

TURKMENISTAN

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 16th session, 2013

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

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.

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 as a matter of priority.

The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities. There is growing progress across all regions in challenging this common form of violence against children. But many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope the Working Group of the UPR will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies on this issue, as well as to the recommendations made during the first cycle of the UPR.

The law concerning corporal punishment of children in Turkmenistan is unclear and does not explicitly prohibit all forms of it in all settings, despite the recommendations by the Committee on the Rights of the Child to do so.

We hope the Working Group will note with concern the legality of corporal punishment in Turkmenistan. We hope states will raise the issue during the review in 2013 and recommend to Turkmenistan that legislation is enacted to explicitly and unambiguously prohibit all forms of corporal punishment of children in all settings, including the home.

1 The initial review of Turkmenistan by the Human Rights Council (2008)

1.1 Turkmenistan was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 3). The issue of corporal punishment of children was raised in an advance question by Denmark and was included in the compilation of UN information¹ and the summary of stakeholders' information.² No recommendations were made specifically concerning corporal punishment.

1.2 Prohibiting all corporal punishment of children in all settings, including the home, is an obligation on states under the Convention on the Rights of the Child and other human rights treaties, yet it is one frequently ignored or evaded by governments. Specifically challenging Turkmenistan in this respect during its UPR in the second cycle would reflect the seriousness with which the Working Group views violations of the rights of all persons, including children.

1.3 There has been no change in the legality of corporal punishment in Turkmenistan since the review in 2008. Now, as then, legislation protects children from corporal punishment which is considered to be harmful to the child but does not explicitly prohibit all forms of corporal punishment, however light. The near universal acceptance of some degree of violence in childrearing necessitates clarity in law that no form of corporal punishment is lawful.

2 Legality of corporal punishment in Turkmenistan

2.1 Article 24(3) of the Rights of the Child (Guarantees) Act (2002) states: "Humiliation of the child's dignity, intimidation, corporal punishment or other physical abuse harmful for the child's mental and physical health is inadmissible...." The Government has indicated that this prohibits all corporal punishment by parents,³ but we have found no evidence to support such an interpretation. As currently worded, the law is at best ambivalent, but in light of the widespread acceptance of physical punishment in childrearing, it is undoubtedly perceived as prohibiting only corporal punishment which is considered to reach the threshold of "abuse".

2.2 Corporal punishment is considered to be unlawful in schools and in penal institutions, though we have yet to identify explicit prohibition in legislation. Corporal punishment which is considered to cause harm is unlawful under article 24(3) of the Rights of the Child (Guarantees) Act (see above). In alternative care settings, corporal punishment which reaches the threshold of being considered harmful is prohibited under the same provision but there is no explicit prohibition of all corporal punishment.

2.3 Corporal punishment is unlawful as a sentence for crime under criminal law.

3 Recommendations by human rights treaty monitoring bodies

3.1 In its concluding observations on the state party's initial report in 2006, the **Committee on the Rights of the Child** noted that article 24(3) of the Rights of the Child (Guarantees) Act "seems to prohibit corporal punishment" but expressed concern that it was nevertheless common for children to be physically punished. The Committee recommended that the state

¹ 29 September 2008, A/HRC/WG.6/3/TKM/2, Compilation of UN information, para. 21

² 19 September 2008, A/HRC/WG.6/3/TKM/3, Summary of stakeholders' information, para. 9

³ 5 December 2005, CRC/C/TKM/1, Initial report to the Committee on the Rights of the Child, para. 135; the Government has submitted its next periodic report which is due to be examined at a future session but as at 7 September 2012 it is available only in Russian

party “introduce and enforce legislation and procedures explicitly prohibiting all forms of corporal punishment of children in all settings”.⁴

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⁴ 2 June 2006, CRC/C/TKM/CO/1, Concluding observations on initial report, paras. 46 and 47