

BRIEFING FROM GLOBAL INITIATIVE
TO END ALL CORPORAL PUNISHMENT OF CHILDREN

**BRIEFING FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION
AGAINST WOMEN (JANUARY 2008)**

States under examination in the 40th session

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The Global Initiative has been briefing the Committee on the Elimination of Discrimination Against Women on the legality of corporal punishment of girls and boys in states being considered by the Pre-Sessional Working Groups since 2004. This briefing provides an update on previously submitted information on states to be examined in the current session. It is prepared in recognition of the accelerating progress towards prohibition worldwide in light of the target date of 2009 for universal prohibition of corporal punishment of children set by the UN Secretary General’s Study on violence against children.

The legality of corporal punishment in the states to be examined is summarised below, with further details in the brief country reports which follow.

We hope the Committee will rigorously pursue the issue of corporal punishment of girls in its examination of states – including corporal punishment within the home – and make recommendations that state parties prohibit corporal punishment in all settings, supported by appropriate public education and professional training on positive, participatory and non-violent forms of discipline. The Committee may wish to refer to the Committee on the Rights of the Child General Comment No. 8, issued in June 2006, on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”.

State	Prohibited in the home	Prohibited in schools	Prohibited in penal system		Prohibited in alternative care settings
			As sentence for crime	As disciplinary measure	
Bolivia	NO	NO	SOME	NO	NO
Burundi	NO	NO	YES	NO	NO
France	NO	NO	YES	YES	NO
Lebanon	NO	NO	YES	YES	SOME
Luxembourg	NO	YES	YES	YES	NO
Morocco	NO	NO	YES	YES	NO
Saudi Arabia	NO	NO	NO	NO	NO
Sweden	YES	YES	YES	YES	YES

BOLIVIA (second-fourth report – CEDAW/C/BOL/2-4)

Corporal punishment is lawful in the **home**. It is not explicitly prohibited in **schools**, though it is reportedly banned by regulation (third report to the Committee on the Rights of the Child, 2004, CRC/C/125/Add.2, pp.41-42).

In the **penal system**, corporal punishment is unlawful as a sentence for crime under state law, but it may be ordered by community elders in traditional Indian justice systems, still used in much of the country. There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions. There is no prohibition of corporal punishment in **alternative care settings**.

The **Committee on the Rights of the Child** has twice expressed concern about corporal punishment in the family (CRC/C/15/Add.256, Concluding observations on second report, 2005, paras. 35 and 36; CRC/C/15/Add.95, Concluding observations on initial report, 1998, para. 21).

BURUNDI (fourth report – CEDAW/C/BDI/4)

Corporal punishment is lawful in the **home** and in **schools**. In the **penal system**, it is unlawful as a sentence for crime but is not prohibited as a disciplinary measure in penal institutions, and interview research has revealed that many children have been beaten while in detention.¹ There is no prohibition of corporal punishment in **alternative care settings**. As at March 2007, amendments to the criminal law were under discussion in Parliament, but we have no further details.

Prohibition of all corporal punishment, including in the home, was recommended by the **Committee on the Rights of the Child** in 2000 (CRC/C/15/Add.133, Concluding observations on initial report, paras. 40 and 41).

FRANCE (sixth report – CEDAW/C/FRA/6)

Corporal punishment is lawful in the **home** under the parental “right of correction” in customary law. A recent survey by the Union of Families in Europe of 2,000 grandparents, parents and children found that 95% of adults and 96% of children have been smacked; 84% of grandparents and 87% of parents have administered corporal punishment; one in ten parents admitted to punishing their children with a “martinet” (a small whip); 30% of children said they had been punished with a martinet.² A survey of 1,000 people, carried out in 1999 by SOFRES for the organisation “Eduquer sans frapper”, found that over half (51%) of respondents who had children hit them often, a third hit them rarely, and only 16% had never hit them; mothers were more likely to report hitting their children than fathers.³

There is no explicit prohibition in law of corporal punishment in **schools**. A High Court ruling in 1889 allowed a “right to correction” for teachers; a ruling in 2000 stated that this did not apply to habitual and “non-educational” corporal punishment. Corporal punishment is unlawful in the **penal system** but is not explicitly prohibited in **alternative care settings**.

The **Committee on the Rights of the Child** first raised concerns about corporal punishment in 1994 (CRC/C/15/Add.20, Concluding observations on initial report, para. 24). In 2004, the Committee recommended prohibition “in the family, in schools, in institutions and in other childcare settings”

¹ Human Rights Watch, 2007, *Paying the price: Violations of the rights of children in detention in Burundi*

² Reported in *The Scotsman*, 8 December 2007

³ Reported by Olivier Maurel, January 2004

(CRC/C/15/Add.240, Concluding observations on second report, para. 39). The **European Committee of Social Rights** has twice found the situation in France to be not in conformity with article 17.1 of the Revised Social Charter because corporal punishment is not prohibited (Conclusions 2005; Conclusions 2003).

LEBANON (third report – CEDAW/C/LBN/3)

Corporal punishment is lawful in the **home** under article 186 of the Penal Code, which states: “The law permits the types of discipline inflicted on children by their parents and teachers as sanctioned by general custom.” There have been recent (December 2007) reports that a draft law on child protection is under consideration which would prohibit all forms of violence in all settings, but a current draft which we have seen does not prohibit all corporal punishment.

Corporal punishment is lawful in **schools** under article 186 of the Penal Code. It is banned in a 2001 Ministerial memorandum, applicable only to public (not private) schools. In schools for Palestinian refugee students (UNRWA schools), corporal punishment is prohibited by the Educational Technical Instructions but the prohibition is contradicted by article 186 of the Penal Code. In 2006, the government stated its commitment to prohibition in schools. An assessment by the International Medical Corps (IMC) of 45 schools, conducted between November 2006 and March 2007, found that corporal punishment was used excessively.⁴ Interview research with more than 250 students in private and public schools found that the majority do not perceive “mild” corporal punishment as violence and even when “serious pain” is inflicted it is considered to be justified because the pupils “deserve it”.⁵

Corporal punishment is unlawful in the **penal system** but it is not prohibited in **alternative care settings**.

The **Committee on the Rights of the Child** has twice recommended prohibition in the home and in schools (CRC/C/LEB/CO/3, Concluding observations on third report, 2006, paras. 41 and 42; CRC/C/15/Add.169, Concluding observations on second report, 2002, paras 38 and 39).

LUXEMBOURG (fifth report – CEDAW/C/LUX/5)

Corporal punishment is lawful in the **home**. The government has stated its intention to introduce prohibition and as at May 2007 a Bill was pending that would prohibit within the family and in educational settings.

Corporal punishment is prohibited in **schools** and in the **penal system**, but there is no explicit prohibition in **alternative care settings**.

Explicit prohibition of corporal punishment in the family has been recommended by the **Committee on the Rights of the Child** on two occasions (CRC/C/15/Add.250, Concluding observations on second report, 2005, paras. 6, 38 and 39; CRC/C/15/Add.92, Concluding observations on initial report, 1998, paras. 13 and 31). The **European Committee of Social Rights** has also raised the issue (Addendum to Conclusions XV-2, 2001).

⁴ Reported by Reuters and AlertNet, 6 July 2007

⁵ Save the Children Sweden, 2005, “Corporal punishment in Lebanon: The role of the public administration in implementing a ban on corporal punishment in schools in Lebanon”

MOROCCO (fourth report – CEDAW/C/MAR/4)

Corporal punishment is lawful in the **home**. It is prohibited in **schools** by Ministerial direction but not in law. It is prohibited in the **penal system** but not in **alternative care settings**.

The **Committee on the Rights of the Child** recommended prohibition in the family, schools and institutions in 2003 (CRC/C/15/Add.211, Concluding observations on second report, paras. 42 and 43). The Committee had also raised concerns in 1996 (CRC/C/15/Add.60, Concluding observations on initial report, paras. 15 and 27).

SAUDI ARABIA (initial-second report – CEDAW/C/SAU/2)

Corporal punishment is lawful in the **home**. It is prohibited in **schools** by ministerial circulars but not in law. The use of corporal punishment has reportedly increased, particularly in primary schools.⁶

In the **penal system**, corporal punishment is lawful as a sentence for crime. Under the Juvenile Justice Act young women as well as young men may be sentenced to corporal punishment, including flogging, stoning and amputation, for crimes including theft, alcohol and drug related crimes, blasphemy and sex crimes. Corporal punishment is also lawful as a disciplinary measure in penal institutions. The Detention and Imprisonment Regulations (1977) prohibit torture or other cruel, inhuman or degrading treatment or punishment but allow for flogging. In 2005 the National Society for Human Rights visited jails and issued a report on prison conditions, which included concern at flogging sentences for women and children. There is no explicit prohibition of corporal punishment in **alternative care settings**.

In 2006, the **Committee on the Rights of the Child** expressed concern at the flogging of teenagers for “immoral” behaviour and the beating of children in education, and recommended prohibition of corporal punishment in all settings, including the family (CRC/C/SAU/CO/2, Concluding observations on second report, paras 42, 43, 44, 45, 73, 74 and 75). The Committee had made similar recommendations in 2001 (CRC/C/15/Add.148, Concluding observations on initial report, paras. 33, 34, 35 and 36). The **Committee Against Torture** has also made recommendations concerning judicial corporal punishment (CAT/C/CR/28/5, Concluding observations on initial report, 2002, paras. 3, 4 and 8)

SWEDEN (seventh report – CEDAW/C/SWE/7)

Corporal punishment is prohibited in all settings, including the home.

⁶ Reported in *Arab News*, 27 May 2007