

Corporal punishment of children in Ethiopia: Briefing for the Universal Periodic Review, 33rd session, May 2019



GLOBAL INITIATIVE TO
**End All Corporal
Punishment of Children**

From the Global Initiative to End All Corporal Punishment of Children, October 2018

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 still lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, the Committee Against Torture, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of Persons with Disabilities, and the African Committee of Experts on the Rights and Welfare of the Child.

We hope the Working Group will note with concern the legality of corporal punishment of children in Ethiopia. We hope states will raise the issue during the review in 2019 and make a specific recommendation that Ethiopia draft and enact legislation as a matter of priority to explicitly prohibit corporal punishment of children in all settings, including the home, and repeal all legal defences for its use.

1 Review of Ethiopia in the 2nd cycle UPR (2014) and progress since

- 1.1 Ethiopia was reviewed in the second cycle of the Universal Periodic Review in 2014 (session 19). The issue of corporal punishment of children was raised in the compilation of UN information¹ and in the summary of stakeholders' information.² During the review, the Government stated that Ethiopia was "committed to improving the rights and welfare of children and was taking steps to eliminate corporal punishment in family settings, which was prohibited under the Constitution".³ A recommendation to "enhance endeavours to abolish corporal punishment of children" was accepted but the Government rejected another to criminalise all forms of corporal punishment.⁴
- 1.2 Since the review, there has been no change in the legality of corporal punishment and no progress towards prohibition.
- 1.3 **We hope the Working Group will note with concern the continued legality of corporal punishment of children in Ethiopia. We hope states will raise the issue during the review in**

¹ 12 February 2014, A/HRC/WG.6/19/ETH/2, Compilation of UN information, para. 34

² 27 January 2014, A/HRC/WG.6/19/ETH/3, Summary of stakeholders' views, para. 32

³ 8 May 2014, A/HRC/WG.6/19/L.12 Ad Advance Unedited Version, Draft report of the working group, para. 98

⁴ 7 July 2014, A/HRC/27/14, Report of the working group, para. 155; 17 September 2014, A/HRC/27/14/Add.1, Report of the working group: Addendum

2019 and make a specific recommendation that Ethiopia draft and enact legislation as a matter of priority to explicitly prohibit corporal punishment of children in all settings, including the home, and repeal all legal defences for its use.

2 Legality of corporal punishment in Ethiopia

Summary of current law and reforms needed to achieve prohibition

Corporal punishment in Ethiopia is prohibited in child care institutions, in schools, and in the penal system but it is still lawful in the home and in some forms of alternative and day care. Legislation should be enacted to explicitly prohibit all corporal punishment in all settings, including the home, and all legal defences for its use, including in the Criminal Code 2005 and in the Revised Family Code 2000, should be repealed.

- 2.1 Home (*lawful*):** Corporal punishment is lawful in the home. Article 576 of the Revised 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” (art. 258). Provisions against violence and abuse in the Constitution 1995, the Criminal Code 2005 and the Revised Family Code 2000 are not interpreted as prohibiting corporal punishment in childrearing. The Government reported to the Committee on the Rights of the Child in 2012 that the provision allowing parental discipline in the Revised Criminal Code is a “positive improvement” on the previous authorisation of “reasonable chastisement” in the Penal Code 1957 and that “federal and regional education institutions and justice bodies are working towards the abolishment of corporal punishment both in homes and schools”.⁵ But there was no indication of law reform to prohibit all corporal punishment in childrearing.
- 2.2 Alternative care settings (*partially lawful*):** Corporal punishment is prohibited in child care institutions by article 36 of the Constitution 1995 (see below), but we have yet to confirm that this applies to private as well as state provided care. There appears to be no prohibition in relation to non-institutional childcare, where the provisions in the Revised Criminal Code 2005 (art. 576) and the Revised Family Code 2000 (art. 25) allowing for disciplinary measures by persons with parental authority would presumably apply.
- 2.3 Day care (*partially lawful*):** Corporal punishment is prohibited in institutions by article 36 of the Constitution 1995 (see below), but we have yet to confirm that this applies to private as well as state provided care. There appears to be no prohibition in relation to non-institutional forms of day care, where the provisions in the Revised Criminal Code 2005 (art. 576) and the Revised Family Code 2000 (art. 25) allowing for disciplinary measures by persons with parental authority would presumably apply.

⁵ 23 December 2013, CRC/C/ETH/4-5, Fourth/fifth state party report, paras. 98 and 100

- 2.4 **Schools (unlawful)**: Corporal punishment is explicitly prohibited in schools 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.
- 2.5 **Penal institutions (unlawful)**: Corporal punishment is unlawful as a disciplinary measure in penal institutions. The Constitution 1995 states that all persons in detention have the right to “treatments respecting their dignity” (art. 21) and article 36 explicitly protects children from corporal punishment in institutions.
- 2.6 **Sentence for crime (unlawful)**: Corporal punishment is unlawful as a sentence for crime under the Revised Criminal Code 2005.

3 Recommendations by human rights treaty bodies

- 3.1 **CRC**: The Committee on the Rights of the Child first expressed concern at corporal punishment in the home and other settings in Ethiopia in 1997, when it recommended that it be abolished. The Committee has subsequently and repeatedly expressed similar concerns and made recommendations that corporal punishment be prohibited in all settings. Ethiopia has now received these recommendations from the Committee four times – in 1997, 2001, 2006 and 2015 – but has still not prohibited all corporal punishment of children.⁶
- 3.2 **CAT**: In 2011, the Committee Against Torture recommended that the Criminal Code and the Family Code in Ethiopia be amended so as to prohibit corporal punishment of children in the home.⁷
- 3.3 **CESCR**: In 2012, the Committee on Economic, Social and Cultural Rights urged the Government of Ethiopia to revise its Criminal and Family Codes to prohibit corporal punishment of children in the home and in alternative care settings.⁸
- 3.4 **CRPD**: In 2016, the Committee on the Rights of Persons with Disabilities recommended that Ethiopia abolish in law and in practice corporal punishment of children with disabilities in all settings.⁹
- 3.5 **ACERWC**: In 2014, the African Committee of Experts on the Rights and Welfare of the Child expressed concern at corporal punishment of children in Ethiopia and recommended it be prohibited, including in the home.¹⁰

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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; 3 June 2015, CRC/C/ETH/CO/4-5 Advance Unedited Version, Concluding observations on fourth/fifth report, paras. 41 and 42

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

⁸ 31 May 2012, E/C.12/ETH/CO/1-3, Concluding observations on initial-third report, para. 18

⁹ 4 November 2016, CRPD/C/ETH/CO/1, Concluding observations on initial report, paras. 15 and 16

¹⁰ [December 2014], Concluding observations on initial report, para. 23

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 since 2011 the Committee on the Rights of Persons with Disabilities.