



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

BRIEFING ON MAURITANIA FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, PRESESSIONAL WORKING GROUP – Oct 2013

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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 Mauritania. 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, and the recommendations of treaty monitoring bodies 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 Mauritania, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home, and**
- **recommend to Mauritania, in the concluding observations on the second/third 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 second/third state report of Mauritania to CEDAW (CEDAW/C/MRT/2-3) includes information concerning violence against women but makes no reference to corporal punishment – violence inflicted on girls and boys in the guise of discipline in childrearing and education.

2 The legality of corporal punishment of children in Mauritania

- 2.1 *Summary*: In Mauritania, corporal punishment is unlawful in all settings – the home, alternative care settings, day care, schools and the penal system.
- 2.2 *Home (lawful)*: Provisions against violence and abuse in the Criminal Code 1983, the law “sur la traite des personnes” 2003, the Personal Status Code 2001 and the Constitution 1991 are not interpreted as prohibiting all corporal punishment of children. Order No. 2005-015 of 5 December 2005 on the judicial protection of children states that the subjection of children to torture or to acts of barbarity shall be punishable by six years’ rigorous imprisonment” and provides for harsh sentences if the offence is committed repeatedly or if it results in damage, mutilation, disability or death (article 11), but it does not prohibit corporal punishment. In 2009, a Fatwa was issued against corporal punishment of children, but it appears to apply only to “excessive” corporal punishment.¹
- 2.3 *Alternative care settings (lawful)*: Presumably, the Fatwa against corporal punishment (see para. 2.3) would apply to alternative care settings, including in the *kafalah* system, but there is no explicit prohibition of corporal punishment in law.
- 2.4 *Day care (lawful)*: Presumably, the Fatwa against corporal punishment (see para. 2.3) would apply to early childhood care and to day care for older children, but there is no explicit prohibition of corporal punishment in law.
- 2.5 *Schools (lawful)*: The Ministry of Education has stated that corporal punishment should not be used (Decision No. 701 MEN/PR of 4 November 1968, article 17), but there is no explicit prohibition in law. Applicable law includes Act No. 099-012 of 26 April 1999 on the reform of the education system and Act No. 2001-054 of 19 July 2001 on compulsory basic education: we have yet to examine the full texts of these Acts.
- 2.6 *Penal institutions (lawful)*: There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions, though there is protection more generally from violence. The Code of Criminal Procedure 2007 states in article 58: “Any person deprived of his or her liberty as a result of arrest or detention or any other form of deprivation of liberty must be treated in accordance with respect for human dignity. Mental or physical ill-treatment of detainees ... are prohibited.” Article 15 of the National Police Regulations Act No. 2010-07 of 20 January 2010 prohibits “all cruel or degrading treatment that violates human rights”. Decree No. 2003-1524 (2003) on the structural regulations of rehabilitation centres for children in conflict with the law contains provisions on the rights of the child but we have no further details.
- 2.7 *Sentence for crime (lawful)*: Corporal punishment is lawful as a sentence for crime. The Constitution states in article 13 that “Any form of mental or physical violence is prohibited” but the Criminal Code provides for punishments of amputation and flogging (e.g. article 7). Order No. 2005-013 on the judicial protection of children states that the penalties imposed on children aged 15 to 18 convicted of an offence may not exceed half of the adult sentences, but it does not prohibit corporal punishment.

¹ “On the Prohibition of Excessive Child Beating in Islamic *Shariah* (Law): Abstract of a comprehensive social, educational and legal study of the negative impact of child bearing, and the rules governing it in Islamic *Shariah* (law)”, prepared by Professor Imam Hadd Amin Ould Al-Salek, Imam of the Old Mosque, Nouakchott, and President of the Imams and Ulema Coalition for the Rights of Women and Children in Mauritania, June 2009

2.8 Article 285 of the Criminal Code states that “any adult who deliberately inflicts injury on, strikes, amputates a limb of, or inflicts any form of violence on an innocent person shall be punished by qisas [retribution in kind].” We have yet to establish the age at which adulthood is defined for the purposes of this provision.

3 Recommendations by human right treaty monitoring bodies and during the UPR

3.1 *CEDAW*: In 2007, the Committee on the Elimination of Discrimination Against Women expressed concern at the persistence of patriarchal attitudes which consider physical chastisement of family members acceptable, and recommended that the state take a comprehensive approach to addressing violence against women. **We hope the Committee will reiterate this concern and explicitly recommend corporal punishment in the home.**

3.2 *CRC*: The Committee on the Rights of the Child has twice recommended to Mauritania that all corporal punishment be prohibited in the home and other settings – in its concluding observations on the state party’s initial report in 2001² and on the second report in 2006.³

3.3 *CAT*: In 2013, the Committee Against Torture recommended that corporal punishment of children in Mauritania be prohibited in all settings including the home.⁴

3.4 *UPR*: The Government did not respond to recommendations to prohibit corporal punishment made during the UPR of Mauritania in 2010.⁵

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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² 6 November 2001, CRC/C/15/Add.159, Concluding observations on initial report, paras. 29 and 30

³ 17 June 2009, CRC/C//MRT/CO/2 Concluding observations on second report, paras. 40 and 41

⁴ 18 June 2013, CAT/C/MRT/CO/1, Concluding observations on initial report, para. 25

⁵ 4 January 2011, A/HRC/16/17, Report of the working group, paras. 92(30), 92(39), 92(40), 92(42) and 92(45)