



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

**BRIEFING ON GAMBIA FOR THE  
COMMITTEE ON THE RIGHTS OF THE CHILD,  
PRESESSIONAL WORKING GROUP – February 2014**

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**This briefing describes the legality of corporal punishment of children in Gambia. 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 to Gambia on the issue, the recommendations made during the UPR in 2010 and the importance of eradicating this form of violence given by the UN Secretary General’s Study on Violence against Children, we hope the Committee will:**

- **in its List of Issues for Gambia, raise the issue of corporal punishment of children, in particular asking what steps are being taken to ensure that all corporal punishment, without exception, is explicitly prohibited in the home and other settings?**
- **in its concluding observations on Gambia’s second/third report, recommend that legislation is enacted to explicitly prohibit all corporal punishment in all settings, including the home and in all schools, as a matter of priority, and that prohibition is enforced through appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

## 1 Gambia's report to the Committee on the Rights of the Child

1.1 The second/third state party report to the Committee on the Rights of the Child is not available at the time of drafting this briefing.<sup>1</sup>

## 2 The legality and practice of corporal punishment of children in Gambia

2.1 *Summary*: Corporal punishment in Gambia is unlawful as a sentence for crime but it is not fully prohibited in the home, alternative care settings, day care, schools and penal institutions.

2.2 *Home (lawful)*: Under common law, which is part of the laws in Gambia under the Laws of England (Application) Act, parents, guardians and others *in loco parentis* can “reasonably chastise” their child. The Children’s Act 2005 includes the responsibility of parents to “ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child” (article 22). The Act specifies the duty “of any person having custody of a child to protect the child from discrimination, violence, abuse and neglect” (article 21); it defines child abuse as “contravention of the rights of the child which causes physical or mental harm to the child” (article 2) and prohibits “any social and cultural practices that affect the welfare, dignity, normal growth and development of the child” (article 19). But the Act does not explicitly prohibit all corporal punishment or repeal the common law defence of “reasonable chastisement”. The Gambia Multiple Indicator Cluster Survey (MICS) carried out in 2010 found that 90% of 2-14 year olds had been physically and/or psychologically punished by their mothers/caregivers or other household members in the past month; 18% had been severely physical punished (hit or slapped on the face, head or ears or hit over and over with an implement).<sup>2</sup>

2.3 *Alternative care settings (lawful)*: There is no explicit prohibition of corporal punishment in alternative care settings. Those with parental authority must ensure that discipline respects the dignity of the child under article 22 of the Children’s Act 2005 (see para. 2.2), but the common law defence of “reasonable chastisement” is available.

2.4 *Day care (lawful)*: There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children. Those with parental authority must ensure that discipline respects the dignity of the child under article 22 of the Children’s Act 2005 (see para. 2.2), but the common law defence of “reasonable chastisement” is available.

2.5 *Schools (lawful)*: Article 15 of the Education Regulations under the Education Act states: “Firm discipline shall be maintained and enforced in all schools, but all degrading and injurious punishments are prohibited, and no child shall receive corporal punishment of any form save as is hereinafter in this regulation provided.” Under paragraphs 2-4 of article 15, corporal punishment should be administered only by the head teacher or an assistant teacher in the presence of the head teacher, to female pupils only in exceptional circumstances and then only by a female teacher, and logged in a designated book. A questionnaire study found that corporal punishment is used in 70% of schools: 68% of

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<sup>1</sup> Not available at <http://www2.ohchr.org/english/bodies/crc/crcs67.htm>, accessed 23-10-13

<sup>2</sup> The Gambia Bureau of Statistics (2011), *The Gambia Multiple Indicator Cluster Survey 2010, Final Report*, Banjul: UNICEF

students were beaten at school “sometimes”, 8% “often”, 11% “very often” and 13% “rarely”; students were beaten with belts, canes and rulers.<sup>3</sup>

2.6 *Penal institutions (lawful)*: The Children’s Act 2005 protects children in conflict with the law from violence (articles 210 and 212) but there is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

2.7 *Sentence for crime (unlawful)*: Corporal punishment is prohibited as a sentence for crime in section 220(7) of the Children’s Act 2005.

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

3.1 *CRC*: In 2001, the Committee on the Rights of the Child recommended to Gambia that corporal punishment be prohibited in all settings, including in families.<sup>4</sup>

3.2 *UPR*: During the UPR of Gambia in 2010 (session 7), recommendations were made to “enforce Gambia’s Children’s Act of 2005 on issues such as corporal punishment” and to “take legal measures to prohibit all forms of physical and mental violence against children in all settings”.<sup>5</sup> The Government did not clearly accept or reject the recommendations but stated that there are already laws in place which protect children from violence and abuse of all forms.<sup>6</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>3</sup> Tang, J. (2005), *Beating the Misconceptions, Not the Children*, The Gambia: The Child Protection Alliance

<sup>4</sup> 6 November 2001, CRC/C/15/Add.165, Concluding observations on initial report, paras. 32 and 33

<sup>5</sup> 24 March 2010, A/HRC/14/6, Report of the working group, paras. 99(15) and 99(44)

<sup>6</sup> A/HRC/14/L.10, Report of the Human Rights Council on its fourteenth session, para. 601