

POLAND

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 13th session, 2012

*From Sharon Owen, Research Coordinator, Global Initiative,
info@endcorporalpunishment.org*



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.

Since its initial UPR in 2008, Poland has achieved law reform to prohibit all corporal punishment of children, fulfilling its obligations in this respect under the Convention on the Rights of the Child and other human rights instruments.

We hope the Human Rights Council will congratulate Poland on this achievement and recommend that Poland continues to support the law change with public awareness raising and professional education on the law as well as a range of other measures to ensure its implementation.

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

1.1 Poland was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 1). There was no recommendation which specifically mentioned corporal punishment, though the issue was raised in advance questions by Sweden. However, the following recommendations were made:

“Recommended to Poland to endorse the recommendations made by the Committee on the Rights of the Child and the Human Rights Committee on the adoption of legislative measures to ensure compliance of national legislation with the principles and provisions of the Convention on the Rights of the Child (Angola)

“While noting the measures taken by Poland to address the continuing occurrence of violence against children, recommended that measures be taken by the Government to ensure the sufficient legal protection of the freedom of children from physical or mental violence (Sweden)

“Encouraged Poland to continue its efforts to ensure compliance of its domestic legislation with the Convention on the Rights of the Child, specifically with regard to juvenile justice (Mexico)”¹

1.2 The Government initially appeared to suggest that existing law was sufficient with regard to protection from corporal punishment² but later stated its intention to pursue law reform to achieve explicit prohibition.³

1.3 Prohibiting corporal punishment of children in all settings is a key obligation under the Convention on the Rights of the Child and other international human rights instruments. In 2010, Poland fulfilled its obligation in this respect, providing a firm legal foundation for combating this form of violence against children.

2 Corporal punishment of children in Poland

2.1 Prior to law reform, corporal punishment was prohibited in schools, in the penal system and in some care settings under article 40 of the Constitution (1997), but there had been some controversy regarding the legality of corporal punishment in the home and in other forms of care. In 2010, the Law “On the Prevention of Family Violence” was enacted, which amended the Family Code (1964) by inserting a new article 96 explicitly prohibiting corporal punishment in these settings: “Persons exercising parental care, care or alternative care over a minor are forbidden to use corporal punishment, inflict psychological suffering and use any other forms of child humiliation” (unofficial translation). The new law was signed by the President on 18 June 2010 and came into force on 1 August 2010.

2.2 A study conducted in 2011 on behalf of the Children’s Rights Ombudsman indicates that the social acceptance of parents hitting children has already begun to decrease following the achievement of full prohibition. Previous research found 78% of public opinion in favour of “spanking” children; the new study found that public approval had fallen to 69%. At the same

¹ 23 May 2008, A/HRC/8/30, Report of the Working Group on the Universal Periodic Review: Poland, para. 54(1), 54(2) and 54(3) ; see also para. 39

² 23 May 2008, A/HRC/8/30, Report of the Working Group on the Universal Periodic Review: Poland, para. 13

³ 25 August 2008, A/HRC/8/30/Add.1, Report of the Working Group on the Universal Periodic Review: Poland, Addendum: Responses of Poland to recommendations, para. 2 ; 1 September 2008, A/HRC/8/52, Report of the eighth session of the Human Rights Council, para. 532

time, the proportion of people expressing disapproval of “spanking” rose from 19% in 2008 to 27% in 2011.⁴

3 Recommendations by human rights treaty monitoring bodies

3.1 In 2002, before the achievement of prohibition, the **Committee on the Rights of the Child** urged Poland not only to enact legislation prohibiting corporal punishment but also to carry out public education campaigns on its negative consequences and promoting positive, non-violent discipline.⁵ In 1995, the Committee recommended the development of measures to monitor complaints of ill-treatment and cruelty within and outside the home.⁶

3.2 In 1999, the **Human Rights Committee** welcomed prohibition of corporal punishment in schools but expressed concern that the law was not being fully implemented.⁷

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
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⁴ TNS OBOP (2011), survey commissioned by Children’s Rights Ombudsman

⁵ 30 October 2002, CRC/C/15/Add.194, Concluding observations on second report, para. 35

⁶ 15 January 1995, CRC/C/15/Add.31, Concluding observations on initial report, para. 30

⁷ 29 July 1999, CCPR/C/79/Add.110, Concluding observations on fourth report, para. 25