

# **GERMANY**

## **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 15<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 in Germany is prohibited in the home and all other settings, complying with the state’s obligations under the Convention on the Rights of the Child and other human rights instruments in respect of legislative protection of children. However, research indicates that children continue to be physically punished.**

**We hope the Working Group will note positively the achievement of law reform to prohibit corporal punishment in Germany. We hope states will raise the issue during the review in 2013 and recommend to Germany that efforts to ensure full implementation of the law are strengthened, including through public and professional awareness raising and education, appropriate complaints mechanisms for adults and children, and a range of measures at all levels in response to persons who continue to physically punish children.**

## **1 The initial review of Germany by the Human Rights Council (2009)**

1.1 Germany was reviewed in the first cycle of the Universal Periodic Review in 2009 (session 4). The issue of corporal punishment was not raised and no recommendation was made concerning it.

1.2 States' obligations under the Convention on the Rights of the Child and other human rights treaties are to both prohibit and eliminate corporal punishment. Legislation which clearly prohibits all corporal punishment – as has been achieved in Germany – provides a firm foundation for protecting children from being hit and hurt in the name of discipline. But eliminating the problem requires a range of ongoing measures to ensure implementation of the law.

## **2 Prohibition of corporal punishment in Germany**

2.1 Corporal punishment of children is prohibited in all settings, including the home. In 2000, the Civil Code was amended so that article 1631 states: “Children have the right to a non-violent upbringing. Corporal punishment, psychological injuries and other humiliating measures are prohibited.” German childcare law was amended to place a duty on authorities to “promote ways in which families can resolve conflict without resort to force”.

2.2 Large scale Government research was undertaken in 2001 on the reception and initial impact of prohibition of corporal punishment in childrearing: according to parents' reports, there was a substantial decrease in the use of corporal punishment since 1996.<sup>1</sup> In comparative research in 2007, 43% of German parents said they had “mildly” slapped their child on the face, 68% on the bottom; 13% had given their child a “resounding” slap on the face; 5.2% had beaten their child with an object.<sup>2</sup> A study published in March 2012 by opinion research centre Forsa, based on interviews with parents, found that while the use of corporal punishment is declining, it is still being used, with 40% of parents admitting to smacking their children on the bottom, 10% on the face.<sup>3</sup>

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

3.1 In its concluding observations on the state party's second report in 2004, the **Committee on the Rights of the Child** welcomed the achievement of prohibition but expressed concern at the lack of comprehensive data on the impact of the law.<sup>4</sup> Similarly, in 2011 the **Committee Against Torture** expressed concern at the absence of information regarding efforts to provide ongoing public education and professional training on the prohibition, and recommended that the state party “actively promote positive, participatory and non-violent forms of education and child-rearing”.<sup>5</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>1</sup> Federal Ministry of Justice & Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2003), *Violence in upbringing: An assessment after the introduction of the right to a non-violent upbringing*

<sup>2</sup> Bussmann, K. D. (2009), *The Effect of Banning Corporal Punishment in Europe: A Five-Nation Comparison*, Martin-Luther-Universität Halle-Wittenberg

<sup>3</sup> Reported in *DW.DE*, 13 March 2012

<sup>4</sup> 26 February 2004, CRC/C/15/Add.226, Concluding observations on second report, para. 40

<sup>5</sup> 12 December 2011, CAT/C/DEU/CO/5, Concluding observations on fifth report, para. 32