

# **Corporal punishment of children in Mauritania: Briefing for the Universal Periodic Review, 23<sup>rd</sup> session, 2015**

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

**The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.**

**In Mauritania, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child, the Committee Against Torture, the Human Rights Committee and during the 1<sup>st</sup> cycle UPR of Mauritania (which the Government did not accept or reject).**

**We hope the Working Group will note with concern the legality of corporal punishment of children in Mauritania. We hope states will raise the issue during the review in 2015 and make a specific recommendation that Mauritania clearly prohibit all corporal punishment of children in all settings, including the home and as a sentence for crime.**

## **1 Review of Mauritania in the 1<sup>st</sup> cycle UPR (2010) and progress since then**

1.1 Mauritania was reviewed in the first cycle of the Universal Periodic Review in 2010 (session 9). The issue of corporal punishment of children was raised in an advanced questions by Norway, the compilation of UN information<sup>1</sup> and in the summary of stakeholders' information.<sup>2</sup> The following recommendations were made (not accepted or rejected by the Government):<sup>3</sup>

“Remove the death penalty and corporal punishment from Mauritanian laws, and establish special procedures for juvenile justice (Ecuador);

“Eradicate in law and in practice corporal punishment and the amputation of limbs ... as recommended by the Committee on the Rights of the Child (Israel);

“Take measures to ... eradicate corporal punishment of children (Norway);

“Reinforce the legal framework for the protection of children, and remove the provision in the penal code establishing the age of criminal responsibility as 7 years old, as well as the corporal punishment of children, including flagellation and amputation (France);

<sup>1</sup> 10 August 2010, A/HRC/WG.6/9/MRT/2, Compilation of UN information, para. 40, 47, 48, 85 and 87

<sup>2</sup> 10 August 2010, A/HRC/WG.6/9/MRT/3, Summary of stakeholders' information, paras. 24 and 30

<sup>3</sup> 4 January 2011, A/HRC/16/17, Report of the working group, paras. 92(30), 92(39), 92(40), 92(42) and 92(45)

“... ban any form of corporal punishment (Spain)”

1.2 Prohibiting and eliminating all corporal punishment of children in all settings including the home – through law reform and other measures – is a key obligation under the Convention on the Rights of the Child and other human rights instruments, though it is one frequently evaded by Governments. Since the initial UPR of Mauritania in 2010, there has been no change to the legality of corporal punishment of children – it remains lawful in all settings. During this time, Mauritania has received recommendations to prohibit and eliminate corporal punishment in all settings from the Human Rights Committee and the Committee Against Torture (see paras. 3.2 and 3.3 below).

## **2 Legality of corporal punishment in Mauritania**

- 2.1 **Summary:** In Mauritania, corporal punishment of children is lawful in all settings – the home, alternative care settings, day care, schools, penal institutions and as a sentence for crime. A Fatwa against “excessive” corporal punishment has partly addressed the problem, but it does not apply to all forms of corporal punishment and it has not been confirmed through legislative reform.
- 2.2 **Home (lawful):** Provisions against violence and abuse in the Criminal Code 1983, the law “sur la traite des personnes” 2003, the Personal Status Code 2001 and the Constitution 1991 are not interpreted as prohibiting all corporal punishment of children. Order No. 2005-015 of 5 December 2005 on the judicial protection of children states that the subjection of children to torture or to acts of barbarity shall be punishable by six years’ rigorous imprisonment” and provides for harsh sentences if the offence is committed repeatedly or if it results in damage, mutilation, disability or death (art. 11), but it does not prohibit corporal punishment. In 2009, a Fatwa was issued against corporal punishment of children but it only addresses “excessive” corporal punishment and it has not been confirmed through legislative reform.<sup>4</sup> According to UNICEF statistics collected in 2011, 87% of 2-14 year olds in Mauritania were violently “disciplined” in the month prior to the survey.<sup>5</sup>
- 2.3 **Alternative care settings (lawful):** Presumably, the Fatwa against corporal punishment (see para. 2.2, above) would apply to alternative care settings, including in the *kafalah* system, but there is no explicit prohibition of corporal punishment in law.
- 2.4 **Day care (lawful):** Presumably, the above mentioned Fatwa against corporal punishment would apply to early childhood care and to day care for older children, but there is no explicit prohibition of corporal punishment in law.
- 2.5 **Schools (lawful):** The Ministry of Education has stated that corporal punishment should not be used (Decision No. 701 MEN/PR of 4 November 1968, art. 17), but there is no explicit prohibition in law.
- 2.6 **Penal institutions (lawful):** There is no explicit prohibition of corporal punishment in penal institutions, though there is protection more generally from violence. The Code of Criminal Procedure 2007 states in article 58: “Any person deprived of his or her liberty as a result of arrest or detention or any other form of deprivation of liberty must be treated in accordance with respect for human dignity. Mental or physical ill-treatment of detainees ... are prohibited.” Article 15 of the National Police Regulations Act No. 2010-07 of 20 January 2010 prohibits “all cruel or degrading treatment that violates human rights”. Decree No. 2003-1524 (2003) on the structural regulations of rehabilitation centres for children in conflict with the law contains provisions on the rights of the child but we have no further details.

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<sup>4</sup> “On the Prohibition of Excessive Child Beating in Islamic *Shariah* (Law): Abstract of a comprehensive social, educational and legal study of the negative impact of child beating, and the rules governing it in Islamic *Shariah* (law)”, prepared by Professor Imam Hadd Amin Ould Al-Salek, Imam of the Old Mosque, Nouakchott, and President of the Imams and Ulema Coalition for the Rights of Women and Children in Mauritania, June 2009

<sup>5</sup> UNICEF (2014), *Hidden in Plain Sight: A statistical analysis of violence against children*, NY: UNICEF

2.7 **Sentence for crime (lawful):** The Constitution states in article 13 that “Any form of mental or physical violence is prohibited” but the Criminal Code 1983 provides for punishments of amputation and flogging (e.g. art. 7). Order No. 2005-015 on the judicial protection of children states that the penalties imposed on children aged 15 to 18 convicted of an offence may not exceed half of the adult sentences, but it does not prohibit corporal punishment. Article 285 of the Criminal Code states that “any adult who deliberately inflicts injury on, strikes, amputates a limb of, or inflicts any form of violence on an innocent person shall be punished by qisas [retribution in kind].” We have yet to establish the age at which adulthood is defined for the purposes of this provision.

### **3 Recommendations by human rights treaty monitoring bodies**

- 3.1 **CRC:** The Committee on the Rights of the Child has twice recommended to Mauritania that corporal punishment be prohibited in all settings – in its concluding observations on the initial report in 2001<sup>6</sup> and on the second-fourth report in 2009.<sup>7</sup>
- 3.2 **CAT:** In 2013, the Committee Against Torture recommended that Mauritania explicitly prohibit corporal punishment of children in all settings.<sup>8</sup>
- 3.3 **HRC:** In 2013, the Human Rights Committee recommended that measures be taken to end corporal punishment in all circumstances in Mauritania.<sup>9</sup>
- 3.4 **CEDAW:** In 2007, the Committee on the Elimination of Discrimination Against Women expressed concern at the social acceptance of physical chastisement of family members.<sup>10</sup>

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*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.*

<sup>6</sup> 6 November 2001, CRC/C/15/Add.159, Concluding observations on initial report, paras. 29 and 30

<sup>7</sup> 17 June 2009, CRC/C/MRT/CO/2 Concluding observations on second report, paras. 40, 41 and 74

<sup>8</sup> 18 June 2013, CAT/C/MRT/CO/1, Concluding observations on initial report, para. 25

<sup>9</sup> 21 November 2013, CCPR/C/MRT/CO/1, Concluding observations on initial report, para. 16

<sup>10</sup> 11 June 2007, CEDAW/C/MRT/CO/1, Concluding observations on initial report, paras. 29 and 30