



Global Initiative to
End All Corporal Punishment
of Children

BRIEFING ON BURUNDI FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 109th session (Oct/Nov 2013)

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1 The human rights obligation to prohibit corporal punishment

1.1 The legality and practice of corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity and to equal protection under the law, and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment – rights guaranteed in the International Covenant on Civil and Political Rights and other international human rights instruments.

This briefing describes the legality of corporal punishment of children in Burundi. In light of the obligation under international human rights law to prohibit all corporal punishment of children, the recommendations of the UN Secretary General's Study on Violence against Children and the repeated recommendations to Burundi by the Committee on the Rights of the Child, we hope the Human Rights Committee will:

- **raise the issue of corporal punishment of children in its List of Issues for Burundi, in particular asking what measures are being taken to explicitly prohibit corporal punishment in the home and all other settings, and**
- **recommend to Burundi, following its examination of the state party's report, that legislation is enacted and enforced which explicitly prohibits corporal punishment in all settings, including the home, as a matter of priority, together with appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

2 Legality of corporal punishment of children in Burundi

2.1 Corporal punishment of children in Burundi is unlawful as a sentence of the courts and possibly in schools, but it is lawful in the home, alternative care and day care settings, and in penal institutions.

- 2.2 *Home (lawful)*: Provisions against violence and abuse in the Penal Code 2009 and the Code of Personal and Family Affairs are not interpreted as prohibiting corporal punishment in childrearing. Article 19 of the Constitution 2005 states: “The rights and duties proclaimed and guaranteed, inter alia, by the Universal Declaration of Human Rights, the International Covenants on human rights and the rights of peoples, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child shall form an integral part of the Constitution of the Republic of Burundi. These fundamental rights may not be the subject of any restriction or derogation, except in certain circumstances justifiable by the general interest of the protection of a fundamental right.” Article 44 of the Constitution provides for protection for children from “ill-treatment, abuse or exploitation”. However, there is no explicit prohibition of corporal punishment in domestic legislation and we have uncovered no evidence that laws against violence and abuse are interpreted as prohibiting all corporal punishment of childrearing.
- 2.3 *Alternative care settings (lawful)*: There is no explicit prohibition of corporal punishment, which is lawful as for parents.
- 2.4 *Day care (lawful)*: Corporal punishment is lawful as for parents.
- 2.5 *Schools (unlawful)*: Corporal punishment is reportedly prohibited in schools in regulations (1 September 2010, CRC/C/BDI/Q/2/Add.1, Written replies to the Committee on the Rights of the Child).¹ We have yet to verify this information.
- 2.6 *Penal institutions (lawful)*: There is no explicit prohibition of corporal punishment.
- 2.7 *Sentence for crime (unlawful)*: There is no provision for judicial corporal punishment in criminal law.

3 Immediate opportunities to achieve prohibition

- 3.1 Drafting of a Code of Child Protection has been under way since 2010 and was still under discussion in March 2013. Proposals were made to include prohibition of corporal punishment but we have yet to see the full text of the draft and do not know if prohibition is included. This law reform provides a key opportunity for enacting the necessary prohibition of corporal punishment: we hope the Committee will encourage the state party to do so.

4 Recommendations by human rights treaty bodies

- 4.1 *CRC*: The Committee on the Rights of the Child has twice recommended that corporal punishment be prohibited in all settings including the home in Burundi – in concluding observations on the state party’s initial report in 2000 and on the second report in 2010.²

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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¹ 1 September 2010, CRC/C/BDI/Q/2/Add.1, Written replies to the Committee on the Rights of the Child, response to Question 8

² 16 October 2000, CRC/C/15/Add.133, Concluding observations on initial report, paras. 40 and 41; 1 October 2010, CRC/C/BDI/CO/2 Advance Unedited Version, Concluding observations on second report, paras. 39 and 40