

**BRIEFING FROM THE GLOBAL INITIATIVE
TO END ALL CORPORAL PUNISHMENT OF CHILDREN**

**BRIEFING ON LESOTHO FOR THE COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN
PRESESSIONAL WORKING GROUP – January/February 2011**

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The human rights obligation to prohibit corporal punishment of girls and boys

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),¹ 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 Lesotho and urges the Committee on the Elimination of Discrimination Against Women to include the issue in its examination of the state party’s implementation of the Convention.

Corporal punishment of children in Lesotho

Corporal punishment of children is lawful in all settings in Lesotho – the home, schools and justice and care systems. The state party’s initial to fourth report to the Committee on the Elimination of Discrimination Against Women (CEDAW/C/LSO/1-4) describes efforts to address violence against women but makes no reference to the violence that may lawfully be inflicted on girls in the name of discipline.

In the home, corporal punishment is lawful under article 18 of the Child Protection Act (1980), which confirms “the right of the parent or guardian of a child to administer reasonable punishment”. As at November 2010, the Child Protection and Welfare Bill under consideration would protect children from “torture or other cruel, inhuman or degrading treatment or punishment, including any cultural practice which degrades or is injurious to the physical, psychological, emotional and mental wellbeing of the child” (article 16(1)) but would not prohibit all corporal punishment. Rather, it would introduce the concept of “justifiable chastisement”, with the provision that “no discipline is justifiable if by reason of tender age or otherwise the child is incapable of understanding the purpose of the discipline” (article 16(2)). A Domestic Violence Bill is also being drafted.

Corporal punishment is lawful in schools. In March 2009, prohibition was proposed in the Education Bill. The Education Act 2010 has now been passed but we have been unable to confirm that it includes prohibition of corporal punishment.

In the penal system, corporal punishment is lawful as a disciplinary measure in penal institutions. It is lawful as a sentence for crime for boys only.

Corporal punishment is lawful in alternative care settings under the right of guardians to administer “reasonable punishment” in the Child Protection Act (see above).

¹ 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.

Recommendations by human rights treaty monitoring bodies

In 2001, in its concluding observations on the state party's initial report, the Committee on the Rights of the Child expressed concern at corporal punishment of children in Lesotho and recommended prohibition in all settings (CRC/C/15/Add.147, paras. 31 and 32).

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 Lesotho, in particular seeking information on the relevant provisions of the Education Act 2010 and the Child Protection and Welfare Bill and asking what legislative and other measures have been taken by the state party to prohibit and eliminate corporal punishment in *all* settings and thus ensure girls enjoy their rights to respect for their human dignity and physical integrity and to equal protection under the law.

In light of General Recommendation No. 19 on Violence against women adopted by the Committee on the Elimination of Discrimination Against Women in 1992, of the links between corporal punishment of children and all other forms of violence, including gender-based violence, and of the Committee on the Rights of the Child's General Comment No. 8 (2006), we hope the Committee will subsequently recommend to the state party that explicit prohibition of all corporal punishment of children be enacted in relation to all settings as a matter of urgency, including the home and the justice system.

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