



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

NETHERLANDS

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 1st session, 2007

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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 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 also 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.

This briefing describes the gaps in prohibition in the Kingdom of the Netherlands. The Netherlands achieved full prohibition of corporal punishment, including in the home, in 2007, but Aruba and Netherlands Antilles have yet to introduce prohibition in a number of settings, despite recommendations by the Committee on the Rights of the Child.

We hope the Review will highlight with concern the failure of Aruba and Netherlands Antilles to respond to treaty body recommendations and strongly recommend that they introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.

I: Legality of corporal punishment in the Netherlands, Aruba and Netherlands Antilles

The home

In the Netherlands, corporal punishment was prohibited in the **home** in March 2007, by an amendment to the Civil Code provisions on parental authority. But it is lawful in the home in Aruba and the Netherlands Antilles.

Schools and other settings

In the Netherlands, corporal punishment is prohibited in all settings outside the home.

In Aruba, corporal punishment is lawful in **schools** and in **alternative care settings**. In the **penal system** it is unlawful as a sentence for crime but it is not prohibited as a disciplinary measure in penal institutions.

In the Netherlands Antilles, corporal punishment is prohibited in **schools** by policy but not in law. It is prohibited in the **penal system**, as a sentence for crime and as a disciplinary measure in penal institutions, but there is no explicit prohibition of corporal punishment in **alternative care settings**.

II: Recommendations by human rights treaty monitoring bodies

In its concluding observations on the initial report of Aruba and the second report of the Netherlands in 2004, the **Committee on the Rights of the Child** expressed concern at the lack of legal prohibition of corporal punishment in the family and recommended that the state party “explicitly prohibit corporal punishment in law throughout the State party” (CRC/C/15/Add.227, para. 44).

In its concluding observations on the initial report of the Netherlands Antilles in 2002, the **Committee on the Rights of the Child** expressed concern at the widespread use of corporal punishment and recommended prohibition in law, stating (CRC/C/15/Add.186, paras. 36 and 37):

“... The Committee is concerned, however, that there is insufficient information and awareness of the ill-treatment and abuse of children and that whilst corporal punishment has been formally banned and made a punishable offence in schools as a matter of policy, this form of punishment continues to be practised in schools, as well as in the home and in other public institutions such as prisons and in alternative care contexts.

“The Committee recommends that the Netherlands Antilles:

- a) take all legislative measure to prohibit all forms of physical and mental violence, including corporal punishment against children (boys as well as girls) in the home, schools and in all other contexts; ...
- c) carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment....”