

Corporal punishment of children in Djibouti: Briefing for the Universal Periodic Review, 30th session, 2018

From the Global Initiative to End All Corporal Punishment of Children, September 2017



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 Djibouti, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child, the Committee Against Torture and during the 1st cycle UPR of Djibouti in 2009.

We hope the Working Group will note with concern the legality of corporal punishment of children in Djibouti. We hope states will raise the issue during the review in 2018 and make a specific recommendation that Djibouti draft and enact legislation as a matter of priority to clearly prohibit all corporal punishment of children, however light, in every setting of their lives.

1 Review of Djibouti in the 2nd cycle UPR (2013) and progress since

1.1 Djibouti was reviewed in the second cycle of the Universal Periodic Review in 2013 (session 16).

The issue of corporal punishment of children was raised in the compilation of UN information¹ and the summary of stakeholders' information.² No recommendations were made specifically on corporal punishment of children, but the Government accepted recommendations on children's rights and children's protection from violence.³ Since the review in 2013 and despite the Government's international obligations, no progress has been made towards a legal ban of corporal punishment.

1.2 We hope the Working Group will note with concern the legality of corporal punishment of children in Djibouti. We hope states will raise the issue during the review in 2018 and make a specific recommendation that Djibouti draft and enact legislation as a matter of priority to clearly prohibit all corporal punishment of children, however light, in every setting of their lives.

¹ 11 February 2013, A/HRC/WG.6/16/DJI/2, Compilation of UN information, para. 25

² 7 February 2013, A/HRC/WG.6/16/DJI/3, Summary of stakeholders' views, paras. 13, 14, 15, 16, 17 and 18

³ 8 July 2013, A/HRC/24/10, Report of the working group, paras. 143(20), 143(73) and 143(81)

2 Legality of corporal punishment in Djibouti

Summary of current law and reforms needed to achieve prohibition

In Djibouti, corporal punishment of children is lawful in the home, in alternative care and day care settings, and in penal institutions. It is unlawful in schools and as a sentence for a crime. Achieving prohibition requires legislation to be enacted to explicitly prohibit corporal punishment of children in all settings, including the home.

- 2.1 **Home (lawful)**: There appears to be no confirmation in the Family Code Act No. 152/AN/02 2002 or the Criminal Code Act No. 59/AN/94 1995 of a “right” of parents to punish/discipline children. However, provisions against violence and abuse in these Codes and in the Constitution 1992 are not interpreted as prohibiting corporal punishment in childrearing. The Family Code is under review: we do not know if prohibition is being proposed in this context.
- 2.2 **Alternative care settings (lawful)**: There is no explicit prohibition of corporal punishment in alternative care settings. Corporal punishment is lawful as for parents.
- 2.3 **Day care (lawful)**: There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children.
- 2.4 **Schools (?unlawful)**: Corporal punishment is reportedly prohibited in schools by regulations applicable to all education institutions,⁴ but we have been unable to confirm this. There is no prohibition of corporal punishment in the Education System Act No. 96/AN/00/4ème L 2000.
- 2.5 **Penal institutions (lawful)**: There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.
- 2.6 **Sentence for crime (unlawful)**: There is no provision for judicial corporal punishment in the Code of Criminal Procedure Act No. 59/AN/94 or the Criminal Code Act No. 59/AN/94 1995.

3 Recommendations by human rights treaty bodies

- 3.1 **CRC**: In 2008, in its concluding observations on Djibouti’s second report, the Committee on the Rights of the Child recommended prohibition of corporal punishment in all settings, including the family, schools, alternative childcare and places of detention.⁵
- 3.2 **CAT**: In 2011, the Committee Against Torture recommended that corporal punishment of children be prohibited in all settings in Djibouti, including in the home.⁶

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

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

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

⁶ 22 December 2011, CAT/C/DJI/CO/1, Concluding observations on initial report, para. 23