review of Belarus to “forbid corporal punishment of children and take order in that matter”.[[4]](#footnote-4) The Government accepted the recommendation, but stated that it was already implemented, that “there are specific provisions enshrined in Belarusian legislation prohibiting child abuse, including the corporal punishment of children” and that “the Criminal Code and the Administrative Offences Code establish criminal and administrative liability, respectively, for causing grave, moderate or minor bodily harm, torture and other forms of violence”.[[5]](#footnote-5) As noted above, according to our research there is no explicit prohibition of corporal punishment in the Law on the Rights of the Child or other legislation.

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

[*www.endcorporalpunishment.org*](http://www.endcorporalpunishment.org)*;* [*info@endcorporalpunishment.org*](mailto:info@endcorporalpunishment.org)

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1. 23 March 2010, CRC/C/BLR/3-4, Third/fourth state party report to the Committee on the Rights of the Child, para. 213 [↑](#footnote-ref-1)
2. 13 June 2002, CRC/C/15/Add.180, Concluding observations on second report, paras. 39 and 40 [↑](#footnote-ref-2)
3. 8 April 2011, CRC/C/BLR/CO/3-4, Concluding observations on third/fourth report, paras. 39 and 40 [↑](#footnote-ref-3)
4. 21 June 2010, A/HRC/15/16, Report of the working group, para. 98(24) [↑](#footnote-ref-4)
5. 15 September 2010, A/HRC/15/16/Add.1, Report of the working group: Addendum, paras. 65, 66 and 67 [↑](#footnote-ref-5)