

Corporal punishment of children in Haiti: Briefing for the Universal Periodic Review, 26th session, 2016

From Dr Sharon Owen, Research and Information Coordinator,
Global Initiative, sharon@endcorporalpunishment.org



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 Haiti, law reform to date has not achieved prohibition of all corporal punishment, despite repeated recommendations to by the Committee on the Rights of the Child, and the Government’s acceptance of relevant recommendation made during the 1st cycle UPR of Haiti in 2011.

We hope the Working Group will note with concern the legality of corporal punishment of children in Haiti. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Haiti explicitly prohibit all corporal punishment of children in the home and all settings.

1 Review of Haiti in the 1st cycle UPR (2011) and progress since

- 1.1 Haiti was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 12). The issue of corporal punishment of children was raised in the summary of stakeholders’ information.¹ No recommendations were made during the review specifically on corporal punishment of children, but the Government accepted a number of recommendations concerning protection of children from violence and abuse.²
- 1.2 Since the initial review in 2011, some moves have been made towards prohibiting corporal punishment of children but the necessary law reform has not yet been achieved: the legality of corporal punishment today is the same as it was in 2011. A Family Code Bill and a draft Children’s Code are under discussion which provide immediate opportunities for enacting clear prohibition of corporal punishment in all settings.
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Haiti. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Haiti clearly prohibit all corporal punishment of children in all settings, including the home.**

¹ 25 July 2011, A/HRC/WG.6/12/HTI/3, Summary of stakeholders' information, para. 29

² 8 December 2011, A/HRC/19/19, Report of the working group, paras. 88(35), 88(40), 88(74), 88(78) and 88(92)

2 Legality of corporal punishment in Haiti

Summary of current law and reforms needed in order to achieve prohibition

Corporal punishment of children in Haiti is unlawful in the penal system, schools and other settings outside the home, but it is not clearly prohibited in the home and possibly in some forms of alternative care and day care. Current deliberations on a Family Code Bill and a draft Children's Code provide immediate opportunities for achieving the necessary law reform.

- 2.1 **Home (lawful):** In 2001, a law was enacted prohibiting corporal punishment but there is a lack of clarity regarding its application to the home setting: articles 1 and 2 of the Law Against Corporal Punishment of Children 2001 explicitly prohibit corporal punishment but the remainder of the law appears to apply to organisations, schools and other institutions. There is some legal opinion that the prohibition does apply to parental corporal punishment, but there is uncertainty among NGOs and we have been unable to identify any associated public education and awareness raising campaigns. The Act of 7 May 2003 on the prohibition and elimination of all forms of abuse, violence, ill-treatment or inhumane treatment against children is silent on the issue of corporal punishment.
- 2.2 A Family Code Bill is under discussion and a new Children's Code is being drafted. In 2014, the draft Children's Code included explicit prohibition of corporal punishment in the home and other settings: it was approved by Cabinet and tabled in Parliament,³ but as at December 2015 no further progress had been made.⁴ A Child Protection Bill under discussion in May 2015 did not include prohibition.⁵
- 2.3 **Alternative care settings (?unlawful):** Corporal punishment is prohibited in alternative care settings such as institutions, orphanages, children's homes and places of safety under the Law Against Corporal Punishment of Children 2001. We have yet to confirm that the prohibition applies to foster care. The Act on the Prohibition and Elimination of All Forms of Abuse, Violence, Abuse or Degrading Treatment Against Children 2003 states that a child entrusted to a foster family should be treated as a member of the family (art. 3) and prohibits "abuses and violence of all kinds" (art. 2) but it does not explicitly prohibit corporal punishment.
- 2.4 **Day care (?unlawful):** Corporal punishment is prohibited in formal early childhood care such as nurseries, kindergartens, preschools and children's centres and in formal day care for older children such as day centres under the Law Against Corporal Punishment of Children 2001, but we have yet to confirm that the prohibition also applies to day care such as crèches, after-school childcare and childminding.
- 2.5 **Schools (unlawful):** Corporal punishment is prohibited under the Law Against Corporal Punishment of Children 2001.
- 2.6 **Penal institutions (unlawful):** Corporal punishment is prohibited as a disciplinary measure in penal institutions under the Law Against Corporal Punishment of Children 2001.
- 2.7 **Sentence for crime (unlawful):** There is no provision for judicial corporal punishment in criminal law.

³ Information provided by Save the Children in correspondence with the Global Initiative, 11 September 2014

⁴ Information provided by Save the Children in correspondence with the Global Initiative, 11 December 2015

⁵ <http://www.senat.fr/leg/pp113-799.html>, accessed 7 May 2015

3 Recommendations by human rights treaty bodies

3.1 **CRC:** In January 2016, the Committee on the Rights of the Child expressed concern at the widespread practise of corporal punishment of children in Haiti and at the lack of clarity in law concerning prohibition of all corporal punishment. The Committee recommended that Haiti “explicitly prohibit corporal punishment in all settings and vigorously enforce this prohibition”.⁶ The Committee had previously made recommendations on the issue to Haiti following examination of the initial state party report in 2003.⁷

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@encorporalpunishment.org
March 2016

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 since 2011 the Committee on the Rights of Persons with Disabilities.

⁶ 29 January 2016, CRC/C/HTI/CO/2-3 Advance Unedited Version, Concluding observations on second/third report, paras. 32 and 33

⁷ 18 March 2003, CRC/C/15/Add.202, Concluding observations on initial report, paras. 3, 36 and 37