



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

SENEGAL – COUNTRY REPORT

Child population: 6,333,000 (UNICEF, 2009)

Summary of necessary legal reform to achieve full prohibition

Settings where explicit prohibition is necessary

home, schools, penal institutions, alternative care settings

Is there a legal defence for corporal punishment which must be repealed?

Yes – Article 285 of the Family Code confirms the right of a person with parental authority to correct a child. The near universal acceptance of a certain degree of violence in childrearing necessitates clarity in law that no degree of corporal punishment is acceptable or lawful. The legal defence for the use of corporal punishment in article 285 of the Family Code should be repealed and explicit prohibition of all corporal punishment should be enacted in relation to parents and all those with parental authority.

Other legislative measures necessary

Schools – Corporal punishment should be explicitly prohibited in all schools, public and private, for children of all ages.

Penal institutions – Explicit prohibition should be enacted of corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law, in addition to repeal of all legal defence for its use.

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 repeal of all legal defences for the use of corporal punishment.

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment is lawful in the home. Article 285 of the Family Code gives the right to the person having parental authority to inflict correction to a degree compatible with the child's age and the correction of his/her behaviour. Provisions against violence and abuse in the Criminal Code are not interpreted as prohibiting all corporal punishment in childrearing. As at October 2011, a draft Children's Code was under discussion.

Schools

Corporal punishment is prohibited in schools for children aged 6-14 in Decree No. 79-11.65 (1979) but there is no explicit prohibition in other schools and article 285 of the Family Code (see above) potentially applies.

Penal system

Corporal punishment is unlawful as a **sentence for crime**. There is no provision for it in the Criminal Code or the Criminal Procedure Code.

Corporal punishment is considered unlawful as a **disciplinary measure** in penal institutions, but there is no explicit prohibition. Article 100 of Decree No. 2001 (relative to the procedure of implementation and adjustment of the sanctions), applicable to prisons, states that "the personnel of the penal institutions can only employ force towards a prisoner in the case of violent resistance (by the inmate) or in the case of inertia to the orders given".

Alternative care

Corporal punishment is lawful in alternative care settings under article 285 of the Family Code (see above).

Prevalence research

A report by Human Rights Watch documented physical punishment and other severe violations of the rights of at least 50,000 children (talibés), mostly boys under 12, attending residential Quranic schools in Senegal. The children, who were forced by the teachers who serve as their guardians (marabouts) to beg on the streets, experienced severe physical punishment including being beaten with electric cables or clubs for not bringing back the set quota of money and food. (Human Rights Watch (2010), *Off the Backs of the Children: Forced Begging and Other Abuses against Talibés in Senegal*)

A 2010 African Child Policy Forum report on violence against children with disabilities in Cameroon, Ethiopia, Senegal, Uganda and Zambia documented a very high level of violence. Nearly a thousand 18-24 year olds took part in total, reporting on their experiences as children. In Senegal, 60% of the sample had experienced at least one type of physical violence during their childhood. The most commonly experienced type of physical violence was being hit, punched, kicked or beaten, followed by being choked, burnt or stabbed. The most common perpetrators of physical violence were mothers (20.5%) and fathers (15.8%). Across the five countries, 23% of the young people said they had experienced physical violence which was "mostly discipline, reasonable and justified" and 27% said they had experienced physical violence which was "mostly discipline but not reasonable or justified"; 26% said they had experienced emotional violence which was "discipline, but not reasonable or

justified”, and 22% that they had experienced emotional violence that was “disciplinary, reasonable and justified”. Across all five countries, more than half (54%) of those who had been physically beaten said they had suffered broken bones, teeth, bleeding or bruising; 2% had been permanently disabled; 21% required medical attention; 13% had to miss school or work; and 20% had needed rest at home. For all five countries, the majority of respondents with physical, visual and intellectual disabilities experienced physical violence more than 10 times. (The African Child Policy Forum (2010), *Violence Against Children With Disabilities in Africa: Field Studies from Cameroon, Ethiopia, Senegal, Uganda and Zambia*, Addis Ababa: The African Child Policy Forum)

A study by the African Child Policy Forum in Burkina Faso, Cameroon, Democratic Republic of the Congo, Nigeria and Senegal found that hitting, beating and forced hard work were the most prevalent forms of violence against girls, and that most of the physical violence experienced by girls was corporal punishment. The study involved a survey of 3,025 young women (nearly 600 per country) aged 18-24 about the violence they had experienced in childhood. In Senegal, 52% of respondents had been hit, 79% beaten, 21% kicked, 25% denied food and 16% choked or burned. Parents and close relatives were the most common perpetrators of physical violence. (The African Child Policy Forum (2010), *Childhood Scars in Africa: A Retrospective Study on Violence Against Girls in Burkina Faso, Cameroon, Democratic Republic of the Congo, Nigeria and Senegal*, Addis Ababa: The African Child Policy Forum)

According to statistics from UNICEF relating to the period 2001-2007, of girls and women aged 15-49, 65% think that a husband is justified in hitting or beating his wife under certain circumstances. (UNICEF (2009), *Progress for Children: A report card on child protection*, NY: UNICEF)

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(20 October 2006, CRC/C/SEN/CO/2, Concluding observations on second report, paras. 36 and 37)

“While noting that corporal punishment is prohibited in schools, the Committee is concerned that corporal punishment within the family is not prohibited by law and that corporal punishment is used in schools and other institutional settings.

“The Committee recommends that the State party, taking into account its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment:

- a) amend all relevant laws to ensure that corporal punishment is explicitly prohibited in all settings, including the family, penal institutions, and alternative care settings, and ensure the effective implementation of these laws, including in schools; and
- b) sensitize and educate parents, guardians and professionals working with and for children, by carrying out public educational campaigns about the harmful impact of corporal punishment and promote positive, non-violent forms of discipline as an alternative to corporal punishment.”

Committee on the Rights of the Child

(27 November 1995, CRC/C/15/Add.44, Concluding observations on initial report, para. 24)

“The Committee recommends that the State party ensure that national legislation conforms fully to the provisions and principles of the Convention, in the light of the concerns identified by the Committee and of the study on a comprehensive law reform conducted under the auspices of UNICEF. The principles of the Convention including those relating to the best interests of the child and the prohibition of discrimination and of participation of children in matters affecting them should be reflected in domestic law. Specific provisions should be included with a view to clearly forbidding female genital mutilation and any form of torture or cruel, inhuman or degrading treatment or

punishment, as well as any form of corporal punishment within the family. Adequate legislative and other measures should also be taken to establish a complaints procedure for children whose fundamental rights have been violated.”

Universal Periodic Review

Senegal was examined in the first cycle of the Universal Periodic Review in 2009. The Government accepted the recommendation to protect children from corporal punishment (A/HRC/11/24, Report of the Working Group, para. 97(26)). Examination in the second cycle is scheduled for 2013.

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