

COMOROS

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 18th session, 2014

*From Dr Sharon Owen, Research Coordinator, Global Initiative,
info@endcorporalpunishment.org*



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 Comoros, corporal punishment of children is lawful, despite the Government’s acceptance of recommendations to prohibit it in the home and other settings made during the UPR in 2009 and the recommendations of the Committee on the Rights of the Child.

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

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

1.1 Comoros was examined in the first cycle of the Universal Periodic Review in 2009 (session 5). The issue of corporal punishment of children was included in the compilation of UN information¹ and in the summary of stakeholders’ information.² The following recommendations were made and were accepted by the Government:³

“Consider enacting legislation which prohibits the use of corporal punishment on children within the family and at school and promotes alternative forms of discipline (Brazil); take concrete measures by law to prevent and combat child abuse and ill-treatment of children within the family, at school, in other institutions and in society at large and to officially prohibit by law the use of corporal punishment within the family and at school (Germany).”

¹ 19 March 2009, A/HRC/WG.6/5/COM/2, Compilation of UN information, para. 21

² 24 February 2009, A/HRC/WG.6/5/COM/3, Summary of stakeholders’ information, paras. 4 and 5

³ 3 June 2009, A/HRC/12/16, Report of the working group, paras. 65(31)

- 1.2 Despite the Government's acceptance of the recommendations, there has been no change in the legality of corporal punishment since the initial review in 2009: corporal punishment of children in the home, schools, penal institutions and alternative care settings is not prohibited.
- 1.3 The near universal acceptance of a degree of violent punishment in childhood 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: prohibiting laws, as well as recommendations to enact them, are effective only when they explicitly refer to corporal punishment. **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 Comoros.**

2 Legality of corporal punishment in Comoros

- 2.1 **Home (lawful):** According to the provisions on parental authority in the Family Code 2005, parents and those to whom parental authority is delegated have the power "to admonish excluding abuse and torture" (article 106). Articles 297 and 298 of the Penal Code 1982 punish violence against children with the exception of "minor" violence: minor violence is punished under article 12(7) of Law No. 81/007, but there is no indication that this would apply to physical punishment of children by parents. Provisions against violence and abuse in the Family Code and the Child Protection Code 2005 are not interpreted as prohibiting all corporal punishment in childrearing. The Constitution 2001 (amended 2009) asserts the child's right to protection from all forms of violence but it does not explicitly prohibit all corporal punishment.
- 2.2 **Schools (lawful):** There is no explicit prohibition of corporal punishment in schools.
- 2.3 **Penal system – sentence for crime (?unlawful):** There is no provision for judicial corporal punishment in the Penal Code 1982 and the Child Protection Code 2005, but it is possibly lawful under Shari'a law and in traditional community justice systems.
- 2.4 **Penal system – disciplinary measure in penal institutions (lawful):** There is no explicit prohibition of corporal punishment.
- 2.5 **Alternative care settings (lawful):** Corporal punishment is lawful under the power of those with parental authority "to admonish" children in article 106 of the Family Code 2005.

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
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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.