



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

MAURITIUS – COUNTRY REPORT

Summary of necessary legal reform to achieve full prohibition

Settings where explicit prohibition is necessary

home, penal institutions, alternative care settings

Is there a legal defence for corporal punishment which must be repealed?

?? – We have been unable to establish whether or not legislation confirms a “right” of parents to administer “reasonable punishment” on their children, but legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing. The near universal acceptance of corporal punishment in childrearing necessitates clarity in law that all such punishment is unacceptable and unlawful. Explicit prohibition should be enacted of all forms of corporal punishment, however light.

Other legislative measures necessary

Penal institutions – The Reform Institutions Act prohibits punishment of detainees but article 12 allows the use of “such force as is reasonably necessary ... to maintain discipline in the institution”. This provision should be amended/repealed and explicit prohibition enacted of corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law.

Alternative care settings – Explicit prohibition should be enacted in legislation applicable to all alternative care settings, including public and private day care, residential institutions, foster care, etc, in addition to the repeal of any legal defences for its use.

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment is lawful in the home. Provisions against violence and abuse in the Child Protection Act (1994), the Criminal Code, the Protection of the Child (Miscellaneous Provisions) Act (1998), the Social Aid Act, the Civil Code and the Protection from Domestic Violence Act (1997) are not interpreted as prohibiting all corporal punishment in childrearing. As at 2011, a Children's Bill is being drafted with a view to harmonising legislation with the Convention on the Rights of the Child, taking into account the specific recommendations made by the Committee on the Rights of the Child. Amendments to the Child Protection Act are also under discussion.

Schools

Corporal punishment is prohibited in schools in article 13(4) of the Education Regulations (1957).

Penal system

Corporal punishment is unlawful as a **sentence for crime** under the Constitution (1968, amended 2003) and the Juvenile Offenders Act (1935, amended 1998).

There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions. The treatment of detainees is governed by the Reform Institutions Act (1988) and associated regulations (the Prisons Regulations, the Rehabilitation Youth Centre Regulations and the Reforms Institutions Regulations). The Act states that "no detainee shall be subject to punishment or privation of any kind", but article 12 allows the use of "such force as is reasonably necessary ... to maintain discipline in the institution". In 2006, the Government stated its commitment to introducing explicit prohibition in law, and the drafting of the Children's Bill (see above) is intended to involve a review of juvenile justice.

Alternative care

There is no explicit prohibition of corporal punishment in all alternative care settings.

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(17 March 2006, CRC/C/MUS/CO/2, Concluding observations on second report, paras. 37 and 38)

"While noting that corporal punishment is prohibited in schools through the Education Regulations of 1957, the Committee remains concerned that corporal punishment is not explicitly forbidden by law in the family and in all settings, including in alternative care settings.

"The Committee reiterates its previous concluding observations (CRC/C/15/Add.64, para. 31) and urges the State party to prohibit through legislation and other measures corporal punishment of

children in the family, in schools, in penal institutions and in alternative care settings. The Committee further recommends that the State party conduct awareness-raising campaigns among adults and children, the promotion of non-violent, positive, participatory methods of child-rearing and education.”

Committee on the Rights of the Child

(30 October 1996, CRC/C/15/Add.64, Concluding observations on initial report, para. 31)

“In the light of articles 19, 34 and 35 of the Convention, the Committee encourages the State party to take all appropriate measures to prevent and combat ill-treatment of children, including child abuse within the family, corporal punishment, child labour and the sexual exploitation of children, including victims of sexual tourism....”

Committee on Economic, Social and Cultural Rights

(8 June 2010, E/C.12/MUS/CO/4, Concluding observations on second to fourth report, para. 23)

“The Committee is concerned at the persistent problem with cases of child abuse and neglect in the State party (art. 10).

The Committee recommends that the State party take the necessary measures to combat child abuse and neglect, including explicitly prohibiting corporal punishment at home and in alternative care settings and as a disciplinary measure in the penal system.”

Committee against Torture

(June 2011, Advance Unedited Version, Concluding observations on third report, para. 17)

“While taking note of the information supplied by the State party, according to which section 13 of the Child Protection makes an offence to expose any child to harm, the Committee is concerned that corporal punishment is not fully prohibited in the legislation of the State party, including in penal institutions and in alternative care settings.... (art. 16).

The State party should adopt legislation to prohibit corporal punishment, in particular in social institutions and in alternative care settings. To that end, the State party should incorporate this issue in its Children’s bill under preparation. The State party should also pursue awareness-campaigns on the negative effects of corporal punishment. Finally, it should strengthen its efforts to combat child abuse, including by investigating, prosecuting and punishing those responsible. The State party should provide the Committee with statistical data regarding cases of child abuse, the investigations, prosecutions, sentences imposed and redress or rehabilitation offered to victims.”

Universal Periodic Review

Mauritius was examined under the Universal Periodic Review process in 2009. No recommendations were made concerning corporal punishment of children.

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