



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

LESOTHO

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 8th 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 Lesotho despite the recommendations of the Committee on the Rights of the Child and the Human Rights Committee. 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 family home and all other settings.

1 Legality of corporal punishment in Lesotho

1.1 Corporal punishment is lawful in the **home**. Article 18 of the Child Protection Act (1980) criminalises assault and ill-treatment of children but also states that “nothing in this section shall be construed as affecting the right of the parent or guardian of a child to administer reasonable punishment.”

1.2 As at July 2008, a Child Protection and Welfare Bill was under consideration. Section 15(1) of the Bill states: “A child shall have the right to be protected from torture or other cruel, inhumane or degrading treatment or punishment including any cultural practices which dehumanises or is injurious to the physical, psychological, emotional and mental wellbeing of the child.” Section 15(2) states that “a child has the right to be disciplined in accordance with his/her age, physical, psychological, emotional and mental condition and no discipline is justifiable if by reason of tender age or otherwise the child is incapable of understanding the purpose of the discipline”, but does not prohibit all corporal punishment by parents. We have no further information on the progress of the Bill.

1.3 Corporal punishment is lawful in **schools**. The Education Bill (2009) would prohibit it.

1.4 In the **penal system**, corporal punishment is lawful as a sentence for crime. It is prohibited under the Child Protection Act, but articles 307 and 308 of the Criminal Procedure and Evidence Act (1981) allow males under the age of 21 years to be given a sentence of “moderate correction of whipping”. Judicial corporal punishment would be prohibited by the Child Protection and Welfare Bill, as at July 2008 still under consideration.

1.5 There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

1.6 Corporal punishment is lawful in **alternative care settings** under the right of guardians to administer “reasonable punishment” in the Child Protection Act (see above).

2 Recommendations by human rights treaty monitoring bodies

2.1 In its concluding observations on the state party’s initial report in 2001, the **Committee on the Rights of the Child** recommended explicit prohibition of corporal punishment, by law, in schools, care and juvenile justice systems, the family, and as a sentence of the courts (CRC/C/15/Add.147, paras. 31, 32, 61 and 62).

2.2 In 1999, the **Human Rights Committee** recommended abolition of corporal punishment of detainees, in law and in practice (CCPR/C/79/Add.106, concluding observations on initial report, para. 20).