

FRANCE

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 France, despite repeated recommendations of the Committee on the Rights of the Child and the European Committee of Social Rights.

We hope the Human Rights Council will note with concern the continued legality of corporal punishment of children in France. We hope states will raise the issue during the review in 2013 and recommend to France 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 France by the Human Rights Council (2008)

1.1 France was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 2). No recommendations were made concerning corporal punishment, though the issue was included in the summary of stakeholders' information.¹

1.2 Under the Convention on the Rights of the Child and other human rights instruments, states have an immediate obligation to prohibit and eliminate all corporal punishment of children in all settings, without exception. At the time of the initial UPR, the situation in France was that corporal punishment was prohibited in the penal system but was lawful in the home, schools and care settings. That situation has not changed, despite further recommendations made since the review by the Committee on the Rights of the Child and the European Committee of Social Rights (see below).

2 Legality of corporal punishment in France

2.1 Corporal punishment is lawful in the **home** under the “right of correction” in customary law. Provisions against violence and abuse in the Criminal Code (1994), the Civil Code, Act No. 2007-293 (2007) reforming child welfare and Act No. 2006-399 (2006) concerning domestic violence and violence against children are not interpreted as prohibiting all corporal punishment in childrearing. In 2010, a bill to abolish all forms of physical and psychological violence against children (Bill No. 1971), intended to prohibit all corporal punishment in childrearing, was filed in the National Assembly, but appears to have made no progress.

2.2 Research reveals a high prevalence of corporal punishment of children. A survey by the Union of Families in Europe (UFE) of 2,000 grandparents, parents and children found that 95% of adults and 96% of children had been smacked; 84% of grandparents and 87% of parents had administered corporal punishment. One in ten parents admitted to punishing their children with a “martinet” (a small whip); 30% of children said they had been punished with a martinet.² In interviews with 1,000 parents in 2007, 72% said they had “mildly” slapped their child on the face, 87% on the bottom; 32% had given their child a “resounding” slap on the face; 4.5% had beaten their child with an object; 7.9% said they never used corporal punishment; 85% agreed that “one should try to use as little corporal punishment as possible”, and 825% agreed that “non-violent child-rearing is the ideal”.³

2.3 Ministerial circulars state that corporal punishment should not be used in **schools** (Circular No. 91-124 of 6 June 1991 regarding primary schools and Circular No. 2000-105 of 11 July 2000 for secondary schools) but there is no explicit prohibition in law and “light correction” is tolerated in the same way as it is for parents. A High Court ruling in 1889 allowed a “right to correction” for teachers; a ruling in 2000 stated that this did not apply to habitual and “non-educational” corporal punishment. In 2010, the Government confirmed that judicial decisions have acknowledged the “right of correction” by parents, teachers and educators, laying down the conditions that it must be (i) harmless, (ii) of moderate intensity (slaps, clothes seized, ears and hair pulled) and (iii) aimed at maintaining school order and discipline.⁴

¹ 3 April 2008, A/HRC/WG.6/2/FRA/3, Summary of stakeholders' information, para. 12

² Union of Families in Europe (2007), *POUR ou CONTRE les fessées?*, Tassin: UFE

³ Bussmann, K. D. (2009), *The Effect of Banning Corporal Punishment in Europe: A Five-Nation Comparison*, Martin-Luther-Universität Halle-Wittenberg

⁴ 16 December 2010, RAP/RCh/FR/X(2010), National report to the European Committee of Social Rights, pp. 54-55

2.4 In the **penal system**, corporal punishment is unlawful as a sentence for crime. It is considered unlawful as a disciplinary measure in penal institutions, but there is no explicit prohibition in legislation. The Code of Criminal Procedure (1994) provides for respect for human dignity (article D.189) and prohibits violence towards detainees (article D.220). A decree of 4 April 1996 and its implementing circular of 12 April 1996 prohibit cruel, inhuman or degrading punishment.

2.5 Corporal punishment is lawful in **alternative care settings** under the customary “right of correction”. In 2003 the Supreme Court confirmed that nannies and babysitters have this right.

3 Recommendations by human rights treaty monitoring bodies

3.1 The **Committee on the Rights of the Child** first made recommendations on corporal punishment of children to France in 1994; it subsequently made strong recommendations to prohibit it in all settings, including the home, in 2004 and again in 2009.⁵

3.2 The **European Committee of Social Rights** has been similarly persistent in its condemnation of corporal punishment of children in France. On three occasions the Committee has found the situation in France to be not in conformity with the European Social Charter on the grounds that corporal punishment of children is not prohibited – in 2003, in 2005 and again in 2011.⁶

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⁵ 25 April 1994, CRC/C/15/Add.20, Concluding observations on initial report, para. 24; 30 June 2004, CRC/C/15/Add.240, Concluding observations on second report, paras. 38 and 39; 11 June 2009, CRC/C/FRA/CO/4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 6, 57 and 58

⁶ Conclusions 2003; Conclusions 2005; Conclusions 2011