



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

## **BRIEFING ON THE DEMOCRATIC REPUBLIC OF CONGO FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN**

**PRESESSIONAL WORKING GROUP – October 2012**

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### **The human rights obligation to prohibit corporal punishment – a key strategy in eliminating all forms of violence**

The legality and practice of corporal punishment of girls breaches their fundamental rights to respect for their human dignity and physical integrity, to equality under the law and to protection from all forms of violence – rights guaranteed in the Convention on the Elimination of All Forms of Discrimination Against Women and other international human rights instruments. There are strong links between corporal punishment of children – girls and boys – and all other forms of violence, including gender-based violence. As the Committee on the Rights of the Child emphasised in its General Comment No. 8 (2006),<sup>1</sup> addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.

**This briefing describes the legality of corporal punishment of children in DR Congo. In light of General Recommendation No. 19 on Violence against women (1992), the links between corporal punishment of children and all other forms of violence including gender-based violence, the Government’s acceptance of the recommendations made during the UPR in 2009 to improve legislation on human rights, and the current opportunities for achieving law reform as described in this briefing, we hope the Committee on the Elimination of Discrimination Against Women will:**

- **raise the issue of corporal punishment of girls in its List of Issues for DR Congo, asking what progress has been made towards prohibiting and eliminating all corporal punishment in all settings, including the home, and**
- **recommend to DR Congo, in the concluding observations on the sixth/seventh state party report, that all corporal punishment be explicitly prohibited in the home and all forms of care as a matter of priority.**

<sup>1</sup> General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” is available at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm).

## **1 DR Congo's sixth/seventh report to CEDAW**

1.1 The sixth/seventh report of the Democratic Republic of Congo to CEDAW (21 December 2011, CEDAW/C/COD/6-7) addresses violence against women, including “treatment of women like children” and “subjection of women to beating, humiliation, household chores and obligatory dependence and submission”, as well as to discrimination between boys and girls in the family (page 22). However, it does not mention corporal punishment in childrearing, violence that can lawfully be inflicted on girls and boys in the home and other contexts.

## **2 The legality of corporal punishment of children in DR Congo**

2.1 In DR Congo, corporal punishment of children is unlawful in schools and as a sentence for crime, but it is not prohibited in the home, penal institutions and alternative care settings.

2.2 With regard to the **home**, article 326(4) of the Family Code (1987) states that “a person exercising parental authority may inflict reprimands and punishments on the child to an extent compatible with its age and the improvement of its conduct”. Article 57 of the Child Protection Code (2009) confirms the right of the child to protection from all forms of violence and states that discipline in the home, schools and institutions should be administered with respect for the child's humanity, but it does not explicitly prohibit corporal punishment and the protection it gives children is undermined by article 326(4) of the Family Code.

2.3 Corporal punishment is unlawful in **schools** under Ministerial decision No. MINEPSP/CABMIN/00100940/90 of 1 September 1990 establishing internal regulations for students, which does not include corporal punishment among permitted penalties. Article 57 of the Child Protection Code states that discipline in schools should be administered humanely, but it does not explicitly prohibit corporal punishment.

2.4 In the **penal system**, corporal punishment is unlawful as a sentence for crime: there is no provision for judicial corporal punishment in criminal law. However, with the exception of the Antoinette Sassou-Nguessou Re-education Centre where regulations prohibit it, corporal punishment is lawful as a disciplinary measure in penal institutions. Article 57 of the Child Protection Code states that discipline of children should be carried out humanely, but there is no explicit prohibition of corporal punishment in law.

2.5 Corporal punishment in **alternative care settings** is lawful under the right of those with parental responsibility to punish the child in the Family Code (see above). According to article 57 of the Child Protection Act, discipline in public and private care institutions should be administered humanely but corporal punishment is not explicitly prohibited.

## **3 Opportunities for achieving law reform to prohibit corporal punishment**

3.1 As noted above, recent law reform – the enactment of the Child Protection Code (2009) – fell short of explicitly prohibiting all corporal punishment of children. However, another opportunity for achieving prohibition is presented by the drafting of a revised Family Code. According to the state party's report to CEDAW (page 2), the revision follows a review of the existing Code from a gender perspective. We have not seen the draft text and do not know if proposals have been made to repeal the authority “to inflict reprimands and punishments” on the child and to explicitly prohibit corporal punishment.

**We hope the Committee on the Elimination of Discrimination Against Women will encourage the Government of DR Congo to fully protect the girl child from corporal**

**punishment in the home and other settings by including in the new Family Code explicit prohibition of all corporal punishment and by repealing the parental authority “to inflict reprimands and punishments” on children.**

#### **4 Recommendations by human right treaty monitoring bodies**

4.1 In 2001, the **Committee on the Rights of the Child** recommended to DR Congo that corporal punishment be prohibited and eliminated in schools and homes.<sup>2</sup> The Committee reiterated its recommendations in 2009, recommending explicit prohibition of corporal punishment in all settings, including the family, schools, alternative childcare, places of work and places of detention.<sup>3</sup>

4.2 DR Congo was examined in the first cycle of the **Universal Periodic Review** in 2009 (session 6). The Government accepted the recommendations to “undertake further measures to improve the legislative and regulatory basis with respect to human rights and their effective implementation”, to “take better account of the situation of vulnerable populations and adopt legislation to ensure promotion and protection of handicapped persons, children and women”, to “consider developing a comprehensive action plan to operationalise the recently adopted Child Code and to address concerns related to the care and protection of children” and to “continue to make efforts to eradicate violence against women and children”.<sup>4</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children  
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<sup>2</sup> 9 July 2001, CRC/C/15/Add.153, Concluding observations on initial report, paras. 38 and 39

<sup>3</sup> 10 February 2009, CRC/C/COD/CO/2, Concluding observations on second report, paras. 39 and 40

<sup>4</sup> 4 January 2010, A/HRC/13/8, Report of the Working Group, paras. 94(8), 94(24), 94(29) and 94(41)