



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

## **FRANCE**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 2<sup>nd</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 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 also 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.**

**This briefing describes the gaps in prohibition in France, despite repeated recommendations by the Committee on the Rights of the Child and by regional human rights mechanisms.**

**We hope the Review will highlight with concern France’s record of ignoring treaty body recommendations and strongly recommend that France introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.**

## **I: Legality of corporal punishment in France**

### **The home**

Corporal punishment is lawful in the **home** under the parental “right of correction” in customary law. Children have limited protection from violence under the Criminal Code.

Research reveals a high prevalence of corporal punishment of children. A study published in 2007, by the Union of Families in Europe, found that of 2,000 grandparents, parents and children, 95% of adults and 96% of children had been smacked; 84% of grandparents and 87% of parents had administered corporal punishment. One in ten parents admitted to punishing their children with a “martinet” (a small whip); 30% of children said they had been punished with a martinet.<sup>1</sup> A survey carried out in 1999 by SOFRES for the organisation “Eduquer sans frapper”, found that of 1,000 respondents over half (51%) who had children hit them often, a third hit them rarely, and only 16% had never hit them.<sup>2</sup>

### **Schools and other settings**

There is no explicit prohibition in law of corporal punishment in **schools**, where “light correction” is tolerated in the same way as for parents. A High Court ruling in 1889 allowed a “right to correction” for teachers; a ruling in 2000 stated that this did not apply to habitual and “non-educational” corporal punishment.

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

There is no explicit prohibition of corporal punishment in **alternative care settings**.

## **II: Recommendations by human rights treaty monitoring bodies**

The **Committee on the Rights of the Child** first raised concerns about corporal punishment of children in France in its concluding observations on the state party’s initial report in 1994 (CRC/C/15/Add.20, para. 24). Ten years later, the Committee examined the state party’s second report and again highlighted its concern and recommended prohibition, stating (CRC/C/15/Add.240, paras. 38 and 39):

“The Committee welcomes the fact that the State party considers corporal punishment totally unacceptable and inadmissible, however it remains concerned that corporal punishment is not explicitly prohibited in the family, in schools, in institutions and in other childcare settings.

“The Committee encourages the State party to expressly prohibit corporal punishment by law in the family, in schools, in institutions and in other childcare settings. It further recommends awareness-raising and promotion of positive, non-violent forms of discipline, especially in families, schools and care institutions in light of article 28, paragraph 2, of the Convention.”

In 2005, the **European Committee of Social Rights** for the second time found the situation in France to be not in conformity with article 17 of the Revised Social Charter because of the lack of prohibition of corporal punishment. The Committee stated (Conclusions 2005):

“In the previous conclusion the Committee noted that the Penal Code prohibits violence against the person and provides for increased penalties where the victim is under 15 years of age or where the perpetrator is related to the child or has authority over the child, but does not necessarily cover all forms of corporal punishment which it found not to be in conformity with the Revised Charter. The Committee finds no information in the report that the situation has changed. The Committee notes therefore that corporal punishment is not prohibited in the home

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<sup>1</sup> Reported in *The Scotsman*, 8 December 2007

<sup>2</sup> Reported in personal correspondence with the Global Initiative, January 2004

or in institutions and other childcare settings and that this situation is not in conformity with the Revised Charter.

“The Committee notes from another source that High Court ruling of 1889 allowed a ‘right to correction’ for teachers and for parents. A 2000 judicial ruling stated that corporal punishment which is repetitive and not educational is not covered by this right. The Committee asks the next report to explain the implications of the 2000 judicial ruling with regard to the use of corporal punishment in the home....

“The Committee concludes that the situation in France is not in conformity with Article 17.1 of the Revised Charter on the grounds that:

- corporal punishment of children is not prohibited....”

The Committee had previously found France to be in non-conformity with the Revised Social Charter because of the lack of prohibition of corporal punishment in 2003 (Conclusions 2003, vol. 1), and had first raised its concern about the issue in 2001 (Conclusions XV-2 vol. 1).