



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

BRIEFING ON MAURITIUS FOR THE COMMITTEE ON THE RIGHTS OF THE CHILD, PRESESSIONAL WORKING GROUP – June 2014

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This briefing describes the legality of corporal punishment of children in Mauritius. In light of the Committee’s General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, its previous recommendations on the issue, the recommendations made during the UPR in 2009 and 2013, the importance of eradicating this form of violence given by the UN Secretary General’s Study on Violence against Children and the Government’s commitment to enacting prohibiting legislation, we hope the Committee will:

- **in its List of Issues for Mauritius, raise the issue of corporal punishment of children, in particular asking what progress has been made in ensuring the Children’s Bill includes prohibition of all corporal punishment in the home and all other settings?**
- **in its concluding observations on the third to fifth report of Mauritius, recommend that all efforts be made to ensure the Children’s Bill includes prohibition of all forms of corporal punishment in all settings without exception and to ensure it is enacted as a matter of priority.**

1 The report of Mauritius to the Committee on the Rights of the Child

1.1 The third to fifth report of Mauritius describes extensive measures taken to implement the prohibition of corporal punishment in schools and states that the possibility of extending prohibition to other settings, including the home, will be addressed in the context of consultations on the Children’s Bill.¹ We are pleased to report that since the report was submitted, consultations on the Bill with all stakeholders have been carried out and the Government has announced its decision to include prohibition in the Bill (see below, para. 3.4).² **We hope the Committee will welcome this positive commitment to enacting prohibiting legislation and urge the Government to expedite the passage of the Children’s Bill as a matter of priority.**

¹ 28 October 2013, CRC/C/MUS/3-5, Third-fifth state party report, paras. 40-46, 355, 372 and 497

² 25 October 2013, A/HRC/WG.6/17/L.6 Unedited Version, Draft report of the working group, para. 126

2 The legality of corporal punishment of children in Mauritius

- 2.1 **Summary:** Corporal punishment of children in Mauritius is unlawful in schools and as a sentence for crime, but it is not yet prohibited in the home, all alternative and day care settings and in penal institutions.
- 2.2 **Home (lawful):** The Civil Code 1945 states that a child must “honour and respect his father and mother” and that parents must “protect the child’s safety, health and morals” and have a “right and duty to look after, monitor and educate” the child (“droit et devoir de garde, de surveillance et d’éducation”) (art. 371, as amended 1980). There appears to be no confirmation in this Code or in the Criminal Code 1838 of a right to punish/correct a child. However, there is no explicit prohibition of all corporal punishment in childrearing. Article 13(1) of the Child Protection Act 1994 makes it an offence to “ill-treat a child or otherwise expose a child to harm” but does not prohibit all corporal punishment. Provisions against violence and abuse in the Criminal Code, the Protection of the Child (Miscellaneous Provisions) Act 1998, the Social Aid Act, the Civil Code and the Protection from Domestic Violence Act 1997 are not interpreted as prohibiting all corporal punishment.
- 2.3 A Children’s Bill is being drafted with a view to harmonising legislation with the Convention on the Rights of the Child. Consultations on the Bill with all stakeholders have been carried out, and during the Universal Periodic Review of Mauritius in 2013, the Government stated that it had decided to include prohibition of corporal punishment in the Bill.³
- 2.4 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in all alternative care settings.
- 2.5 **Day care (?partial prohibition):** There is no explicit prohibition of corporal punishment in all early childhood care and all day care for older children. It is possibly unlawful in preschool provision under education law.
- 2.6 **Schools (unlawful):** Corporal punishment is prohibited in schools in article 13(4) of the Education Regulations 1957.
- 2.7 **Penal institutions (lawful):** The treatment of detainees is governed by the Reform Institutions Act 1988 and associated regulations (the Prisons Regulations, the Rehabilitation Youth Centre Regulations and the Reforms Institutions Regulations). The Act states that “no detainee shall be subject to punishment or privation of any kind”, but article 12 allows the use of “such force as is reasonably necessary ... to maintain discipline in the institution”. In 2011, a Juvenile Offenders (Amendment) Bill and a Reform Institutions (Amendment) Bill were under discussion, but we have no further information.
- 2.8 **Sentence for crime (unlawful):** The Constitutional protection of every person from “inhuman or degrading punishment or other such treatment” is qualified by the provision that “nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any description of punishment that was lawful in Mauritius on 11 March 1964” (art. 7). However, there is no provision for judicial corporal punishment in the Juvenile Offenders Act 1935 or the Criminal Code 1838.

3 Recommendations by human rights treaty bodies and during the UPR

- 3.1 **CRC:** The Committee on the Rights of the Child first raised the issue of protecting children from corporal punishment in Mauritius in 1996, in its concluding observations on the state party’s

³ 25 October 2013, A/HRC/WG.6/17/L.6 Unedited Version, Draft report of the working group, para. 126

initial report.⁴ Following examination of the second report in 2006, the Committee again expressed its concerns, recommending that corporal punishment be prohibited in the family and other settings.⁵

- 3.2 **CESCR:** In 2010, the Committee on Economic, Social and Cultural Rights recommended explicit prohibition of corporal punishment in the home, alternative care settings and penal system in Mauritius.⁶
- 3.3 **CAT:** In 2011, the Committee Against Torture recommended prohibition of corporal punishment in Mauritius, “in particular in social institutions and in alternative care settings”.⁷
- 3.4 **UPR:** Mauritius was examined in the first cycle of the UPR in 2009 (session 4). No recommendations were made specifically concerning corporal punishment of children but the Government accepted recommendations to harmonise its laws with the Convention on the Rights of the Child, to implement the recommendations of the Committee on the Rights of the Child, and to eradicate all forms of violence against children.⁸ Examination in the second cycle took place in 2013 (session 17). During the review, the Government stated that it had “taken the decision to include corporal punishment as an offense in the Children’s Bill in order to bring the laws even more in line with the Convention on the Rights of the Child”.⁹ The Government’s response to the recommendation to prohibit corporal punishment is due by March 2014.¹⁰

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⁴ 30 October 1996, CRC/C/15/Add.64, Concluding observations on initial report, para. 31

⁵ 17 March 2006, CRC/C/MUS/CO/2, Concluding observations on second report, paras. 37 and 38

⁶ 8 June 2010, E/C.12/MUS/CO/4, Concluding observations on second to fourth report, para. 23

⁷ 15 June 2011, CAT/C/MUS/CO/3, Concluding observations on third report, para. 17

⁸ 3 March 2009, A/HRC/11/28, Report of the working group, paras. 27(2), 27(8), 27(12) and 27(27)

⁹ 25 October 2013, A/HRC/WG.6/17/L.6 Unedited Version, Draft report of the working group, para. 126

¹⁰ Ibid., para. 129(29)