

Corporal punishment of children in Senegal: Briefing for the Universal Periodic Review, 17th session, 2013

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

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.

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 as a matter of priority.

The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities. There is growing progress across all regions in challenging this common form of violence against children. But many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope the Working Group of the UPR will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies on this issue, as well as to the recommendations made during the first cycle of the UPR.

Corporal punishment of children is lawful in Senegal despite the Government's acceptance of recommendations to protect children from it made during the UPR in 2009 and repeated recommendations by the Committee on the Rights of the Child and the Committee Against Torture.

We hope the Working Group will note with concern the legality of corporal punishment in Senegal – and the immediate opportunity to address it by including prohibition in the draft new Children's Code. We hope states will raise the issue during the review in 2013 and recommend to Senegal that legislation is enacted to explicitly prohibit corporal punishment of children in all settings including in the home as a matter of priority.

1 Review of Senegal in the first cycle UPR (2009)

1.1 Senegal was reviewed in the first cycle of the Universal Periodic Review in 2009 (session 4). The issue of corporal punishment of children was raised in an advance question by Sweden and in the compilation of UN information.¹ The following recommendation was made and was accepted by the Government:²

“Continue efforts and take necessary policy measures to ensure that children are protected from corporal punishment and other forms of violence or exploitation (Sweden)”

1.2 In 2012, a draft Children’s Code was under discussion, the Family Code and Penal Code were under review, and there was a process of harmonising legislation with the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. We have yet to ascertain whether prohibition of corporal punishment has been proposed in the context of these reforms; but in terms of legislation currently in force, there has been no change in the legality of corporal punishment of children in Senegal since the initial UPR. Today, as in 2009, corporal punishment is lawful in the home, in some schools, in alternative care settings and possibly in penal institutions.

2 Legality and practice of corporal punishment in Senegal

2.1 ***Home (lawful)***: Article 285 of the Family Code gives the right to the person having parental authority to inflict correction to a degree compatible with the child’s age and the correction of his/her behaviour. Provisions against violence and abuse in the Criminal Code are not interpreted as prohibiting all corporal punishment in childrearing.

2.2 ***Schools (not fully prohibited)***: Corporal punishment is prohibited in schools for children aged 6-14 in Decree No. 79-11.65 1979 but there is no explicit prohibition in other schools and article 285 of the Family Code (see above) potentially applies.

2.3 ***Penal system (?not fully prohibited)***: There is no provision for judicial corporal punishment in criminal law. It is considered unlawful as a disciplinary measure in penal institutions but there is no explicit prohibition. Article 100 of Decree No. 2001 (relative to the procedure of implementation and adjustment of the sanctions), applicable to prisons, states that “the personnel of the penal institutions can only employ force towards a prisoner in the case of violent resistance (by the inmate) or in the case of inertia to the orders given”.

2.4 ***Alternative care settings (lawful)***: Corporal punishment is lawful under article 285 of the Family Code (see above).

2.5 Research in 2010 by the African Child Policy Forum found that in Senegal, 60% of children with disabilities had experienced at least one type of physical violence, most commonly being hit, punched, kicked or beaten, followed by being choked, burnt or stabbed.³ In another study 52% of respondents in Senegal had been hit, 79% beaten, 21% kicked, 25% denied food and 16% choked or burned; parents and close relatives were the

¹ 18 December 2008, A/HRC/WG.6/4/SEN/2, Compilation of UN information, para. 19

² 5 October 2009, A/HRC/11/24, Report of the working group, para. 97(26)

³ The African Child Policy Forum (2010), *Violence Against Children With Disabilities in Africa: Field Studies from Cameroon, Ethiopia, Senegal, Uganda and Zambia*, Addis Ababa: The African Child Policy Forum

most common perpetrators of physical violence.⁴ A report by Human Rights Watch documented widespread physical punishment of children (talibés), mostly boys under 12, attending residential Quranic schools in Senegal. The children, who were forced by the teachers who serve as their guardians (marabouts) to beg on the streets, experienced severe physical punishment including being beaten with electric cables or clubs for not bringing back the set quota of money and food.⁵

3 Recommendations by human rights treaty monitoring bodies

- 3.1 **CRC:** The Committee on the Rights of the Child has twice recommended that all corporal punishment be prohibited in Senegal, including in the family – in its concluding observations on the state party’s initial report in 1995⁶ and on the second report in 2006.⁷
- 3.2 **CAT:** In January 2013, the Committee Against Torture recommended that the Family Code in Senegal be amended to explicitly prohibit corporal punishment.⁸

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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⁴ The African Child Policy Forum (2010), *Childhood Scars in Africa: A Retrospective Study on Violence Against Girls in Burkina Faso, Cameroon, Democratic Republic of the Congo, Nigeria and Senegal*, Addis Ababa: The African Child Policy Forum

⁵ Human Rights Watch (2010), *Off the Backs of the Children: Forced Begging and Other Abuses against Talibés in Senegal*

⁶ 27 November 1995, CRC/C/15/Add.44, Concluding observations on initial report, para. 24

⁷ 20 October 2006, CRC/C/SEN/CO/2, Concluding observations on second report, paras. 36 and 37

⁸ 17 January 2013, CAT/C/SEN/CO/3 Concluding observations on third report, para. 15