

# **BRIEFING FROM GLOBAL INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN**

## **BRIEFING ON TURKEY FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE – March 2012**

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### **The human rights obligation to prohibit corporal punishment**

The legality and practice of corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity and to equal protection under the law, and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment – rights guaranteed in the International Covenant on Civil and Political Rights and other international human rights instruments. This briefing describes the legality of corporal punishment of children in Turkey and urges the Human Rights Committee to include the issue in its examination of the implementation of the Covenant.

### **The initial state party report to the Human Rights Committee**

The initial report of Turkey to the Human Rights Committee (CCPR/C/TUR/1) describes legal and other measure to address domestic violence but makes no mention of corporal punishment, violence that may lawful be inflicted on children in the name of discipline.

### **Corporal punishment of children in Turkey**

Corporal punishment of children in Turkey is unlawful as a sentence for crime; it is considered unlawful as a disciplinary measure in penal institutions and in schools but there is no explicit prohibition; it is lawful in the home and in alternative care settings.

With regard to the **home**, the Civil Code was amended in 2002 to remove parents' "right of correction", but the Criminal Code (2004) recognises the concept of "disciplinary power" (article 232). Provisions against violence and abuse in the Criminal Code, the Law on Protection of the Family and the Law on Child Protection (2005) are not interpreted as prohibiting all corporal punishment in childrearing. In a 2010 study of 988 college students, violence experienced in childhood included being kicked, punched, thrown, bruised, burned, or caused to bleed, lose teeth, or have broken bones, with 53.3% having experienced some of these types of violence (64% males, 41.6% females). The most common perpetrators were mothers and fathers, but siblings and other relatives were also perpetrators. One in five students (22.6%) said the violence was inflicted to establish discipline, 15.9% said the perpetrator wanted to teach them a lesson, and 16.1% said the purpose was to instil respect.<sup>1</sup>

Corporal punishment has been considered unlawful in **schools** since 1923, but there is no explicit prohibition and there is some controversy as to its legal status. Law No. 1702 punishes ill-treatment and beating (articles 20 and 22), and the Law on Promotion, Appreciation and Punishment for Primary School Teachers No. 4357 (article 7), the Law on Promotion and Punishment for Secondary School Teachers (articles 20-22 and 27) and the State Personnel Law No. 657 provide for punitive measures against teachers who use physical or psychological violence against children. However, in April 2008, an investigation by the Education Ministry into the use of corporal punishment by a school principal reportedly concluded that corporal punishment has an educational value. The investigator reportedly

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<sup>1</sup> Turla, A., Dündar, C. & Özkanli, C. (2010), "Prevalence of Childhood Physical Abuse in a Representative Sample of College Students in Samsun, Turkey", *Journal of Interpersonal Violence*, vol. 25, no. 7, pp. 1298–1308

cited an Administrative Supreme Court ruling in 1978 which supported corporal punishment by teachers, but did not refer to a 2005 ruling against it.<sup>2</sup>

In the **penal system**, corporal punishment is unlawful as a sentence for crime under the Criminal Code or the Criminal Procedure Code (2004). It is considered unlawful as a disciplinary measure in penal institutions, but we have yet to confirm prohibition is explicit. The Law on Enforcement of Punishment and Security Policies (2004) provides for the rights of children in detention, but we have no further details.

There is no explicit prohibition of corporal punishment in **alternative care settings**. A report on psychiatric facilities, orphanages and rehabilitation centres found that in psychiatric institutions children as young as nine were subjected to electroconvulsive or “shock” treatment (ECT), including as a punishment, without the use of muscle relaxants or anaesthesia. In rehabilitation centres and orphanages, children were restrained, sometimes permanently, by being tied by their arms and legs or having plastic bottles taped over their hands. The report documents an incident of corporal punishment where a child was locked up, thrown across a room, tied up and hit.<sup>3</sup>

## **Opportunities for achieving law reform to prohibit corporal punishment**

Turkey has signed up to the Council of Europe campaign against corporal punishment of children ([http://www.coe.int/t/dg3/children/corporalpunishment/default\\_en.asp](http://www.coe.int/t/dg3/children/corporalpunishment/default_en.asp)). To our knowledge there have been no moves towards law reform to achieve prohibition, but by 2009 the Ministry of Justice, UNICEF and others had conducted a study of national legislation and recommendations were being drafted to ensure harmonisation with the Convention on the Rights of the Child.<sup>4</sup> The Government accepted the recommendation to prohibit corporal punishment of children made during the Universal Periodic Review of Turkey in 2010.<sup>5</sup>

## **Recommendations by human rights treaty monitoring bodies**

In 2001, following examination of the state party’s initial report, the **Committee on the Rights of the Child** recommended measures to end corporal punishment in the home and to enforce the prohibition of corporal punishment in schools and other institutions (CRC/C/15/Add.152, para. 48). In November 2010, the **Committee Against Torture** recommended that Turkey clarify the legal status of corporal punishment in schools and penal institutions and prohibit it in all settings including the home (CAT/C/TUR/CO/3, Concluding observations on third report, para. 22). In June 2011, the **Committee on Economic, Social and Cultural Rights** recommended prohibition in the home (E/C.12/TUR/CO/1, Concluding observations on initial report, para. 24). In 2005, the **European Committee of Social Rights** concluded that the situation in Turkey is not in conformity with Article 17 of the Charter because corporal punishment in the home is not prohibited (Conclusions XVII-2).

**We hope the Human Rights Committee will raise the issue of corporal punishment of children in its List of Issues for Turkey, in particular asking:**

- **What measures have been taken to ensure that corporal punishment of children is explicitly prohibited, by law, in all settings including the home?**

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<sup>2</sup> “Officials sanction ‘harsh discipline’ on students”, *Turkish Daily News*, 21 April 2008

<sup>3</sup> Ahern, L., Rosenthal, E. et al. (2005), *Behind Closed Doors: Human Rights Abuses in the Psychiatric Facilities, Orphanages and Rehabilitation Centers of Turkey*, Mental Disability Rights International

<sup>4</sup> [July 2009], CRC/C/TKY/2-3, Second/third report to the Committee on the Rights of the Child, para. 11

<sup>5</sup> 17 June 2010, A/HRC/15/13, *Report of the Working Group on the Universal Periodic Review: Turkey*, paras. 87 and 101(4)

**We hope the Committee will subsequently recommend that the state party adopts legislation to explicitly prohibit all corporal punishment of children in all settings, including the home, schools and all forms of care, as a matter of priority.**

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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December 2011