



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

## **BRIEFING ON GUINEA FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, PRESESSIONAL WORKING GROUP – Mar 2014**

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### **The human rights obligation to prohibit corporal punishment – a key strategy in eliminating all forms of violence**

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), addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.

The near universal acceptance of a degree of violent punishment in childhood and deeply held views that parents and other adults have a “right” to physically punish children can challenge efforts to achieve prohibition. This situation also means that corporal punishment – at least to some degree – is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence. Physical violence against girls and boys in their own home is typically assumed not to be domestic violence because it is inflicted under the guise of “discipline” or “correction” – a rationale totally unacceptable when the victim is an adult woman. **It is for these reasons that we respectfully urge the Committee on the Elimination of Discrimination Against Women to specifically recommend that corporal punishment be prohibited in the home and all settings.**

**This briefing describes the legality of corporal punishment of children in Guinea. In light of General Recommendation No. 19 on Violence against women (1992), the links between corporal punishment of children and all other forms of violence including gender-based violence, the concerns previously expressed by the Committee on the Elimination of Discrimination Against Women, and the recommendations of the Committee on the Rights of the Child and during the UPR, 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 Guinea, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home, and**
- **recommend to Guinea, in the concluding observations on the seventh/eighth state party report, that corporal punishment is explicitly prohibited in all settings, including the home, as a matter of priority.**

## 1 The state party's report to CEDAW

- 1.1 The seventh/eighth state report of Guinea to CEDAW includes information on domestic violence and states that the Children's Code and criminal laws "are becoming stricter with regard to perpetrators of all forms of violence against women and girls".<sup>1</sup> However, no reference is made to corporal punishment – violence which may lawfully be inflicted on girls and boys in the name of "discipline". **We hope the Committee will, during the review of Guinea, emphasise the importance of prohibiting and eliminating physical punishment of girls and boys within the family when taking measures against family violence. We hope the Committee will also stress the need to ensure prohibition is explicit, which arises from the common misconception that some degree of corporal punishment of children may be acceptable.**

## 2 The legality of corporal punishment of children in Guinea

- 2.1 **Summary:** Corporal punishment of children in Guinea is unlawful as a sentence for crime but it is not prohibited in the home, alternative care settings, day care, schools or penal institutions.
- 2.2 **Home (lawful):** The Children's Code 2008 prohibits "all forms of physical and psychological maltreatment" in the family, schools and institutions (art. 403). However, it does not explicitly prohibit corporal punishment and there is no evidence that all corporal punishment in childrearing and education, however light, would be considered as "maltreatment". There appears to be no legal defence for the use of corporal punishment by parents in the Civil Code 1983 (unconfirmed) or the Penal Code 1988 but the Penal Code provisions against assault (arts. 299, 300 and 301) are not interpreted as prohibiting all forms of corporal punishment of children.
- 2.3 In 2010, a draft revised Civil Code was under consideration and there is an ongoing process of harmonising legislation with international human rights standards. **We hope the Committee will encourage the state party to use these opportunities to prohibit all corporal punishment of children.**
- 2.4 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in alternative care settings: it is lawful as for parents (see para. 2.2).
- 2.5 **Day care (lawful):** There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children.
- 2.6 **Schools (lawful):** A ministerial circular advises against its use (unconfirmed) but there is no explicit prohibition in law.
- 2.7 **Penal institutions (partial prohibition):** There appears to be no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.
- 2.8 **Sentence for crime (unlawful):** There is no provision for judicial corporal punishment in criminal law.

## 3 Recommendations by human rights treaty bodies and during the UPR

- 3.1 **CEDAW:** In 2007, in its concluding observations on the fourth to sixth report of Guinea, the Committee on the Elimination of Discrimination Against Women expressed concern "about the persistence of patriarchal attitudes whereby the physical chastisement of family members, including women, is considered acceptable".<sup>2</sup> The Committee proceeded to recommend "a comprehensive approach to address all forms of violence against women" and to "enact without

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<sup>1</sup> 18 January 2013, CEDAW/C/GIN/7-8, Seventh/eighth state party report, page 33

<sup>2</sup> 10 August 2007, CEDAW/C/GIN/CO/6, Concluding observations on fourth/fifth/sixth report, para. 26

delay legislation on domestic violence”, but did not make a specific recommendation on corporal punishment of girls and boys.<sup>3</sup>

3.2 **CRC:** The Committee on the Rights of the Child has twice expressed concern at corporal punishment in the family and other settings in Guinea and has recommended prohibition and other measures – in its concluding observations on the state party’s initial report in 1999, and on the second report in 2013.<sup>4</sup>

3.3 **UPR:** During the Universal Periodic Review of Guinea in 2010, there were no specific recommendations on corporal punishment but the Government accepted recommendations to bring its legislation into line with international human rights standards.<sup>5</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>3</sup> *ibid.*, para. 27

<sup>4</sup> 10 May 1999, CRC/C/15/Add.100, Concluding observations on initial report, para. 20; 13 June 2013, CRC/C/GIN/CO/2, Concluding observations on second report, paras. 48 and 49

<sup>5</sup> 14 June 2010, A/HRC/15/4, Report of the working group, paras. 71(6) and 71(7)