**BRIEFING ON NIGER FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 123rd session (July 2018)**

*From the Global Initiative to End All Corporal Punishment of Children, April 2018*

**This briefing describes the legality of corporal punishment of children in Niger. 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 Niger by the Committee on the Rights of the Child and during the UPR in 2011, we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues for Niger, in particular asking what steps are being taken to enact the Children’s Code to prohibit all corporal punishment of children in all settings, and**
* **in its concluding observations on Niger’s second state party report, recommend the draft Children’s Code is immediately enacted and implemented to explicitly prohibit corporal punishment of children in all settings, including the home.**

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

* 1. Niger’s second periodic report to the Human Rights Committee (CCPR/C/NER/2) does not address corporal punishment or violence against children, despite the persistent legality of the use of force in childrearing. The Government committed to enacting prohibiting legislation in 2011;[[1]](#footnote-1) it must now fulfil this commitment.

**1.2 In light of the state’s obligation and commitment 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 Niger and recommend that prohibition of corporal punishment in all settings, including in the home, is enacted as a matter of priority.**

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

2.1 ***Summary:*** Corporal punishment in Niger is prohibited as a sentence for a crime but it is still lawful in the home, in alternative and day care settings, in schools and in penal institutions. A draft Children’s Code which would prohibit corporal punishment in all settings is currently under discussion.

2.2 ***Home (lawful):***Provisions against violence and abuse in the Constitution 2010, the Criminal Code 1961 and Act No. 62-11 1962 are not interpreted as prohibiting all corporal punishment of children. Drafting of a Family Code began in 1976 but no new Code has yet been adopted.

2.3 In 2011, the Government indicated its commitment to enacting prohibiting legislation by clearly accepting a recommendation made during the Universal Periodic Review of Niger to implement the recommendations of the Committee on the Rights of the Child concerning corporal punishment.[[2]](#footnote-2) In August 2013, the Council of Ministers adopted the Draft Decree Adopting the Child Protection Framework Document which establishes national goals and strategies for strengthening protection of children against violence:[[3]](#footnote-3) we are enquiring as to whether this provides for the enactment of legislation prohibiting all corporal punishment of children.

2.4 A draft Children’s Code is under discussion that would prohibit corporal punishment in all settings including the home. Article 256, in the chapter on the right of the child to health, states (unofficial translation): “Every child has the right not to be subjected to torture, cruel, inhuman or degrading treatment or any other form of violence and abuse particularly harmful traditional practices, including corporal punishment.” Article 453, in the section on protection from abuse in the family, states: “Physical and psychological abuse, corporal punishment and deliberate neglect are liable to the penalties in paragraph 1 of article 452 above.” The article referred to (art. 452) punishes violence, including mild and repeated violence. In April 2017, the Government reported that the draft Children’s Code had been submitted to Parliament but was still being debated.[[4]](#footnote-4)

2.5 ***Alternative care settings (lawful)***: There is no explicit prohibition of corporal punishment in alternative care settings. The draft Children’s Code 2012 would prohibit corporal punishment in all forms of alternative care (arts. 256 and 470).

2.6 ***Day care (lawful)***: There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children. The draft Children’s Code 2012 would prohibit corporal punishment in all forms of day care (arts. 256 and 470).

2.7 ***Schools (lawful):***There is a ministerial order against its use (Ministerial Circular No. 16/MEN/DEPD of 02 April 1981) but no prohibition in law. The draft Children’s Code 2012 would explicitly prohibit corporal punishment in schools in article 256 and in article 470, which states: “Corporal punishment and other forms of violence or abuse are prohibited in schools, vocational training and institutions.” The same article confirms that the prohibition applies to all institutions, including for children with disabilities, shelters, hospitals and any other place for temporarily or permanently providing childcare.

2.8 ***Penal institutions (lawful):***Article 2(5) of the 2014 Act on Juvenile Courts reportedly states that the child in conflict with the law must be treated with dignity and cannot be submitted to cruel, inhuman or degrading treatment or any form of violence,[[5]](#footnote-5) but there is no explicit prohibition of corporal punishment as a disciplinary measurein penal institutions. It would be prohibited in the draft Children’s Code 2012 (arts. 256 and 470).

2.9 ***Sentence for crime (unlawful):*** According to Order No. 99-11 of 11 May 1999, children convicted of an offence may be sentenced to half the penalty that would be applicable to an adult convicted of the same offence (art. 33). The Criminal Code 1961 does not allow for judicial corporal punishment. The Constitution 2010 prohibits all forms of torture and cruel, degrading or inhuman treatment or punishment (art. 12). We have yet to see the text of the Act of 20 November 2014 on Juvenile Courts.

**3 Recommendations by human rights treaty bodies and during the UPR**

3.1 ***CRC:*** The Committee on the Rights of the Child has twice recommended to Niger that corporal punishment of children be prohibited in all settings including the home – in its concluding observations on the initial state party report in 2002 and on the second report in 2009.[[6]](#footnote-6)

3.2 ***UPR:*** In 2011, the Government accepted a recommendation to “implement the recommendations made by the Committee on the Rights of the Child, especially eradicate traditional practices such as… corporal punishment in children’s education”.[[7]](#footnote-7)

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

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1. 25 March 2011, A/HRC/17/15, Report of the working group, para. 76(36) [↑](#footnote-ref-1)
2. 25 March 2011, A/HRC/17/15, Report of the working group, para. 76(36) [↑](#footnote-ref-2)
3. <http://www.presidence.ne/article/communique-du-conseil-des-ministres-du-vendredi-23-aout-2013#sthash.ubABxY0C.dpbs>, accessed 20 January 2016 [↑](#footnote-ref-3)
4. 12 April 2017, CEDAW/C/NER/Q/3-4/Add.1, Reply to List of Issues, paras. 9 and 34 [↑](#footnote-ref-4)
5. [March 2017], Second report to the African Committee of Experts on the Rights and Welfare of the Child, para. 281 [↑](#footnote-ref-5)
6. 18 June 2009, CRC/C/NER/CO/2, Concluding observations on second report, paras. 5, 6, 37 and 38; 13 June 2002, CRC/C/15/Add.179, Concluding observations on initial report, paras. 44 and 45 [↑](#footnote-ref-6)
7. 25 March 2011, A/HRC/17/15, Report of the working group, para. 76(36) [↑](#footnote-ref-7)