

BENIN

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 14th session, 2012

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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 Benin, despite repeated recommendations made by the Committee on the Rights of the Child and the Committee Against Torture.

We hope the Human Rights Council will note with concern the repeated and unfulfilled treaty body recommendations on corporal punishment. We hope states will raise the issue during the review in 2012 and recommend to Benin that legislation be enacted to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of urgency.

1 The initial review of Benin by the Human Rights Council (2008)

1.1 Benin was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 2). No recommendations were made concerning corporal punishment of children, though the issue was included in the compilation of UN information¹ and the summary of stakeholders' information.²

1.2 Prohibiting corporal punishment is a key obligation under the Convention on the Rights of the Child and other international human rights instruments, though it is an obligation frequently ignored or evaded by governments. Specifically challenging Benin in this respect during its second UPR would reflect the seriousness with which the Human Rights Council views violations of the rights of all persons, including children.

1.3 There has been no progress in Benin regarding the state's obligation to legally protect children from corporal punishment: while it is unlawful as a sentence for crime, it is lawful in the home, schools, penal institutions and alternative care settings.

2 Legality of corporal punishment in Benin

2.1 Corporal punishment is lawful in the **home**. There appears to be no confirmation in the Code on Persons and the Family (2004) of a "right" of parents to administer physical punishment, but provisions against violence and abuse in this Code and in the Criminal Code and the Constitution (1990) are not interpreted as prohibiting corporal punishment in childrearing.

2.2 In **schools**, Ministerial Circulars No. 100/MENC (1962) and No. 1264/MENCJ (1981) state that corporal punishment should not be used, but there is no prohibition in law. Law No. 2003-17 on the orientation of national education is silent on the issue, stating only that the obligations of pupils and students cover all aspects of their studies, including discipline and compliance with rules (article 56).

2.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime but it is lawful as a disciplinary measure in penal institutions. In 2005, the Government stated that corporal punishment is prohibited in penal institutions,³ but has more recently confirmed that there is no explicit prohibition.⁴

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

2.5 A 2009 study involving interviews with girls aged 6-14 and the mothers of girls aged 2-5 and a survey of 4,649 women and 1,550 men found that corporal punishment at home and in schools was very common and that 88.5% of girls aged 2-5, 88% of girls aged 5-9 and 87.7% of girls aged 10-14 had been beaten. When asked about the reasons for violence experienced by girls, 85.5% of interviewees said that it was for "education".⁵

¹ 7 April 2008, A/HRC/WG.6/2/BEN/2, Compilation of UN information, para. 15

² 9 April 2008, A/HRC/WG.6/2/BEN/3, Summary of stakeholders' information, paras. 12, 13 and 14

³ 24 November 2005, CRC/C/BEN/2, Second report to the Committee on the Rights of the Child, para. 314

⁴ Information provided to the Global Initiative, 18 November 2011

⁵ Ministère de la Famille et de la Solidarité National (2009), *Les Violences Faites aux Femmes au Bénin*

3 Recommendations by human rights treaty monitoring bodies

3.1 The **Committee on the Rights of the Child** has twice made recommendations to prohibit and eliminate corporal punishment of children in the home and other settings in Benin – in 1999 and in 2006.⁶

3.2 In 2008, the **Committee Against Torture** recommended prohibition of corporal punishment of children in the home and in institutions.⁷

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⁶ 12 August 1999, CRC/C/15/Add.106, Concluding observations on initial report, para. 19; 20 October 2006, CRC/C/BEN/CO/2, Concluding observations on second report, paras. 9, 39, 40, 41 and 62

⁷ 19 February 2008, CAT/C/BEN/CO/2, Concluding observations on second report, para. 23