



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

DEMOCRATIC REPUBLIC OF THE CONGO
BRIEFING FOR THE HUMAN RIGHTS COUNCIL
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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.

The Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and 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. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

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 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, setting a goal of 2009.

Summary

This briefing describes the legality of corporal punishment of children in Democratic Republic of Congo, despite the repeated recommendations of the Committee on the Rights of the Child. We hope the Review will highlight the importance of prohibition of corporal punishment of children, and strongly recommend that the government introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including the home.

1 Legality of corporal punishment in Democratic Republic of the Congo

1.1 Corporal punishment is lawful in the **home**. Article 326(4) of the Family Code (1987) states that “a person exercising parental authority may inflict reprimands and punishments on the child to an extent compatible with its age and the improvement of its conduct”. Legal provisions against violence and abuse in the Criminal Code and the Family Code are not interpreted as prohibiting all corporal punishment in childhood. In December 2008, a draft Child Protection Code was under discussion.

1.2 Corporal punishment is unlawful in **schools**.

1.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime but it is not explicitly prohibited as a disciplinary measure in penal institutions.

1.4 Corporal punishment is lawful in **alternative care settings**, where those with parental responsibility have a right to punish the child under article 326(4) of the Family Code.

2 Recommendations by human rights treaty monitoring bodies

2.1 Following examination of the state party’s second report in January 2009, the **Committee on the Rights of the Child** expressed concern at the legality of corporal punishment in the home and institutions. The Committee recommended explicit prohibition in all settings (CRC/C/COD/CO/2 Unedited Version, paras. 39 and 40). The Committee had made similar recommendations in its concluding observations on the initial report in 2001 (CRC/C/15/Add.153, paras. 38 and 39).