

BRIEFING FROM THE GLOBAL INITIATIVE
TO END ALL CORPORAL PUNISHMENT OF CHILDREN

**BRIEFING ON MAURITIUS FOR THE COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN
PRESESSIONAL WORKING GROUP – January/February 2011**

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The human rights obligation to prohibit corporal punishment of girls and boys

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),¹ addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”. This briefing describes the legality of corporal punishment of children in Mauritius and urges the Committee on the Elimination of Discrimination Against Women to include the issue in its examination of the state party’s implementation of the Convention.

Corporal punishment of children in Mauritius

In Mauritius, corporal punishment of children is prohibited in schools and as a sentence for crime but it is lawful in the home, penal institutions and alternative care settings. The state party report to the Committee on the Elimination of Discrimination Against Women (CEDAW/C/MAR/6-7) describes efforts to address the problem of violence against women, but makes no reference to the violence that may lawfully be inflicted on girls in the name of discipline.

Corporal punishment is lawful in the home. Provisions against violence and abuse in the Child Protection Act (1994, amended 2005), the Criminal Code (amended 2003), the Protection of the Child (Miscellaneous Provisions) Act (1998), the Social Aid Act, the Civil Code (amended 1999) and the Protection from Domestic Violence Act (1997, amended 2004) do not include prohibition of all corporal punishment in childrearing. In 2008, the Ombudsperson for Children reportedly proposed prohibition in all settings,² but to our knowledge there have been no moves towards law reform.

There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions. The treatment of detainees is governed by the Reform Institutions Act (1988, amended 1998) and associated regulations (the Prisons Regulations, the Rehabilitation Youth Centre Regulations and the Reforms Institutions Regulations), applicable to prisons, correctional youth centres and rehabilitation youth centres. 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 2006, the Government stated its commitment to introducing explicit prohibition in law but to our knowledge there has been no legal reform.

There is no explicit prohibition of corporal punishment in all alternative care settings.

¹ General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” is available at www2.ohchr.org/english/bodies/crc/comments.htm.

² Report of the meeting of the Southern African Network to End Corporal and Humiliating Punishment of Children, April 2008

Recommendations by human rights treaty monitoring bodies

The Committee on the Rights of the Child has twice recommended that Mauritius explicitly prohibit corporal punishment of children in the home and other settings – in 2006 following examination of the state party's second report (CRC/C/MUS/CO/2, Concluding observations on second report, paras. 37 and 38) and in 1996 following examination of the initial report (CRC/C/15/Add.64, Concluding observations on initial report, para. 31).

In 2010, the Committee on Economic, Social and Cultural Rights recommended prohibition of corporal punishment in the home, alternative care settings and penal institutions (E/C.12/MUS/CO/4, Concluding observations on second to fourth report, para. 23).

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 Mauritius, in particular asking what legislative and other measures have been taken by the state party to prohibit and eliminate corporal punishment in all settings and thus ensure girls enjoy their rights to respect for their human dignity and physical integrity and to equal protection under the law.

In light of General Recommendation No. 19 on Violence against women adopted by the Committee on the Elimination of Discrimination Against Women in 1992, of the links between corporal punishment of children and all other forms of violence, including gender-based violence, and of the Committee on the Rights of the Child's General Comment No. 8 (2006), we hope the Committee will subsequently recommend to the state party that explicit prohibition of all corporal punishment of children be enacted in relation to all settings as a matter of urgency, including the home and the justice system.

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