

Corporal punishment of children in Uzbekistan: Briefing for the Universal Periodic Review, 44th session, Oct./Nov. 2023



*From the Global Partnership to End Violence Against Children,
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This submission provides an update on the legality of corporal punishment of children in Uzbekistan since its review in the third cycle UPR in 2018. Corporal punishment prohibition is still to be fully achieved in the home, alternative care settings, day care and schools.

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In Uzbekistan, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child, other human rights treaty bodies, and during the 3rd cycle UPR of Uzbekistan in 2018.

We hope the Working Group will note with concern the legality of corporal punishment of children in Uzbekistan. We hope states will raise the issue during the review this year and make a specific recommendation that Uzbekistan accelerates its efforts to clearly prohibit all corporal punishment of children in every setting of their lives and repeal any legal defence allowing its use, as a matter of priority.

1 Review of Uzbekistan in the 3rd cycle UPR (2018) and progress since

1.1 Uzbekistan was reviewed in the third cycle of the Universal Periodic Review in 2018 (session 30). A recommendation to prohibit corporal punishment in all settings was made and supported by the Government.¹

1.2 Following the review, no legislation to explicitly prohibit corporal punishment of children in all settings seems to have been adopted. In September 2022, while reporting to the

¹ 9 July 2018, A/HRC/39/7, Report of the Working Group, para. 101(194)

Committee on the Rights of the Child, the Government stated that corporal punishment was prohibited in the country and that it “was not allowed in any situation”.² We are seeking further information to support this statement.

- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Uzbekistan. We hope states will raise the issue during the review this year and make a specific recommendation that Uzbekistan intensify its efforts to enact a law to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, as a matter of urgency.**

2 Legality of corporal punishment in Uzbekistan

Summary of current law and opportunities for achieving prohibition

Prohibition is still to be achieved in the home, alternative care settings, day care and schools.

There appears to be no confirmation in law of a “right” of parents and others with parental authority to “administer punishment” but the near universal acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment is acceptable. Prohibition should be enacted of all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults have authority over children.

- 2.1 **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.

- 2.2 It is unclear as to whether or not the law is interpreted as prohibiting all corporal punishment in childrearing. 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

² <https://www.ohchr.org/en/press-releases/2022/09/experts-committee-rights-child-commend-uzbekistan-its-will-promote-childrens> (accessed on 3 November 2022)

begun on amending the Family Code prohibiting violence against family members.³ We do not know if the above quoted Family Code provisions reflect these amendments or if further reform is planned. In September 2022, while reporting to the Committee on the Rights of the Child, the Government stated that corporal punishment was prohibited in the country and that it “was not allowed in any situation”.⁴ But, no legislation explicitly prohibiting corporal punishment, however light, seems to have been enacted.

2.3 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 (see under “Home”).

2.4 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 (see under “Home”).

2.5 Schools (lawful): Corporal punishment is considered unlawful in schools under article 10 of the Law On Guarantees of the Rights of the Child 2008 (see under “Home”), but it is not explicitly prohibited. The Law On Education 1997 is silent on the issue.

2.6 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, ‘child friendly school’ principles are introduced in the educational institutions, and all conditions necessary for development along those lines are created”.⁵ We have found no legal texts which include explicit prohibition of corporal punishment.

2.7 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 (see under “Home”), 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:⁶ we have no details of its provisions.

³ 19 October 2009, CEDAW/C/UZB/Q/4/Add.1, Written reply to the Committee on the Elimination of Discrimination Against Women, Q11

⁴ <https://www.ohchr.org/en/press-releases/2022/09/experts-committee-rights-child-commend-uzbekistan-its-will-promote-childrens> (accessed on 3 November 2022)

⁵ 26 January 2012, CRC/C/UZB/3-4, Third/fourth state party report, para. 702

⁶ 26 January 2012, CRC/C/UZB/3-4, Third/fourth state party report, para. 935

2.8 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

3.1 CRC: The Committee on the Rights of the Child has four times expressed concern at corporal punishment of children in Uzbekistan and recommended it be explicitly prohibited in all settings – in its concluding observations on the state party's initial report in 2001,⁷ on the second report in 2006⁸ and on the third/fourth report in 2013⁹ and on the state party's fifth report in 2022.¹⁰

3.2 CESCR: In its concluding observations on the state party's second report in 2014,¹¹ the Committee on Economic, Social and Cultural Rights recommended that the Government prohibit all forms of corporal punishment in all settings.

Briefing prepared by End Corporal Punishment on behalf of the Global Partnership to End Violence Against Children

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⁷ 7 November 2001, CRC/C/15/Add.168, Concluding observations on initial report, paras. 39, 40, 45 and 46

⁸ 2 June 2006, CRC/C/UZB/CO/2, Concluding observations on second report, paras. 44 and 45

⁹ 10 July 2013, CRC/C/UZB/CO/3-4, Concluding observations on third/fourth report, paras. 38, 39, 40 and 41

¹⁰ 23 September 2022, CRC/C/UZB/CO/5, Concluding observations on the fifth periodic report, paras. 27 and 28

¹¹ 23 May 2014, E/C.12/UZB/CO/2 Advance Unedited Version, Concluding observations on second report, para. 20