

ERITREA

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

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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 Eritrea, corporal punishment of children is lawful, despite the recommendations to prohibit it made during the UPR in 2009 (rejected by the Government) and the repeated 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 Eritrea. We hope states will raise the issue during the review in 2014 and make a specific recommendation that legislation is enacted in Eritrea to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of priority.

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

1.1 Eritrea was examined in the first cycle of the Universal Periodic Review in 2009 (session 6). The issue of corporal punishment of children was raised in the compilation of UN information¹ and the summary of stakeholders' information.² The following recommendation was made:³ “Ban child corporal punishment, notably within the penal and the educational system (France).” The Government rejected the recommendation, stating that corporal punishment was banned by proclamation No. 4 of 1991.⁴

1.2 Law reform to prohibit corporal punishment of children in all settings is a key obligation under the Convention on the Rights of the Child and other international human rights instruments. It requires the enactment of legislation explicitly prohibiting corporal punishment and the repeal of all laws authorising or regulating it and all legal defences or justifications for its use in childrearing and education. It has not been possible to examine the text of Proclamation No. 4/1991, but indications are that while it may have abolished

¹ 18 September 2009, A/HRC/WG.6/6/ERI/2, Compilation of UN information, para. 16

² 15 September 2009, A/HRC/WG.6/6/ERI/3, Summary of stakeholders' information, para. 14

³ 4 January 2010, A/HRC/13/2, Report of the working group, para. 79(69)

⁴ 8 March 2010, A/HRC/13/2/Add.1, Report of the working group: Addendum, para. 14; 8 February 2011, A/HRC/13/56, Report of the Human Rights Council on its thirteenth session, para. 265

judicial flogging, it did not abolish all corporal punishment of children, which remains lawful in all settings, including in the home and possibly as a sentence for crime. Indeed, under examination by the Committee on the Rights of the Child in 2008, the Government stated that the Transitional Penal Code prohibits corporal punishment but also confirmed that “light punishments” by persons with legal authority over the child are permitted.⁵ The Committee on the Rights of the Child has twice recommended law reform in Eritrea to prohibit all corporal punishment, including in the home.⁶

- 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 Eritrea.**

2 Legality of corporal punishment in Eritrea

- 2.1 **Home (lawful):** Article 64(b) of the Transitional Penal Code of Eritrea (TPCE) states that “acts reasonably done in exercising the right of correction or discipline” are not punishable; article 548 punishes cruelty to children under 15 but states: “(2) The right to administer lawful and reasonable chastisement is not subject to this provision (Art. 64).”
- 2.2 **Schools (lawful):** A school code of conduct states that corporal punishment should not be used but there appears to be no explicit prohibition in law. On the contrary, it is lawful under the “right of correction or discipline” in the TPCE (see above).
- 2.3 **Penal system – sentence for crime (lawful):** The Government has repeatedly stated that Proclamation No. 4/1991 abolished corporal punishment, but we have been unable to verify this. The Penal Code 1957 states in article 172 that young offenders may be caned, up to 12 strokes on the buttocks. We have been unable to establish whether or not Proclamation No. 4/1991 repealed this provision.
- 2.4 **Penal system – disciplinary measure in penal institutions (lawful):** There appears to be no explicit prohibition of corporal punishment.
- 2.5 **Alternative care settings (lawful):** Corporal punishment is lawful in care settings under the “right of correction or discipline” (see above).

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 in 2011 began briefing the Committee on the Rights of Persons with Disabilities.

⁵ 23 October, CRC/C/ERI/3, Second/third state party report, paras. 56 and 72

⁶ 2 July 2003, CRC/C/15/Add.204, Concluding observations on initial report, paras. 31 and 32; 23 June 2008, CRC/C/ERI/CO/3, Concluding observations on second/third report, paras. 38 and 39