



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

## **MALTA**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 5<sup>th</sup> session, 2008**

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*Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General's Study on Violence against Children, as a highly significant issue, both for asserting children's status as rights holders and for the prevention of all forms of violence.*

*The Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.*

*In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies, and regional human rights mechanisms, have condemned all corporal punishment. In October 2006, the report of the UN Secretary General's Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment, setting a goal of 2009.*

### **Summary**

**This briefing describes the legality of corporal punishment of children in Malta, despite the recommendations of the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights. We hope the Review will highlight the importance of prohibition of corporal punishment of children, and strongly recommend that the government introduce legislation as a matter of urgency to repeal the "reasonable chastisement" defence and explicitly prohibit corporal punishment of children in all settings, including the home.**

## **1 Legality of corporal punishment in Malta**

1.1 Corporal punishment of children is lawful in the **home**. Article 229 of the Criminal Code recognises the concept of “lawful correction”, and article 339 makes it an offense for a person who “being authorized to correct any other person, exceeds the bounds of moderation”. Article 154 of the Civil Code allows for the removal of the rights of parental authority if “the bounds of reasonable chastisement” are exceeded.

1.2 Corporal punishment is considered unlawful in **schools** under the prohibition of physical violence in the Education Act, but there is no explicit prohibition.

1.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions.

1.4 Corporal punishment is lawful in **alternative care settings**.

## **2 Recommendations by human rights treaty monitoring bodies**

In 2000, following examination of the state party’s initial report, the **Committee on the Rights of the Child** expressed concern at the “reasonable chastisement” provision allowing corporal punishment, and recommended explicit prohibition in the home (CRC/C/15/Add.129, paras. 29 and 30). In 2004, the **Committee on Economic, Social and Cultural Rights** drew attention to the legality of “reasonable chastisement” and recommended explicit prohibition of corporal punishment within the family (E/C.12/1/Add.101, Concluding observations on initial report, paras. 22 and 40). In 2005, the **European Committee of Social Rights** concluded that the situation in Malta is not in conformity with article 17 of the European Social Charter because corporal punishment in the home is not prohibited (*Conclusions XVII-1*).