

AZERBAIJAN

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.

Corporal punishment of children is lawful in Azerbaijan, despite the Government’s acceptance of the recommendation to prohibit it made during the UPR in 2009 and the repeated recommendations to do so by the Committee on the Rights of the Child.

We hope the Working Group will note with concern the legality of corporal punishment in Azerbaijan. We hope states will raise the issue during the review in 2013 and recommend to Azerbaijan that legislation is enacted to explicitly prohibit corporal punishment of children in the home and all forms of care as a matter of priority.

1 The initial review of Azerbaijan by the Human Rights Council (2009)

1.1 Azerbaijan was reviewed in the first cycle of the Universal Periodic Review in 2009 (session 4). The issue of corporal punishment of children was included in the compilation of UN information¹ and in the summary of stakeholders' information.² The following recommendations were made:³

“... take the necessary measures so that persons below 18, being under arrest, would not be subject to corporal punishment or other forms of ill-treatment (Hungary); take necessary measures aimed at prohibiting all forms of corporal punishment against children (Brazil)....”

1.2 In accepting the recommendations, the Government stated that corporal punishment of children is prohibited in law and that a draft law amending the Criminal Code and Administrative Delinquencies Code addresses the responsibility of parents and others for cruel treatment of children.⁴

1.3 Despite the Government's acceptance of the recommendations concerning prohibition of corporal punishment, its mid-term report on implementation of the recommendations, dated January 2012, does not address the issue. In 2011, a draft Law on Protection of Children against All Forms of Corporal Punishment was being discussed, but has not been enacted: the legality of corporal punishment is the same today as it was at the time of the review in 2009.

2 Legality and practice of corporal punishment in Azerbaijan

2.1 Corporal punishment of children in Azerbaijan is unlawful in the penal system and possibly in schools but it is lawful in the home and in alternative care settings.

2.2 With regard to the **home**, there is no confirmation in legislation of a “right” of parents to punish/correct children but there is no explicit prohibition of corporal punishment and provisions against violence and abuse in the Criminal Code, the Family Code, the Administrative Offences Act, the Law on the Rights of the Child, the Law on Prevention of Domestic Violence (2010) and the Constitution are not interpreted as prohibiting all corporal punishment in childrearing.

2.3 UNICEF's major 2010 analysis of data from 2005-2006 on discipline of children in the home found that 76% of 2-14 year olds in Azerbaijan experienced violent “discipline” (physical punishment and/or psychological aggression); 17% experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement).⁵

2.4 Corporal punishment is considered unlawful in public and private **schools**, but we have yet to identify the prohibiting legislation.

2.5 In the **penal system**, corporal punishment is unlawful as a sentence for crime: there is no provision for judicial corporal punishment in criminal law. It is considered unlawful as a

¹ 17 December 2008, A/HRC/WG.6/4/AZE/2, Compilation of UN information, para. 18

² 24 November 2008, A/HRC/WG.6/4/AZE/3, Summary of stakeholders' information, para. 8

³ 29 May 2009, A/HRC/11/20, Report of the Working Group, para. 96(11)

⁴ 10 June 2009, A/HRC/11/20/Add.1, Report of the Working Group: Addendum

⁵ UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

disciplinary measure in penal institutions, but we have yet to confirm that prohibition is explicit.

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

3 Recommendations by human rights treaty monitoring bodies

3.1 In 2006, in its concluding observations on the state party's second report, the **Committee on the Rights of the Child** expressed concern at the widespread use of corporal punishment and at its legality in the home: the Committee recommended law reform to prohibit corporal punishment in all settings, including the home.⁶ In March 2012, following examination of the third/fourth report, the Committee reiterated its previous recommendations, expressing concern that corporal punishment is not currently prohibited in all contexts and recommending that it be prohibited in all settings, including the home.⁷

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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⁶ 17 March 2006, CRC/C/AZE/CO/2, Concluding observations on second report, paras. 44 and 45

⁷ 12 March 2012, CRC/C/AZE/CO/3-4, Concluding observations on third/fourth report, paras. 45 and 46