



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

GAMBIA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 7th session, 2010

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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) 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 Gambia, despite the recommendations of the Committee on the Rights of the Child. 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 prohibit all corporal punishment of children in the home, schools, penal institutions and alternative care settings.

1 Legality of corporal punishment in Gambia

1.1 Corporal punishment is lawful in the **home**. 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), but it does not prohibit all corporal punishment in childrearing.

1.2 According to a statistical review by UNICEF, 71% of children aged 2-14 experienced minor physical punishment in the home in 2005-2006. The same review reported that 74% of girls and women aged 15-49 believed that a husband or partner is justified in hitting or beating his wife under certain circumstances.¹

1.3 Corporal punishment is lawful in **schools**. Article 15 of the Education Regulations of Education Act Cap. 46 of the revised laws of Gambia (1990) 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 only by a female teacher, and logged in a designated book.

1.4 In the **penal system**, corporal punishment is prohibited as a sentence for crime in section 220(7) of the Children’s Act, but there is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

1.5 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 (see above), but the common law defence of “reasonable chastisement” is available.

2 Recommendations by human rights treaty monitoring bodies

2.1 Following examination of the state party’s initial report in 2001, the **Committee on the Rights of the Child** recommended prohibition of corporal punishment in the home, schools, penal system and care settings (CRC/C/Add.165, paras. 45 and 46).

¹ UNICEF (2007), *Progress for Children: A World Fit for Children – Statistical Review, Number 6, December 2007*