



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

BRIEFING ON GEORGIA FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, PRESESSIONAL WORKING GROUP – Oct 2013

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The human rights obligation to prohibit corporal punishment – a key strategy in eliminating all forms of violence

The legality and practice of corporal punishment of girls breaches their fundamental rights to respect for their human dignity and physical integrity, to equality under the law and to protection from all forms of violence – rights guaranteed in the Convention on the Elimination of All Forms of Discrimination Against Women and other international human rights instruments. There are strong links between corporal punishment of children – girls and boys – and all other forms of violence, including gender-based violence. As the Committee on the Rights of the Child emphasised in its General Comment No. 8 (2006), addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.

The near universal acceptance of a degree of violent punishment in childhood and deeply held views that parents and other adults have a “right” to physically punish children can challenge efforts to achieve prohibition. This situation also means that corporal punishment – at least to some degree – is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence. Physical violence against girls and boys in their own home is typically assumed not to be domestic violence because it is inflicted under the guise of “discipline” or “correction” – a rationale totally unacceptable when the victim is an adult woman. **It is for these reasons that we respectfully urge the Committee on the Elimination of Discrimination Against Women to specifically recommend that corporal punishment be prohibited in the home and all settings.**

This briefing describes the legality of corporal punishment of children in Georgia. In light of General Recommendation No. 19 on Violence against women (1992), the links between corporal punishment of children and all other forms of violence including gender-based violence, and the recommendations of treaty monitoring bodies and during the UPR, we hope the Committee on the Elimination of Discrimination Against Women will:

- **raise the issue of corporal punishment of girls in its List of Issues for Georgia, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home, and**
- **recommend to Georgia, in the concluding observations on the fourth/fifth state party report, that corporal punishment is explicitly prohibited in all settings, including the home, as a matter of priority.**

1 The state party's report to CEDAW

- 1.1 The fourth/fifth state report of Georgia to CEDAW (30 October 2012, CEDAW/C/GEO/4-5) includes information concerning violence against women but makes no reference to corporal punishment – violence inflicted on girls and boys in the guise of discipline in childrearing and education.

2 The legality and practice of corporal punishment of children in Georgia

- 2.1 *Summary*: In Georgia, corporal punishment is unlawful as a sentence for crime, but it is not prohibited by law in the home, alternative care settings, day care, schools and penal institutions.
- 2.2 *Home (lawful)*: Provisions against violence and abuse in the Civil Code 1997, the Code of Administrative Offences, the Criminal Code 1999, the Law on Education 1997, the Law on the Elimination of Domestic Violence 2006 and the Constitution 1995 are not interpreted as prohibiting corporal punishment of children. UNICEF's major 2010 analysis of data on child discipline in 2005-2006 found that in Georgia, 67% of 2-14 year olds had experienced violent "discipline" (physical punishment and/or psychological aggression); a fifth had experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement).¹
- 2.3 In September 2008, the Minister for Education and Science, Mr Giorgi Nodia, signed the Council of Europe's petition against all corporal punishment of children. In rejecting a recommendation to prohibit all corporal punishment made during the UPR of Georgia in 2011, the Government stated that existing legislation "provides for a blanket prohibition on all forms of corporal punishment, including directed against children" and "adequately protects children from any form of corporal punishment", and that Georgia therefore "does not intend to amend the applicable legislation".² However, there appear to have been no moves towards law reform to enact explicit prohibition of corporal punishment in the home or any other setting.
- 2.4 *Alternative care settings (?lawful)*: In reporting to the Human Rights Committee in 2000, the Government stated that corporal punishment is prohibited in institutional care establishments.³ We have been unable to identify any prohibiting legislation in this respect. There is no explicit prohibition of corporal punishment in other alternative care settings (non-institutional forms of care, foster care, etc). Interview research reported in 2011 found that children in foster care and day centres (see para. 2.5) experienced corporal punishment including being spanked, having their hair or ears pulled, being yelled at and being threatened.⁴ Consecutive reports of the Public Defender of Georgia, monitoring residential childcare institutions, foster care and day centres, have documented corporal punishment of children, including being spanked, beaten with a stick and having their ears "boxed".⁵
- 2.5 *Day care (lawful)*: There is no explicit prohibition of corporal punishment in formal early childhood care settings (nurseries, crèches, etc) or in formal day care for older children (day centres, after-school childcare, childminding, etc).

¹ UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

² 31 May 2011, A/HRC/17/11/Add.1, Report of the working group: Addendum

³ 26 February 2001, CCPR/C/GEO/2000/2, Second state party report, para.117

⁴ EveryChild (2011), *Advocacy for Participation to Protect Children's Rights: Georgia – Needs Assessment of the Alternative Child Care Services*

⁵ Public Defender of Georgia (2012), *Report on the Monitoring of Residential Childcare Institutions for 2011*, Council of Europe & Public Defender of Georgia; Public Defender of Georgia (2010), *Annual Report for 2010: Monitoring of Children's Homes*, Council of Europe & Public Defender of Georgia

- 2.6 *Schools (no explicit prohibition)*: Corporal punishment is considered unlawful in schools under article 19 of the Law on General Education, which states that school discipline must respect pupils' dignity, but there is no explicit prohibition of corporal punishment.
- 2.7 *Penal institutions (no explicit prohibition)*: Corporal punishment is not a permitted disciplinary measure under the Law on Imprisonment, but there is no explicit prohibition.
- 2.8 *Sentence for crime (unlawful)*: There is no provision for judicial corporal punishment in the Criminal Code 1999.

3 Recommendations by human right treaty monitoring bodies and during the UPR

- 3.1 *CRC*: The Committee on the Rights of the Child has three times recommended to Georgia that corporal punishment be prohibited in all settings including the home – in its concluding observations on the initial state party report in 2000⁶, the second report in 2003⁷ and the third report in 2008.⁸
- 3.2 *ECSR*: In 2012, the European Committee of Social Rights concluded that the situation in Georgia is not in conformity with the European Social Charter on the grounds that corporal punishment is not explicitly prohibited in the home.⁹
- 3.3 *UPR*: Recommendations were made to prohibit corporal punishment of children in all settings during the UPR of Georgia in 2011 (session 10).¹⁰ The Government rejected the recommendations, misleadingly asserting that existing law already prohibits all corporal punishment.¹¹

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⁶ 28 June 2000, CRC/C/15/Add.124, Concluding observations on initial report, paras. 42 and 43

⁷ 27 October 2003, CRC/C/15/Add.222, Concluding observations on second report, paras. 44 and 45

⁸ 23 June 2008, CRC/C/GEO/CO/3, Concluding observations on third report, paras. 31 and 32

⁹ January 2012, Conclusions 2011

¹⁰ 6 March 2011, A/HRC/17/11, Report of the working group, paras. 106(26) and 106 (36)

¹¹ 31 May 2011, A/HRC/17/11/Add.1, Report of the working group: Addendum