

**BRIEFING ON GUINEA FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 122nd session (March - April 2018)**

*From the Global Initiative to End All Corporal Punishment of Children, December 2017*

**This briefing describes the legality of corporal punishment of children in Guinea. In light of the obligation under international human rights treaties to prohibit all corporal punishment of children, the global commitment to ending violence against children – including corporal punishment – in the context of the 2030 Agenda for Sustainable Development, the recommendations of the UN Secretary General’s Study on Violence against Children, the recommendations made to Guinea by the Committee on the Rights of the Child, the Committee** **on the Elimination of Discrimination Against Women, and the African Committee of Experts on the Rights and Welfare of the Child, we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues for Guinea, in particular asking what progress has been made to prohibit corporal punishment of children in all settings, including the home, and**
* **in its concluding observations on Guinea’s third periodic report, recommend that legislation explicitly prohibiting corporal punishment of children in all settings is drafted and enacted as a matter of priority.**

**1 The report of Guinea to the Human Rights Committee**

* 1. Guinea’s third periodic report to the Human Rights Committee (CCPR/C/GIN/3) mentions that “security forces” (unofficial translation) are not allowed to use corporal punishment,[[1]](#footnote-1) but it does not explicitly address corporal punishment of children and its continued legality in all settings.

**1.2 In light of the state’s obligation to explicitly prohibit corporal punishment in all settings, we hope the Committee will raise the issue of corporal punishment of children in its review of Guinea and recommend that prohibition of corporal punishment in all settings is enacted as a matter of priority.**

**2 The legality of corporal punishment of children in Guinea**

2.1 ***Summary:*** In Guinea, corporal punishment is lawful in every setting of children’s lives: in the home, in alternative care and day care settings, in schools, and in the penal system.

2.2 ***Home (lawful):***Article 398 of the Civil Code 1983 states (unofficial translation): “The rights of parental authority are: - the right of correction on the child….” The Children’s Code 2008 prohibits “all forms of physical and psychological maltreatment” in the family, schools and institutions (art. 403). However, it does not explicitly prohibit corporal punishment or repeal the “right of correction”. The provisions against assault in the Penal Code 1988 (arts. 299, 300 and 301) are not interpreted as prohibiting all corporal punishment of children, however light. The Constitution 2010 states that parents have a right and duty to ensure the education and physical and moral health of their children; children have a duty to assist their parents (art. 18). Children have a right to be protected from exploitation, sexual abuse, and inhumane treatment (art. 19). But corporal punishment is not prohibited.

2.3 A draft Revised Civil Code is under discussion. In June 2014, the Government reported that the National Assembly had established a forum of female parliamentarians which had taken up the Code and progress was expected to be made quickly.[[2]](#footnote-2) As at October 2017, the draft was still under discussion.[[3]](#footnote-3) The Government reported to the Universal Periodic Review in 2015 that the review of the Criminal and Civil Codes was ongoing.[[4]](#footnote-4) These reforms provide key opportunities for enacting prohibition of corporal punishment but to our knowledge no such proposals have been made. The new Penal Code and Penal Procedure Code were adopted by the National Assembly on 4 July 2016. The new Penal Procedure Code does not address corporal punishment. We have yet to see the full text of the new Penal Code but there are no indications that it prohibits corporal punishment of children.[[5]](#footnote-5)

2.4 ***Alternative care settings (lawful):***There is no explicit prohibition of corporal punishment in alternative care settings: it is lawful as for parents.

2.5 ***Day care settings (lawful):***There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children, where it is lawful as for parents.

2.6 ***Schools (lawful):***Corporal punishment is lawful in schools. A ministerial circular advises against its use (information unconfirmed) but there is no explicit prohibition in law.

2.7 ***Penal institutions (lawful):***There appears to be no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions. Laws relating to the justice system are under review, but we do not know if prohibition of corporal punishment has been proposed.

2.8 ***Sentence for crime (unlawful):*** There is no provision for judicial corporal punishment in the Children’s Code 2008 or the Penal Code 1988. Article 6 of the Constitution 2010 states that everyone has the right to life and physical integrity and prohibits torture and cruel, inhuman and degrading treatment or punishment.

**3 Recommendations by human rights treaty bodies**

3.1 ***CRC:*** The Committee on the Rights of the Child has twice expressed concern at corporal punishment in the family and other settings in Guinea and has recommended prohibition and other measures – in its concluding observations on the state party’s initial report in 1999, and on the second report in 2013.[[6]](#footnote-6)

3.2 ***CEDAW:*** In 2007, in its concluding observations on the fourth to sixth report of Guinea, the Committee on the Elimination of Discrimination Against Women expressed concern about the acceptance of physical chastisement of family members.[[7]](#footnote-7)

3.3 ***ACERWC:*** In 2014, the African Committee of Experts on the Rights and Welfare of the Child recommended that Guinea explicitly ban corporal punishment in all settings and “adopt a positive discipline as an alternative”.[[8]](#footnote-8)

*Briefing* *prepared by the Global Initiative to End All Corporal Punishment of Children*

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1. 29 November 2017, CCPR/C/GIN/3, Third report, para. 97 [↑](#footnote-ref-1)
2. 3 June 2014, CEDAW/C/GIN/Q/7-8/Add.1, Reply to list of issues [↑](#footnote-ref-2)
3. 29 November 2017, CCPR/C/GIN/3, Third report, para. 50 [↑](#footnote-ref-3)
4. 10 April 2015, A/HRC/29/6, Report of the working group, para. 7 [↑](#footnote-ref-4)
5. <http://www.lexpress.fr/actualites/1/styles/guinee-le-nouveau-code-penal-supprime-la-peine-de-mort_1810329.html>, accessed 11 July 2016 [↑](#footnote-ref-5)
6. 10 May 1999, CRC/C/15/Add.100, Concluding observations on initial report, para. 20; 13 June 2013, CRC/C/GIN/CO/2, Concluding observations on second report, paras. 48 and 49 [↑](#footnote-ref-6)
7. 10 August 2007, CEDAW/C/GIN/CO/6, Concluding observations on fourth/fifth/sixth report, para. 26 [↑](#footnote-ref-7)
8. [December 2014], Concluding observations on initial report, para. 23 [↑](#footnote-ref-8)