

MALI

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 15th 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 Mali, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and Mali’s acceptance of the recommendation on the issue made during the initial UPR in 2008.

We hope the Human Rights Council will note with concern the continued legality of corporal punishment of children in Mali. We hope states will raise the issue during the review in 2013 and recommend to Mali that legislation is enacted to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of priority.

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

1.1 Mali was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 2). The issue of corporal punishment was included in the compilation of UN information¹ and the summary of stakeholders' information.² The following recommendation was made and was accepted by Mali:

“To adopt effective measures to combat all forms of ill-treatment of children, including corporal punishment (Italy)”³

1.2 The obligation under international human rights law to combat corporal punishment of children – to prohibit and eliminate it – entails both legislative and non-legislative measures. However, the new Family Code adopted in Mali following the initial UPR failed to prohibit corporal punishment of children. Indeed, there has been no change in the legality of corporal punishment since Mali's previous review: now, as then, it is lawful in the home and in alternative care settings.

2 Legality of corporal punishment in Mali

2.1 Corporal punishment is lawful in the **home**. The Family Relations Code (1973) stated that “the authority of the father comprises a right to custody, of management, surveillance and correction” (article 84). The Code was replaced by the new Family Code (2009, amended 2011) which does not include the right of correction, stating only that parents must ensure the “maintenance and education” of the child (article 565). However, this is a silent repeal and does not send a clear message that all corporal punishment in childrearing is unlawful. The Code on the Protection of the Child (2002) is not interpreted as prohibiting all corporal punishment in childrearing.

2.2 Corporal punishment is prohibited in **schools**, under internal regulations No. 94-4856/MEB-CAB of 8 April 1994 (fundamental schools), No. 94-4999/MEB/CAB (special education institutions) and No. 94-5000 of 15 April 1994 (kindergartens).

2.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime: it is not a permitted sanction for crime under the Code on the Protection of the Child (article 169) or the Criminal Code. It is considered unlawful as a disciplinary measure in penal institutions, but there is no explicit prohibition. The penitentiary system is governed by Decree No. 88-002 (1988), article 105 of which forbids staff from using acts of violence, and punishments for disciplinary offences (article 112) do not include corporal punishment. Article 14 of the Code on the Protection of the Child states that a child placed in a protective educational or rehabilitative institution, or in a place of detention, has the right to physical and moral protection but does not explicitly prohibit corporal punishment.

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

3 Recommendations by human rights treaty monitoring bodies

3.1 The **Committee on the Rights of the Child** has twice expressed concern at the legality of corporal punishment of children in Mali and recommended that it be explicitly prohibited – in

¹ 8 April 2008, A/HRC/WG.6/2/MLI/2, Compilation of UN information, paras. 7 and 19

² 3 April 2008, A/HRC/WG.6/2/MLI/3, Summary of stakeholders' information, paras. 11 and 12

³ 13 June 2008, A/HRC/8/50, Report of the Working Group, para. 56(12)

its concluding observations on the state party's initial report in 1999 and on the second report in 2007.⁴

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⁴ 2 November 1999, CRC/C/15/Add.113, Concluding observations on initial report, para. 25; 3 May 2007, CRC/C/MLI/CO/2, Concluding observations on second report, paras. 6, 39 and 40