**BRIEFING ON UZBEKISTAN FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 126th session (July 2019)**

*From the Global Initiative to End All Corporal Punishment of Children, May 2019*

**This briefing describes the legality of corporal punishment of children in Uzbekistan. In light of the obligation under international human rights treaties to prohibit all corporal punishment of children, the global commitment to ending violence against children – including corporal punishment – in the context of the 2030 Agenda for Sustainable Development, the recommendations of the UN Secretary General’s Study on Violence against Children, and those made to Uzbekistan by the Committee on the Rights of the Child, the Committee Against Torture, and during the Universal Periodic Review in 2018 (which the Government accepted), we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues for Uzbekistan, in particular asking what progress is being made towards enacting prohibition of corporal punishment of children in all settings, and**
* **in its concluding observations on Uzbekistan’s fifth state party report, recommend that legislation is enacted to prohibit all corporal punishment of children, however light, in all settings, including in the home.**

**1 The report of Uzbekistan to the Human Rights Committee**

* 1. Uzbekistan’s fifth periodic report to the Human Rights Committee (CCPR/C/UZB/5) does not address corporal punishment of children and its continued legality.

**1.2 In light of the state’s obligation to explicitly prohibit corporal punishment in all settings, we hope the Committee will raise this issue in its review of Uzbekistan and recommend that legislation is immediately enacted to explicitly prohibit all corporal punishment of children, in all settings including the home.**

**2 The legality of corporal punishment of children in Uzbekistan**

2.1 ***Summary:*** Corporal punishment of children in Uzbekistan is prohibited in schools and in the penal system but it is still lawful in the home and in alternative care and day care settings.

2.2 ***Home (lawful):***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.

2.3 It is unclear as to whether or not the law is interpreted as prohibiting all corporal punishment in childrearing. 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.[[1]](#footnote-1) 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.[[2]](#footnote-2) 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.[[3]](#footnote-3) 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 if 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.

2.4 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.[[4]](#footnote-4) We do not know if the above quoted Family Code provisions reflect these amendments or if further reform is planned. In July 2018, the Government reported that the law on combatting domestic violence had been adopted.[[5]](#footnote-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 “prepared on the prevention of domestic violence”.[[6]](#footnote-6) We have no further information.

2.5 ***Alternative care settings (lawful)***: 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.

2.6 ***Day care (lawful)***: 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.

2.7 ***Schools (unlawful):***Corporal punishment is considered unlawful in schools under article 10 of the Law On Guarantees of the Rights of the Child 2008, 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”.[[7]](#footnote-7) We have found no legal texts which include explicit prohibition of corporal punishment.

2.8 ***Penal institutions (unlawful):***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, 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” (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:[[8]](#footnote-8) we have no details of its provisions.

2.9 ***Sentence for crime (unlawful):*** 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.

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

3.1 ***CRC:*** The Committee on the Rights of the Child has three times recommended prohibition of corporal punishment in all settings in Uzbekistan – in its concluding observations on the initial report in 2001,[[9]](#footnote-9) the second report in 2006[[10]](#footnote-10) and the third/fourth report in 2013.[[11]](#footnote-11)

3.2 ***CAT:*** In May 2014, the Committee on Economic, Social and Cultural Rights recommended prohibition of corporal punishment in all settings in Uzbekistan, including the home, school and alternative care.[[12]](#footnote-12)

3.3 ***UPR:*** In 2018, Uzbekistan supported a recommendation to enact legislation explicitly prohibiting corporal punishment of children in all settings.[[13]](#footnote-13)

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

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1. 11 June 2013, CRC/C/SR.1799, Summary record of 1799th meeting, para. 54 [↑](#footnote-ref-1)
2. 16 May 2014, E/C.12/2014/SR.24, Summary record, para. 57 [↑](#footnote-ref-2)
3. 9 March 2015, CCPR/C/UZB/Q/4/Add.1, Reply to list of issues, paras. 104, 105, 106 and 107 [↑](#footnote-ref-3)
4. 19 October 2009, CEDAW/C/UZB/Q/4/Add.1, Written reply to the Committee on the Elimination of Discrimination Against Women, Q11 [↑](#footnote-ref-4)
5. 9 July 2018, A/HRC/39/7, Report of the Working Group, para. 57 [↑](#footnote-ref-5)
6. 10 January 2019, CCPR/C/UZB/5, Fifth report, para. 91 [↑](#footnote-ref-6)
7. 26 January 2012, CRC/C/UZB/3-4, Third/fourth state party report, para. 702 [↑](#footnote-ref-7)
8. 26 January 2012, CRC/C/UZB/3-4, Third/fourth state party report, para. 935 [↑](#footnote-ref-8)
9. 7 November 2001, CRC/C/15/Add.168, Concluding observations on initial report, paras. 39, 40, 45 and 46 [↑](#footnote-ref-9)
10. 2 June 2006, CRC/C/UZB/CO/2, Concluding observations on second report, paras. 44 and 45 [↑](#footnote-ref-10)
11. 10 July 2013, CRC/C/UZB/CO/3-4, Concluding observations on third/fourth report, paras. 38, 39, 40 and 41 [↑](#footnote-ref-11)
12. 23 May 2014, E/C.12/UZB/CO/2 Advance Unedited Version, Concluding observations on second report, para. 20 [↑](#footnote-ref-12)
13. 9 July 2018, A/HRC/39/7, Report of the Working Group, para. 101(194) [↑](#footnote-ref-13)