

## **BURUNDI**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 15<sup>th</sup> session, 2013**

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

*Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General’s Study on Violence against Children, as a highly significant issue, both for asserting children’s status as rights holders and for the prevention of all forms of violence.*

*In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies and also regional human rights mechanisms have condemned all corporal punishment. In October 2006, the report of the UN Secretary General’s Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment as a matter of priority.*

*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 in 2011 began briefing the Committee on the Rights of Persons with Disabilities. There is growing progress across all regions in challenging this common form of violence against children. But many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope the Working Group of the UPR will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies on this issue, as well as to the recommendations made during the first cycle of the UPR.*

**Corporal punishment of children is lawful in Burundi, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and during the initial UPR in 2008.**

**We hope the Human Rights Council will note with concern the legality of corporal punishment of children in Burundi. We hope states will raise the issue during the review in 2013 and recommend to Burundi that legislation is enacted to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of priority.**

## **1 The initial review of Burundi by the Human Rights Council (2008)**

1.1 Burundi was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 3). No specific recommendation on corporal punishment was made, though the issue was included in the compilation of UN information<sup>1</sup> and the summary of stakeholders' information.<sup>2</sup>

1.2 However, the following recommendations were made, and were accepted by Burundi:

“Continue its efforts for the promotion and protection of human rights with the support of the international community, at the bilateral and multilateral levels (Rwanda);

“Fully promote the protection of human rights in the country (Nigeria)”<sup>3</sup>

1.3 Prohibiting corporal punishment of children is an immediate obligation under the Convention of the Rights of the Child and other human rights instruments. However, there has been no change in the legality of corporal punishment in Burundi since the initial UPR in 2008. Now, as then, it is lawful in the home, penal institutions, care settings and possibly schools (see below).

## **2 Legality of corporal punishment in Burundi**

2.1 Corporal punishment is lawful in the **home**. Provisions against violence and abuse in the Penal Code (2009) and the Code of Personal and Family Affairs are not interpreted as prohibiting corporal punishment in childrearing. The Convention on the Rights of the Child has been incorporated into national legislation through article 19 of the Constitution (2005), which states: “The rights and duties proclaimed and guaranteed, inter alia, by the Universal Declaration of Human Rights, the International Covenants on human rights and the rights of peoples, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child shall form an integral part of the Constitution of the Republic of Burundi. These fundamental rights may not be the subject of any restriction or derogation, except in certain circumstances justifiable by the general interest of the protection of a fundamental right.” Article 44 of the Constitution provides for protection for children from “ill-treatment, abuse or exploitation”. However, there is no explicit prohibition of corporal punishment in domestic legislation.

2.2 Corporal punishment is reportedly prohibited in **schools** in regulations.<sup>4</sup> We have been unable to verify this information.

2.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime but it is not explicitly prohibited as a disciplinary measure in penal institutions. Interviews with children in conflict with the law and with parents and law enforcement officials, carried out by Human Rights Watch in 2006-2007, found that many children had been beaten and suffered other ill treatment while in detention.<sup>5</sup>

2.4 There is no prohibition of corporal punishment in **alternative care settings**.

2.5 In 2010, a number of bills were under consideration, including a bill on the protection of children in difficulty, a bill on delinquent children and a bill to amend the Code of Personal

<sup>1</sup> 3 October 2008, A/HRC/WG.6/3/BDI/2, Compilation of UN information, para. 35

<sup>2</sup> 15 September 2008, A/HRC/WG.6/3/BDI/3, Summary of stakeholders' information, para. 21

<sup>3</sup> 8 January 2009, A/HRC/10/71, Report of the Working, paras. 80(40) and 80(41)

<sup>4</sup> 1 September 2010, CRC/C/BDI/Q/2/Add.1, Written replies to the Committee on the Rights of the Child

<sup>5</sup> Human Rights Watch (2007), *Paying the price: Violations of the rights of children in detention in Burundi*

and Family Affairs. To our knowledge these bills do not include explicit prohibition of corporal punishment.

### **3 Recommendations by human rights treaty monitoring bodies**

3.1 The **Committee on the Rights of the Child** has twice expressed concern at the legality of corporal punishment in the home and other settings and recommended that it be explicitly prohibited in Burundi – in 2000 following examination of the initial state party report and in 2010 in its concluding observations on the second report.<sup>6</sup>

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<sup>6</sup> 16 October 2000, CRC/C/15/Add.133, Concluding observations on initial report, paras. 40 and 41; 1 October 2010, CRC/C/BDI/CO/2 Advance Unedited Version, Concluding observations on second report, paras. 39 and 40