



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

TUNISIA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 1st session, 2007

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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 Tunisia, despite repeated recommendations to introduce prohibition by the Committee on the Rights of the Child.

We hope the Review will highlight with concern Tunisia’s record of ignoring treaty body recommendations and strongly recommend that Tunisia 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 Tunisia

The home

Corporal punishment is lawful in the **home**. Article 313 of the Criminal Code permits certain forms of corporal punishment against children when inflicted by persons authorised to do so.

The Code of Child Protection (1995, in force 1996) protects children from “usual ill-treatment”, defined in article 24 as “abidance of the child to torture, repeated violations against his/her physical integrity, or her/his detention, or the habit of depriving her/him of food, or to commit any brutal act which is susceptible to affect the emotional or psychological well being of the child”. “Usual ill-treatment” is punishable under article 224 of the Criminal Code.

Schools and other settings

Corporal punishment is lawful in **schools**. Ministerial Circular No. 101 (1997) prohibits all forms of corporal punishment and practices hurting the dignity of children, but this is not reflected in law.

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 all forms 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 the issue of ending corporal punishment of children in families in Tunisia in 1995, in its concluding observations on the state party’s initial report (CRC/C/15/Add.39, para. 17). In 2002, in its concluding observations on the second report, the Committee noted the lack of follow-up to the previous recommendations and again recommended explicit prohibition of all corporal punishment, including in the family, stating (CRC/C/15/Add.18, paras. 33 and 34):

“While noting the provision in the Code of Child Protection regarding ill-treatment (art. 24) and the relevant provision in the Penal Code (art. 224), as well as the Ministerial Circular of December 1997 banning all forms of corporal punishment and practices hurting the dignity of children, the Committee is concerned that, as noted by the delegation, corporal punishment is only a crime if it is prejudicial to the health of the child. It notes with concern that violence as a means of discipline in the home and at school continues to be acceptable in the State party. The Committee regrets that no follow-up to the Committee’s previous recommendation has been initiated to protect children from ill-treatment (ibid., para. 17)....

“The Committee urges the State party to:

- a) take all legislative measures to prohibit in the most effective way possible all forms of physical and mental violence, including corporal punishment and sexual abuse, against children in the family, in the schools and in institutions; ...
- c) carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment....”