

# Newsletter 30

March 2015



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

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Welcome to the quarterly e-newsletter from the Global Initiative to End All Corporal Punishment of Children. This newsletter is sent to supporters of the aims of the Global Initiative and others who we think will be interested. We hope you find this update useful; please share it and if you have any comments, contributions or feedback, email us at [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).

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## Global news and developments

### Benin and Andorra achieve prohibition of all corporal punishment

On 26 January, **Benin's** National Assembly passed the Children's Code 2015, which states in article 39 that discipline by parents and others must respect the child's human dignity. Article 130 states (unofficial translation): *"The State will ensure that discipline within the family, at school and in other public or private institutions does not involve corporal punishment or any other form of cruel or degrading treatment."* The prohibition is confirmed in relation to schools in article 119 and for children in care in article 220.

In **Andorra**, the Criminal Code 2005, which punishes domestic violence and

physical ill-treatment, has been amended to confirm that provisions against assault – including that which does not cause injury – include corporal punishment.

This brings the total number of states prohibiting all corporal punishment of children to 46 (seven in Africa, 28 in Europe) with a further 47 states committed to law reform. For more information, see the individual country reports for [Benin](#) and [Andorra](#).

### **France must prohibit all corporal punishment to comply with human rights ruling**

On 4 March 2015, the European Committee on Social Rights found France in violation of article 17(1) of the Revised European Social Charter due to the lack of express and comprehensive prohibition of all forms of corporal punishment of children in French legislation. The unanimous decision notes that "there is now a wide consensus at both the European and international level among human rights bodies that the corporal punishment of children should be expressly and comprehensively prohibited in law".

The decision also recalls the Committee's consistent interpretation of the Charter regarding corporal punishment of children, laid down most recently in its 2006 decision on a complaint against Portugal, that to comply with Article 17, states' domestic law must prohibit all forms of violence against children and that the relevant provisions must be sufficiently clear, binding and precise to preclude the courts from refusing to apply them to violence against children. Read more on the [legality](#) of corporal punishment in France or see [full details](#) of the complaint and the decision.

### **Other moves and progress towards prohibition**

**Nauru:** The Education Act has prohibited corporal punishment of children in schools.

**Philippines:** House Bill 4907 passed its third reading in the House of Representatives in December 2014; in January it passed its first reading in the Senate and is currently at Committee stage. If passed, it would achieve prohibition in all settings, including the home and alternative care settings.

**Uganda:** The Children (Amendment) Bill, tabled in February 2015 by Gender, Labour and Social Affairs' minister Mary Karoro Okurut, is under discussion in

Parliament. If passed, the Bill would prohibit corporal punishment of children in all settings.

**Zimbabwe:** In a High Court review judgment concerning the case of a 15-year old boy sentenced to judicial caning (*S v Chokuramba*), it was declared that corporal punishment as a criminal sanction for juveniles is no longer lawful because the new Constitution, which came into effect in 2013 places no limitation on protection from inhuman treatment and, unlike the previous Constitution, makes no explicit provision for “moderate corporal punishment”. The ruling also suggests that corporal punishment by parents, guardians and persons *in loco parentis* might now be unconstitutional. In order to have legal force, this declaration of unconstitutionality must be confirmed by the Constitutional Court.

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## Advocacy Resources

### New resources from the Global Initiative

[\*Prohibiting all corporal punishment of children: progress and delay\*](#): This March 2015 edition updates the Global Initiative's popular Global Progress and Delay leaflet - listing the states that have prohibited all corporal punishment and those committed to law reform, detailing states where corporal punishment is not fully prohibited in all settings and providing a range of other facts, figures and graphics. Please note that since the publication of this leaflet, Andorra and Benin have been added to the list of states that have prohibited all corporal punishment, bringing the current total to 46.

[\*Ending corporal punishment of children – a handbook for worship and gatherings\*](#): This substantial new resource, published in 2015 by the Churches' Network for Non-violence and the Global Initiative to End All Corporal Punishment of Children, includes a Bible study, prayers, vigils, liturgies and reflections on corporal punishment of children and how it can be prohibited and replaced with positive, non-violent adult-child relationships. It is suitable for both private and collective use and can be adapted for the local context or used to trigger ideas for further studies or reflections. A limited number of hard copies is available: email [info@churchesfornon-violence.org](mailto:info@churchesfornon-violence.org).

[\*Prohibiting violent punishment of girls and boys - a key element in ending family\*](#)

[violence](#): This briefing by the Global Initiative and Save the Children examines the links between corporal punishment and domestic violence, highlighting the opportunities presented by the 34 states currently developing laws against domestic violence for achieving prohibition of corporal punishment. The briefing encourages those working with and for the rights of women and girls to see prohibition of corporal punishment as a fundamental element in addressing gender-based violence and to advocate strongly for this necessary law reform.

[Cruel, inhuman and degrading: ending corporal punishment in penal systems for children](#): This report by the Global Initiative and Save the Children was launched at the 2015 World Congress on Juvenile Justice, held in Geneva in January. The report documents the states where children may be lawfully subjected to violent punishment as a criminal sentence or as a disciplinary measure within penal institutions. It also identifies the many immediate opportunities for achieving prohibition of these barbaric practices and outlines international and national advocacy for abolition.

#### **Other useful resource**

[From a whisper to a shout: A call to end violence against children in alternative care](#): This report, published in December 2014 by SOS Children's Villages and the University of Bedfordshire, finds children living in alternative care to be at high risk of physical abuse under the guise of "discipline". It also suggests that there may be a gender dimension, with boys and girls experiencing different types or frequencies of violent punishment, and that children from minority groups may also be more likely to experience corporal punishment than others. It recommends that states strengthen national legislation to ensure there are specific provisions against violence in all forms of alternative care, including "harmful institutional practices that could include abusive forms of discipline or control".

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## **News from the UN and regional human rights systems**

### **Special Rapporteur on torture**

In his [Thematic report on the torture and ill-treatment of children deprived of their liberty](#), presented to the 28th session of the Human Rights Council in March,

Special Rapporteur on torture, Juan E Méndez, finds, with regard to the jurisprudence of United Nations treaty bodies and the European Court, that any form of corporal punishment violates the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. He also documents the regular use of corporal punishment as a disciplinary measure for children in detention (including severe caning, flogging, beating with sticks and electric cords, beatings on the buttocks with wooden boards and being forced to kneel for long periods with hands in the air) and calls for its prohibition.

### **Treaty bodies**

In January 2015 the **Committee on the Rights of the Child** held its 68th session, reviewing the prohibition and elimination of corporal punishment in relation to all the states being examined under the Convention on the Rights of the Child. To Sweden, Turkmenistan and Uruguay – where corporal punishment is prohibited in all settings – the Committee recommended measures to support and strengthen implementation of the law. To those countries where full prohibition has not yet been achieved – Colombia, Dominican Republic, Gambia, Iraq, Jamaica, Mauritius, Switzerland and UR Tanzania – the Committee recommended law reform to prohibit corporal punishment in all settings, including the home. To Colombia, Gambia, Jamaica and Tanzania the Committee also recommended the repeal of legal defences for the use of corporal punishment in childrearing.

Following examination of the Maldives at its 60th session in February/March 2015, the **Committee on the Elimination of Discrimination against Women** recommended abolition of flogging as a sentence for consensual sexual relations outside marriage.

Following its 24th session in December 2014, the **African Committee of Experts on the Rights and Welfare of the Child** recommended to states that corporal punishment be prohibited in all settings. To **Guinea**, the Committee recommended “that the State Party bans corporal punishment in all settings; undertake measures to effectively punish the authors of violence against children; introduce nonviolent disciplining mechanisms in schools and sensitize the society about positive parenting”. Similar recommendations were made to **Mozambique, Sudan and Ethiopia**. To **Kenya**, where corporal punishment is unlawful in all settings under the Constitution 2010, the Committee recommended implementation of the prohibition.

### **Universal Periodic Review outcomes**

The obligation to prohibit and eliminate corporal punishment of children continues to be raised with states in the Universal Periodic Review of their overall human rights records. The Global Initiative submits briefings on every state being reviewed, sharing advance draft briefings with relevant organisations to encourage submissions at national level. We also conduct a follow up programme, pursuing the issue with states that accept recommendations to prohibit corporal punishment by writing to key NGOs, NHRIs and Government ministers, and undertake ongoing analysis of coverage of the issue in all aspects of the UPR process (for further information email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)).

The 21st session of the Universal Periodic Review was held in January 2015. Recommendations to prohibit all corporal punishment of children were made to Armenia, Grenada, Guinea-Bissau, Guyana, Kyrgyzstan, Kiribati, Kuwait and Turkey. Turkey accepted the recommendation; the responses of governments in the other states are due by June 2015.

### **Submitting information to the UN human rights system**

The Global Initiative regularly briefs human rights treaty monitoring bodies prior to examination of state parties, and encourages national NGOs and human rights institutions to do likewise. We are particularly trying to identify “key” NGOs and human rights institutions in each state with whom we can work more closely in briefing the treaty bodies: if you/your organisation is interested please contact [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).

The following deadlines for briefing the treaty bodies are based on information available at the time of writing: please note that information is subject to change at short notice. We are always willing to advise NGOs and human rights institutions on the practical details of how to submit briefings (email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)).

#### **Committee on the Rights of the Child:**

(1) Session 72 Pre-Sessional Working Group (5-9 Oct 2015). The PSWG will adopt Lists of Issues for Antigua and Barbuda, Barbados, Bulgaria, Pakistan, St Vincent and the Grenadines, Samoa, Slovakia, Suriname and UK: the deadline for submitting briefings is 1 July 2015.

#### **Committee Against Torture:**

(1) Session 54 (20 Apr – 15 May 2015). The Committee will examine Colombia,

Congo, Luxembourg, New Zealand, Romania, Serbia, Spain and TFYR Macedonia: the deadline for submitting briefings is 6 April 2015.

(2) Session 55 (27 Jul – 14 Aug 2015). The Committee will examine Iraq, Slovakia and Switzerland: the deadline for submitting briefings is 13 July 2015.

(3) Session 56 (9 Nov – 9 Dec 2015). The Committee will examine Austria, Azerbaijan, China (incl. Hong Kong and Macau), Denmark, Jordan and Liechtenstein: the deadline for submitting briefings is 26 October 2015.

**Committee on Economic, Social and Cultural Rights:**

(1) Session 55 (1-19 Jun 2015). The Committee will examine Chile, Ireland, Kyrgyzstan, Mongolia, Thailand, Uganda and Venezuela: the deadline for submitting briefings is 15 April 2015 (to be confirmed).

(2) Session 56 (21 Sep – 9 Oct 2015). The Committee will examine Burundi, Greece, Guyana, Iraq, Italy, Morocco and Sudan: the deadline for submitting briefings is 1 August 2015 (to be confirmed).

**Committee on the Elimination of Discrimination against Women:**

(1) Session 61 (6-24 Jul 2015). The Committee will examine Bolivia, Croatia, Gambia, Namibia, St Vincent and the Grenadines, Senegal, Spain and Viet Nam: briefings should be submitted by 1 June 2015 (to be confirmed).

(2) Session 62 (26 Oct – 20 Nov 2015). The Committee will examine Lebanon, Liberia, Madagascar, Malawi, Portugal, Russian Federation, Slovakia, Timor-Leste, United Arab Emirates, Uzbekistan and Yemen: briefings should be submitted by 28 September 2015 (to be confirmed).

**Committee on the Rights of Persons with Disabilities:**

(1) Session 14 (17 Aug – 4 Sep 2015). The Committee will examine Brazil, Gabon, Kenya, Mauritius, Qatar, Ukraine and the European Union: the deadline for briefing is still to be announced.

**Human Rights Committee:**

(1) Session 114 (29 Jun – 24 Jul 2015). The Committee will examine Canada, France, Spain, TFYR Macedonia, UK, Uzbekistan and Venezuela: the deadline for submitting briefings is 1 June 2015 (to be confirmed).

(2) Session 115 (19 Oct – 6 Nov 2015). The Committee will examine Austria,

Benin, Greece, Iraq, Republic of Korea and Suriname: briefings should be submitted by 28 September 2015 (to be confirmed).

**Universal Periodic Review:**

The deadline for submitting briefings for the 24th session (Jan/Feb 2016) is provisionally 22 June 2015: Belgium, Denmark, Estonia, Latvia, Mozambique, Namibia, Niger, Palau, Paraguay, Seychelles, Sierra Leone, Singapore, Solomon Islands and Somalia.

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*"The Committee notes that there is now a wide consensus at both the European and international level among human rights bodies that the corporal punishment of children should be expressly and comprehensively prohibited in law."*

European Committee of Social Rights, Association for the Protection of All Children (APPROACH) Ltd. v. France (Complaint No. 92/2013), Decision on the Merits adopted 12 September 2014, published 4 March 2015

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*We are sending the newsletter to supporters of the aims of the Global Initiative and others who we think will be interested. If you do not want to receive future editions, please tell us at [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org). If your organisation is not listed as supporting the aims of the Initiative, please consider signing up (online at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org) or email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)).*