



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

CZECH REPUBLIC

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 1st session, 2007

From Peter Newell, Coordinator, Global Initiative

info@endcorporalpunishment.org

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 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 also 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.

This briefing describes the gaps in prohibition in the Czech Republic, despite repeated recommendations to introduce prohibition by international and regional human rights mechanisms.

We hope the Review will highlight with concern the Czech Republic’s record of ignoring treaty body recommendations and strongly recommend that the Czech Republic introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.

I: Legality of corporal punishment in Czech Republic

The home

Corporal punishment is lawful in the **home**.

Children are legally protected from physical and mental violence by the Act on Social and Legal Protection of Children (amended 2002), and from “cruel, inhuman or degrading treatment or punishment” by the Charter on Fundamental Rights and Freedoms (1992). Family relationships are governed by the Act on the Family (1993, amended 1998), under which parents have the right to use appropriate measures that do not affect the child’s dignity or endanger the child’s health or physical, emotional, intellectual and moral development. Other protection is provided by the Act on Misdemeanours (1990, amended 1999), which includes the misdemeanour of “use of punishment or other behaviour towards the child which will expose the child to the danger of physical or psychological injury”, the provisions on maltreatment of children in the Criminal Code (1961, amended 2004), the prohibition of “torture or to inhuman or degrading treatment or punishment” in article 7 of the Constitution (1992), the Code of Civil Procedure (Act No. 99/1963 as amended) and the Act amending current laws in the area of protection against domestic violence (Act No. 135/2006, in force 2007). A new Criminal Code was expected to take effect in January 2006.

Schools and other settings

There is no explicit prohibition of corporal punishment in **schools**. A 2006 public opinion poll by Median agency for the daily Mladá fronta Dnes found that 25% of the 636 respondents supported the use of corporal punishment in schools.¹

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. Regulation No. 345/1999, Rules for the Service of Prison Sentences covers the right to protection from “unjustified” violence and degradation of human dignity (section 35). Other relevant legislation includes Act No. 169/1999 to regulate the service of prison sentences and Act No. 293/1993 (amended by Act No. 208/2000) to regulate the service of custody.

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

II: Recommendations by human rights treaty monitoring bodies

The **Committee on the Rights of the Child** first raised its concerns about corporal punishment of children in the Czech Republic, particularly by parents and in schools, following examination of the state party’s initial report in 1997 (CRC/C/15/Add.81, paras. 18 and 35). In 2003, following consideration of the state party’s second report, the Committee again addressed the problem of corporal punishment and stated (CRC/C/15/Add.201, paras. 40 and 41):

“The Committee is concerned that there is no legislation explicitly prohibiting corporal punishment, and that it is practised in the family, in schools and in other public institutions, including alternative care contexts.

“The Committee recommends that the State party take action to address ill-treatment and abuse committed against children in the family, in schools, in the streets, in institutions and in places of detention through, inter alia: ...

f) taking all necessary steps to enact legislation prohibiting the use of corporal punishment in schools, institutions, in the family and in any other context;

¹ Reported in *The Prague Post*, 20 June 2007

g) making use of legislative and administrative measures, as well as public education initiatives to end the use of corporal punishment and ensuring this is adhered to....”

In 2005, the **European Committee of Social Rights** concluded that the situation in Czech Republic is not in conformity with article 17 of the European Social Charter “on the ground that there is no explicit prohibition in legislation of corporal punishment in the home, in schools and in other institutions” (Conclusions XVII-2). The Committee stated:

“The report states that under the amended Families Act (1998), parents have the right to use reasonable correctional means that do not affect the child’s dignity nor endanger the child’s health, or his physical, emotional, intellectual, and moral development. The Committee notes that this provision does not explicitly prohibit the corporal punishment of children within the family. It notes from another source that there is no legislation explicitly prohibiting corporal punishment, and that it is practised in the family, in schools and in other public institutions, including alternative care contexts. The Committee therefore considers that since there is no explicit prohibition in legislation of corporal punishment in the home, in schools and in other institutions, the situation cannot be considered to be in conformity with Article 17 of the Charter on this point.”