1 The human rights obligation to prohibit corporal punishment

1.1 The legality and practice of corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity and to equal protection under the law, and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment – rights guaranteed in the International Covenant on Civil and Political Rights and other international human rights instruments.
2 Legality of corporal punishment of children in Mauritania

2.1 Corporal punishment of children in Mauritania is lawful in all settings – the home, schools, the penal system and alternative care settings.

2.2 With regard to the **home**, provisions against violence and abuse in the Criminal Code (1983), the law “sur la traite des personnes” (2003), the Personal Status Code (2001) and the Constitution (1991) are not interpreted as prohibiting all corporal punishment of children. In 2009, a Fatwa was issued against corporal punishment of children, but it appears to apply only to “excessive” corporal punishment.¹

2.3 The Ministry of Education has stated that corporal punishment should not be used in **schools** (Decision No. 701 MEN/PR of 4 November 1968, article 17), but there is no explicit prohibition in law.

2.4 In the **penal system**, corporal punishment is lawful as a sentence for crime under the Criminal Code, which provides for punishments of amputation and flogging (e.g. article 7). The Code on the Judicial Protection of Minors (2005) states that the penalties imposed on children aged 15 to 18 convicted of an offence may not exceed half of the adult sentences, but it does not prohibit corporal punishment. There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

2.5 Presumably, the Fatwa against corporal punishment (see above) would apply to alternative care settings, including in the **kafalah** system, but there is no explicit prohibition in law of all corporal punishment in all forms of care.

3 Recommendations by human rights treaty monitoring bodies and during the Universal Periodic Review

3.1 The **Committee on the Rights of the Child** has twice expressed concern about corporal punishment of children in Mauritania and recommended that it be explicitly prohibited in the family and other settings – in its concluding observations on the state party’s initial report in 2001² and on the second report in 2009.³

3.2 In 2007, the **Committee on the Elimination of Discrimination Against Women** expressed concern “about the persistence of patriarchal attitudes that consider the physical chastisement of family members, including women, acceptable” and recommended that measures be taken to address this and other violence against women as a matter of priority.⁴

3.3 During the **Universal Periodic Review** of Mauritania in 2010, a number of recommendations were made to prohibit and eliminate corporal punishment of children.⁵ The Government did not respond specifically to these recommendations.

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¹ “On the Prohibition of Excessive Child Beating in Islamic Shariah (Law): Abstract of a comprehensive social, educational and legal study of the negative impact of child bearing, and the rules governing it in Islamic Shariah (law)”, prepared by Professor Imam Hadd Amin Ould Al-Salek, Imam of the Old Mosque, Nouakchott, and President of the Imams and Ulema Coalition for the Rights of Women and Children in Mauritania, June 2009

² 6 November 2001, CRC/C/15/Add.159, Concluding observations on initial report, paras. 29 and 30

³ 17 June 2009, CRC/C/1/MRT/CO/2 Concluding observations on second report, paras. 40 and 41

⁴ 11 June 2007, CEDAW/C/MRT/CO/1, Concluding observations on initial report, paras. 29 and 30

⁵ A/HRC/16/17, Report of the Working Group, paras. 92(30), 92(39), 92(40), 92(42) and 92(45)