

## **DJIBOUTI**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 16<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 Djibouti, despite the recommendations to prohibit it made during the UPR in 2009 and by the Committee on the Rights of the Child and the Committee Against Torture.**

**We hope the Working Group will note with concern the legality of corporal punishment in Djibouti. We hope states will raise the issue during the review in 2013 and recommend to Djibouti 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 Djibouti by the Human Rights Council (2009)**

1.1 Djibouti was examined in the first cycle of the Universal Periodic Review in 2009 (session 4). The issue of corporal punishment of children was included in the compilation of UN information,<sup>1</sup> and the following recommendations were made:<sup>2</sup>

“Adopt and implement the legislation and policies concerning children, especially concerning birth registration, violence against children, juvenile justice, street children to name just a few (Slovenia) and to consider legislation which prohibits all forms of violence against children, including corporal punishment, and which promotes alternative forms of discipline (Brazil)”

1.2 The Government did not formally accept or reject the recommendation.

1.3 Prohibiting corporal punishment of children in all settings, including the home, is an obligation on states under the Convention on the Rights of the Child and other human rights treaties, though it is one frequently ignored or evaded by governments. Since the review in 2009 there have been no moves towards prohibiting corporal punishment of children in Djibouti. Today, as in 2009, it is unlawful in the penal system and possibly in schools but it is lawful in the home and in alternative care settings.

## **2 Legality and practice of corporal punishment in Djibouti**

2.1 Corporal punishment is lawful in the **home**. Provisions against violence and abuse in the Criminal Code (1995), the Family Code (2002) and the Constitution (1992) are not interpreted as prohibiting corporal punishment in childrearing.

2.2 UNICEF’s major 2010 analysis of data from 2005-2006 on discipline of children in the home found that in Djibouti, 72% of 2-14 year olds experienced violent “discipline” (physical punishment and/or psychological aggression); more than one in five experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement).<sup>3</sup>

2.3 Corporal punishment is reportedly prohibited in **schools** by regulations applicable to all education institutions,<sup>4</sup> but we been unable to confirm this. There is no prohibition of corporal punishment in the Outline Act on the Education System (1999).

2.4 Interviews with 1,669 children aged 9-14 in 19 schools revealed that school corporal punishment is widespread: 27.6% said they had been hit with an object such as a ruler, stick or “tuyau” (a PVC pipe), 19.5% had been forced to kneel in front of the class or outside as a punishment and 14.1% had been pinched or had their hair or ears pulled.<sup>5</sup>

2.5 In the **penal system**, corporal punishment is unlawful as a sentence for crime: there is no provision for judicial corporal punishment in criminal law. But corporal punishment is not prohibited as a disciplinary measure in penal institutions.

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<sup>1</sup> 16 December 2008, A/HRC/WG.6/4/DJI/2, Compilation of UN information, para. 17

<sup>2</sup> 5 October 2009, A/HRC/11/16, Report of the Working Group, para. 68(5)

<sup>3</sup> UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

<sup>4</sup> 23 September 2008, CRC/C/SR.1347, Summary record of examination by the Committee on the Rights of the Child, para. 48

<sup>5</sup> Debarbieux, E. (2006), “Pourquoi pas un bonne fessée? Une recherche sur le châtimeur corporel à l’école”, *SPIRALE - Revue de Recherches en Éducation*, 37, 83-95

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

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

3.1 In its concluding observations on the state party's second report in 2008, the **Committee on the Rights of the Child** recommended that all corporal punishment of children in Djibouti be prohibited, including in the family, schools, alternative childcare and places of detention.<sup>6</sup>

3.2 In 2011, the **Committee Against Torture** recommended that Djibouti consider amending its Criminal and Family Codes to prohibit corporal punishment of children in all settings, including the home.<sup>7</sup>

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<sup>6</sup> 7 October 2008, CRC/C/DJI/CO/2, Concluding observations on second report, paras. 35 and 36

<sup>7</sup> 22 December 2011, CAT/C/DJI/CO/1, Concluding observations on initial report, para. 23