

KINGDOM OF THE NETHERLANDS
BRIEFING FOR THE HUMAN RIGHTS COUNCIL
UNIVERSAL PERIODIC REVIEW – 13th session, 2012

From Sharon Owen, Research Coordinator, Global Initiative,
info@endcorporalpunishment.org



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 prohibited in part, but not all, of the Kingdom of the Netherlands, despite repeated recommendations by the Committee on the Rights of the Child.

We hope the Human Rights Council will highlight with concern the failure to prohibit all corporal punishment of children in Aruba and the Netherlands Antilles, while acknowledging the achievement of prohibition in the Netherlands in Europe, and strongly recommend that legislation be enacted as a matter of urgency to prohibit corporal punishment of children in all settings throughout the Kingdom.

1 The initial review of the Kingdom of the Netherlands by the Human Rights Council

1.1 The Kingdom of the Netherlands was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 1). No recommendation was made concerning corporal punishment, though the issue was referred to in the compilation of UN information¹ and the summary of stakeholders' information.²

1.2 Prohibiting corporal punishment of children in all settings is a key obligation under the Convention on the Rights of the Child and other international human rights instruments. While this was achieved in the Netherlands in Europe in 2007, it has not been achieved in Aruba or in Netherlands Antilles.

1.3 Each part of the Kingdom of the Netherlands is individually responsible for protecting human rights and fundamental freedoms, while the Kingdom ensures that certain basic standards are met.³ Challenging the Kingdom with regard to the obligation to prohibit corporal punishment of children would ensure that this issue is addressed throughout the state and not only in the Netherlands in Europe.

2 Corporal punishment of children in the Kingdom of the Netherlands

2.1 Corporal punishment is unlawful in the home and all other settings in the **Netherlands in Europe**. Full prohibition was achieved in 2007, when the provisions on parental authority in the Civil Code were amended.

2.2 In **Aruba**, corporal punishment is lawful in the home, in schools, as a disciplinary measure in penal institutions, and in alternative care settings. Provisions against violence and abuse in the Criminal Code (in force 2008) are not interpreted as prohibiting corporal punishment of children. Under examination by the Committee on the Rights of the Child in 2009, the Government stated there were no plans to prohibit corporal punishment in the foreseeable future.⁴

2.3 In **Netherlands Antilles**, corporal punishment is lawful in the home. The new Civil Code of the Netherlands Antilles replaced the term "parental authority" with "parental responsibility" but did not prohibit corporal punishment. In schools, policy advises against the use of corporal punishment but there is no prohibition in law. Corporal punishment is unlawful as a sentence of the courts and possibly as a disciplinary measure in penal institutions but it is lawful in alternative care settings.

3 Recommendations by human rights treaty monitoring bodies

3.1 Following examination of the state party in 2009, the **Committee on the Rights of the Child** recommended that corporal punishment of children be prohibited in all settings,

¹ 19 March 2008, A/HRC/WG.6/1/NDL/2, Compilation of UN information, para. 32

² 13 March 2008, A/HRC/WG.6/1/NLD/3, Summary of stakeholders' information, para. 19. NB This summary reported information from the Global Initiative that the Netherlands prohibited corporal punishment in all settings, including the home, in 2007 but did not report information that such law reform had not been achieved in Aruba and Netherlands Antilles.

³ 7 March 2008, A/HRC/WG.6/1/NLD/1, National report submitted to the Universal Periodic Review, footnote 1

⁴ 23 January 2009, CRC/C/SR.1377, Summary record of CRC examination, para. 79

including the home, in Aruba and in Netherlands Antilles.⁵ The Committee had previously made this recommendation to Aruba in 2004⁶ and to the Netherlands Antilles in 2002.⁷

3.2 In 2010, the **Committee on Economic, Social and Cultural Rights** recommended prohibition of corporal punishment in the home and schools in Aruba.⁸

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
November 2011

⁵ 30 January 2009, CRC/C/NLD/CO/3 Unedited Version, Concluding observations on the third report of the Netherlands, paras. 36 and 37

⁶ 26 February 2004, CRC/C/15/Add.227, Concluding observations on initial report of Aruba and second report of Netherlands, paras. 43 and 44

⁷ 7 June 2002, CRC/C/15/Add.186, Concluding observations on initial report, paras. 36 and 37

⁸ 19 November 2010, E/C.12/NDL/CO/4-5 Advance Unedited Version, Concluding observations on fourth/fifth report, para. 22