

LUXEMBOURG

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.

At the time of the initial UPR of Luxembourg in 2008, legislation was enacted which prohibits all corporal punishment of children, complying with the state’s obligations under the Convention on the Rights of the Child and other human rights instruments.

We hope the Human Rights Council will note the achievement of law reform to prohibit corporal punishment in Luxembourg. We hope states will raise the issue during the review in 2013 and recommend to Luxembourg that the state undertake measures to implement the law and eliminate corporal punishment in practice.

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

1.1 Luxembourg was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 3). The issue of corporal punishment of children was included in the summary of stakeholders' information¹ and the following recommendation was made during the review:

“Take the necessary measures to ban the practice of corporal punishment within the family (France)”²

1.2 In response, the Government reported that new legislation had been adopted which achieves the necessary prohibition.³

1.3 The Global Initiative is pleased to confirm that the Law on Children and the Family adopted in November 2008 prohibits all corporal punishment of children. However, we have no information regarding efforts to ensure implementation of the law.

2 Corporal punishment of children in Luxembourg

2.1 Corporal punishment is prohibited in the home and other settings under article 2 of the Law on Children and the Family (2008), which prohibits physical violence and inhuman and degrading treatment within families and educative communities and is interpreted as prohibiting all corporal punishment, however light. The right of paternal punishment in the Civil Code was abolished in 1939. The National Education Code (2004) explicitly prohibits corporal punishment (article 9) in schools.

3 Recommendations by human rights treaty monitoring bodies

3.1 The **Committee on the Rights of the Child** first recommended prohibition of all corporal punishment of children in Luxembourg in 1998.⁴ The Committee reiterated its recommendation in 2005, and also recommended that Luxembourg strengthen its efforts to raise awareness among parents and care-givers of alternative non-violent forms of discipline.⁵

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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¹ 16 September 2008, A/HRC/WG.6/3/LUX/3, Summary of stakeholders information, para. 14

² 8 January 2009, A/HRC/10/72, Report of the Working Group, para. 53(12)

³ 8 January 2009, A/HRC/10/72, Report of the Working Group, para. 26; 17 March 2009, A/HRC/10/72/Add.1, Report of the Working Group: Addendum, paras. 23 and 24

⁴ 24 June 1998, CRC/C/15/Add.92, Concluding observations on initial report, paras. 13 and 31

⁵ 31 March 2005, CRC/C/15/Add.250, Concluding observations on second report, paras. 6, 38 and 39