



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

AFGHANISTAN

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 5th session, 2008

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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 Afghanistan, despite having ratified the Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. 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 corporal punishment of children in all settings, including the home.

1 Legality of corporal punishment in Afghanistan

1.1 Corporal punishment of children is lawful in the **home**. Children have limited protection from violence under the Penal Code, the Constitution and the Juvenile Code, but there is no explicit prohibition of corporal punishment. In an official statement in 2005, the Ministry of Justice announced that “the use of any form of violent behaviours and beating and humiliating of children that breaches their human rights ‘to be respected and treated with dignity’, is prohibited”, and at a meeting of the South Asia Forum in July 2006, following the regional consultation in 2005 of the UN Secretary General’s Study on Violence against Children, the government made a commitment to prohibition in all settings, including the home. But legal reform to enact explicit prohibition has yet to begin.

1.2 Qualitative research published in 2008, based on interviews with more than 200 men and women from 61 families in urban and rural areas in four provinces, plus 56 focus group discussions and 46 interviews with key informants, found that physical violence occurred within all 61 case study families, most commonly slapping, verbal abuse, punching, kicking, and hitting with sticks, electrical cables and shoes. More unusual types of violence included shooting at children, tying them up, washing them in cold water outside during winter and public humiliation. Corporal punishment was used on children as young as 2 or 3 years.¹

1.3 There is no explicit prohibition of corporal punishment in **schools**. The Afghanistan Educational Act (1968) makes no reference to corporal punishment or other disciplinary matters, and the Penal Code, the Constitution and the Juvenile Code prohibit only severe abuse. In 2004 the Ministry of Education issued a letter to all schools prohibiting severe beating of children by teachers, and in June 2006 the Ministry of Education announced “that the use of any form of violent behaviours and punishment against children are seriously prohibited”. Explicit prohibition of all corporal punishment in schools has yet to be clarified in law.

1.4 In a survey reported in 2003, 82% of children interviewed said that slapping, kicking and hitting with a stick are common forms of punishment. Over half reported being hit or severely beaten for being noisy or naughty, almost a quarter for not learning their school lessons, and nearly one in ten for disobeying adults.²

1.5 In the **penal system**, corporal punishment is unlawful as a sentence for crime, but it is not explicitly prohibited as a disciplinary measure in penal institutions.

1.6 There is no explicit prohibition of corporal punishment in **alternative care settings**.

2 Recommendations by human rights treaty monitoring bodies

Afghanistan has not been examined by the Committee on the Rights of the Child.

¹ Smith, Deborah J. (2008), *Love, Fear and Discipline: Everyday violence toward children in Afghan families*, Kabul: Afghanistan Research and Evaluation Unit

² Save the Children Sweden Afghanistan (2003), *Mini Survey Report on Corporal Punishment*, Kabul: Save the Children, cited in Jabeen, F. (2004), *Corporal/physical and psychological punishment of girls and boys in South and Central Asia Region*, Save the Children Sweden Denmark