

ETHIOPIA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 19th session, 2014

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

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In Ethiopia, corporal punishment of children is lawful, despite the repeated recommendations to prohibit it by the Committee on the Rights of the Child, other treaty bodies and during the first cycle UPR in 2009 (which the Government rejected).

We hope the Working Group will note with concern the legality of corporal punishment in Ethiopia. We hope states will raise the issue during the review in 2014 and make a specific recommendation that legislation is enacted in Ethiopia to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of priority.

1 The initial review of Ethiopia by the Human Rights Council (2009)

1.1 Ethiopia was reviewed in the first cycle of the Universal Periodic Review in 2009 (session 6). The issue of corporal punishment was included in the compilation of UN information¹ and in the summary of stakeholders' information² and was raised in an advanced question.³ The following recommendation was made:⁴

“Give favourable consideration to prohibit the death penalty and corporal punishment in the Constitution and Ethiopian legislation in the area of the right to life (Mexico)”

1.2 The Government rejected the recommendation and stated: “The Federal Constitution explicitly guaranteed the right of the child to be free from corporal punishment. The

¹ 18 September 2009, A/HRC/WG.6/6/ETH/2, Compilation of UN information, paras 29 and 69

² 22 September 2009, A/HRC/WG.6/6/ETH/3, Summary of stakeholders' information, para. 21

³ Advance Question by Hungary

⁴ 4 January 2010, A/HRC/13/17, Report of the working group, para. 99(14)

Criminal Code provided for measures and penalties applicable to young persons, and these enumerations did not include corporal punishment.”⁵

1.3 Compliance with the Convention on the Rights of the Child and other human rights treaties involves, among other things, enacting legislation to explicitly prohibit all corporal punishment of children in all settings, including the home. The near universal acceptance of a degree of violent punishment in childrearing and deeply held views that parents and other adults have a “right” to physically punish children can challenge efforts to achieve prohibition. This situation also means that corporal punishment – at least to some degree – is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence. It is not uncommon for states to claim, as Ethiopia has, that existing law adequately prohibits corporal punishment. But unless prohibition is explicit – and in Ethiopia there is no explicit prohibition of corporal punishment in the home – then some degree of corporal punishment continues to be viewed as acceptable. **It is for these reasons that we respectfully urge members of the Working Group to specifically recommend prohibition of corporal punishment in the review of Ethiopia.**

2 Legality of corporal punishment in Ethiopia

- 2.1 ***Home (lawful)***: Article 576 of the Criminal Code 2005 punishes maltreatment of children but states in paragraph 3: “The taking, by parents or other persons having similar responsibilities, of a disciplinary measure that does not contravene the law, for the purposes of proper upbringing, is not subject to this provision.” Provisions in the Civil Code 1960 allowing for “light bodily punishment” as an educative measure within the family were repealed but the Revised Family Code 2000 states that “the guardian may take the necessary disciplinary measures for the purpose of ensuring the upbringing of the minor” (article 258).
- 2.2 ***Schools (unlawful)***: Corporal punishment is explicitly prohibited in article 36 of the Constitution 1995, which states: “(1) Every child has the right ... (e) to be free of corporal punishment or cruel and inhumane treatment in schools and other institutions responsible for the care of children.” Corporal punishment is not among permitted disciplinary measures in the school administration regulation issued by the Ministry of Education in 1998.
- 2.3 ***Penal system – sentence for crime (unlawful)***: There is no provision for judicial corporal punishment in criminal law.
- 2.4 ***Penal system – disciplinary measure in penal institutions (lawful)***: Corporal punishment is unlawful under article 36 of the Constitution 1995 (see above).
- 2.5 ***Alternative care settings (lawful)***: Corporal punishment is prohibited in child care institutions by article 36 of the Constitution 1995 (see above), but its application to private as well as state provided care is unclear. There appears to be no prohibition in relation to non-institutional child care, where the provisions in the Criminal Code 2005 (article 576) and the Revised Family Code 2000 (article 25) allowing for disciplinary measures by persons with parental authority would presumably apply.

⁵ 8 February 2011, A/HRC/13/56, Report of the Human Rights Council on its thirteenth Session, para. 744

3 Recommendations by human rights treaty monitoring bodies

- 3.1 **CRC:** The Committee on the Rights of the Child has three times recommended prohibition of corporal punishment of children in Ethiopia, including in the home – in the concluding observations on the state party’s initial report in 1997, on the second report in 2001 and on the third report in 2006.⁶
- 3.2 **CAT:** In 2011, the Committee Against Torture recommended prohibition of corporal punishment in childrearing in the home and alternative care settings in Ethiopia.⁷
- 3.3 **CESCR:** In 2012, the Committee on Economic, Social and Cultural Rights recommended that the Criminal Code and the Family Code in Ethiopia be amended to prohibit corporal punishment of children in the home and alternative care settings.

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

⁶ 24 January 1997, CRC/C/15/Add.67, Concluding observations on initial report, paras. 13 and 27; 21 February 2001, CRC/C/15/Add.144, Concluding observations on second report, paras. 6, 38 and 39; 1 November 2006, CRC/C/ETH/CO/3, Concluding observations on third report, paras. 33 and 34

⁷ 20 January 2011, CAT/C/ETH/CO/1, Concluding observations on initial report, para. 28