



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

BRIEFING ON SENEGAL FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, PRESESSIONAL WORKING GROUP – Jul 2013

*From Peter Newell, Coordinator, Global Initiative
info@endcorporalpunishment.org*

The human rights obligation to prohibit corporal punishment – a key strategy in eliminating all forms of violence

The legality and practice of corporal punishment of girls breaches their fundamental rights to respect for their human dignity and physical integrity, to equality under the law and to protection from all forms of violence – rights guaranteed in the Convention on the Elimination of All Forms of Discrimination Against Women and other international human rights instruments. There are strong links between corporal punishment of children – girls and boys – and all other forms of violence, including gender-based violence. As the Committee on the Rights of the Child emphasised in its General Comment No. 8 (2006),¹ addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.

This briefing describes the legality of corporal punishment of children in Senegal. In light of General Recommendation No. 19 on Violence against women (1992), the links between corporal punishment of children and all other forms of violence including gender-based violence, the recommendations of treaty monitoring bodies, we hope the Committee on the Elimination of Discrimination Against Women will:

- **raise the issue of corporal punishment of girls in its List of Issues for Senegal, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home, and**
- **recommend to Senegal, in the concluding observations on the state examination in the absence of a report, that corporal punishment is explicitly prohibited in all settings, including the home, as a matter of priority.**

¹ General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” is available at www2.ohchr.org/english/bodies/crc/comments.htm.

1 The legality corporal punishment of children in Senegal

- 1.1 *Summary*: In Senegal, corporal punishment is unlawful as a sentence for crime and possibly in penal institutions but it is not fully prohibited in the home, schools and alternative care settings.
- 1.2 *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. 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 do not know if prohibition has been proposed in the context of these reforms.
- 1.3 *Schools (partial prohibition)*: 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 the authority to "correct" a child in article 285 of the Family Code potentially applies. During the Universal Periodic Review of Senegal in 2009, the Government stated that corporal punishment is prohibited in Koranic schools:² we have yet to verify this information.
- 1.4 *Penal system – sentence for crime (unlawful)*: There is no provision for judicial corporal punishment in criminal law.
- 1.5 *Penal system – disciplinary measure in penal institutions (?unlawful)*: Corporal punishment is considered unlawful, 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".
- 1.6 *Alternative care settings (lawful)*: Corporal punishment is lawful in alternative care settings under the authority to "correct" a child article 285 of the Family Code.

2 Recommendations by human right treaty monitoring bodies and during the UPR

- 2.1 *CRC*: The Committee on the Rights of the Child first recommended that corporal punishment of children be prohibited in the family in Senegal in 1995, following examination of the state party's initial report.³ In its concluding observations on the second report in 2006, the Committee recommended prohibition in all settings, including the home.⁴
- 2.2 *CAT*: In 2013, the Committee Against Torture recommended to Senegal that article 285 of the Family Code be amended to explicitly prohibit corporal punishment of children, including in the home.⁵

² 5 October 2009, A/HRC/11/24, Report of the working group, para. 60

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

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

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

2.3 *UPR*: Senegal was examined in the first cycle of the Universal Periodic Review in 2009 (session 4). The Government accepted a recommendation to take measures to ensure that children are protected from corporal punishment.⁶

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
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⁶ 5 October 2009, A/HRC/11/24, Report of the working group, para. 97(26)