

Corporal punishment of children in Mali: Briefing for the Universal Periodic Review, 29th session, 2018

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



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

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In Mali, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, as well as those made during the 1st cycle UPR of Mali in 2008.

We hope the Working Group will note with concern the legality of corporal punishment of children in Mali. We hope states will raise the issue during the review in 2018 and make a specific recommendation that Mali clearly prohibit all corporal punishment of children, however light, in every setting of their lives.

1 Review of Mali in the 2nd cycle UPR (2013) and progress since

- 1.1 Mali was reviewed in the second cycle of the Universal Periodic Review in 2013 (session 15). The issue of corporal punishment of children was raised in the summary of stakeholders' information.¹ No specific recommendation was made on corporal punishment of children, but the Government accepted a recommendation to bring its legislation in line with international human rights conventions.²
- 1.2 Since the review in 2013 and contrary to Mali's international obligations, no progress was made on enacting and implementing a legal ban on corporal punishment of children, in any setting.
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Mali. We hope states will raise the issue during the review in 2018 and make a specific recommendation that Mali clearly prohibit all corporal punishment of children, however light, in every setting of their lives.**

¹ 30 October 2012, A/HRC/WG.6/15/MLI/3, Summary of stakeholders' views, paras. 40, 41 and 42

² 12 March 2013, A/HRC/23/6, Report of the working group, para. 111(8)

2 Legality of corporal punishment in Mali

Summary of current law and opportunities for achieving prohibition

In Mali, corporal punishment is unlawful in schools and in the penal system, but it is still lawful in the home and in alternative care and some day care settings.

- 2.1 ***Home (lawful)***: The Family Relations Code 1973 stated that “the authority of the father comprises a right to custody, of management, surveillance and correction” (art. 84). The Code was replaced by the new Family Code 2009 (amended 2011) which does not include the right of correction, stating only that parents must ensure the “maintenance and education” of the child (art. 565). However, this is a silent repeal and does not send a clear message that all corporal punishment in childrearing is unlawful. The Code on the Protection of the Child 2002 does not include prohibition of all corporal punishment and in any case was not reviewed or adopted and is now obsolete.³ The Code on Persons and the Family 2011 states that the child must obey, honour and respect his father and mother (art. 562) and that parental authority carries the obligation to protect the child’s safety, health, full development and morality and to respect the rights and duties of custody, supervision and education (art. 563).
- 2.2 ***Alternative care settings (lawful)***: There is no explicit prohibition of corporal punishment in alternative care settings.
- 2.3 ***Day care (partially lawful)***: Corporal punishment is prohibited in preschools and kindergartens under internal regulation No. 94-5000 of 15 April 1994 (kindergartens), but there is no explicit prohibition in relation to other early childhood care and to day care for older children.
- 2.4 ***Schools (unlawful)***: Corporal punishment is prohibited in schools, under internal regulations No. 94-4856/MEB-CAB of 8 April 1994 (fundamental schools) and No. 94-4999/MEB/CAB (special education institutions).
- 2.5 ***Penal institutions (unlawful)***: Corporal punishment is considered unlawful as a disciplinary measure in penal institutions, but there is no explicit prohibition. The penitentiary system is governed by Decree No. 88-002 1988, article 105 of which forbids staff from using acts of violence, and punishments for disciplinary offences (art. 112) do not include corporal punishment. Article 14 of the Code on the Protection of the Child 2002 states that a child placed in a protective educational or rehabilitative institution, or in a place of detention, has the right to physical and moral protection but does not explicitly prohibit corporal punishment.
- 2.6 ***Sentence for crime (unlawful)***: It is not a permitted sanction for crime under the Code on the Protection of the Child 2002 (art. 169) or the Criminal Code.

3 Recommendations by human rights treaty bodies

- 3.1 **CRC**: The Committee on the Rights of the Child has twice expressed concern at the legality of corporal punishment of children in Mali and recommended that it be explicitly prohibited – in its

³ UNICEF (2013), *Annual report – Mali*

concluding observations on the state party's initial report in 1999 and on the second report in 2007.⁴

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and since 2011 the Committee on the Rights of Persons with Disabilities.

⁴ 2 November 1999, CRC/C/15/Add.113, Concluding observations on initial report, para. 25; 3 May 2007, CRC/C/MLI/CO/2, Concluding observations on second report, paras. 6, 39 and 40