



Global Initiative to
**End All Corporal Punishment
of Children**

SOMALIA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 11th session, 2011

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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.

The Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and 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. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

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 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.

Summary

This briefing describes the legality of corporal punishment of children in Somalia. We hope the Review will highlight the importance of prohibiting all corporal punishment of children in all settings, including in the home and as a sentence of the courts, and urge the Government to enact legislation to achieve this as a matter of priority.

1 Legality of corporal punishment in Somalia

1.1 Corporal punishment is lawful in the **home**. Article 439 of the Penal Code (1962) punishes assault but article 442(2) states: “The parent who commits the act referred to in article 439 shall not be punishable.” Article 442(1) of the Code prescribes reduced punishments for homicide and hurt when the perpetrator is the parent. However, corporal punishment appears to be unlawful in the home in Somaliland. Although the Penal Code is applicable there, the Constitution of the Republic of Somaliland states in article 24(2): “Every person shall have the right to security of his person. physical punishment and any other injury to the person is prohibited.” Article 128 states that the Constitution “shall be the supreme law of the land, and any law which does not conform to it shall be null and void”.

1.2 Corporal punishment is lawful in **schools**. In Puntland, the Ministry of Education issued a Decree stating that corporal punishment should not be used but there is no prohibition in law. It is unlawful in Somaliland under article 24 of the Constitution of the Republic of Somaliland (see above).

1.4 In the **penal system**, there is no provision for corporal punishment as a sentence for crime in the Penal Code but it is lawful under Islamic law. In 2009, Parliament unanimously endorsed a new Islamic law, but we have no further details.¹ Corporal punishment is prohibited as a sentence for crime in Somaliland in the Somaliland Juvenile Justice Law (2007) and article 24 of the Constitution of the Republic of Somaliland (see above).

1.5 There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions, though the Transitional Charter of the Somali Republic prohibits “physical or moral violence or action against a person subject to restriction of personal liberty” (article 16). It is unlawful in Somaliland under article 24 of the Constitution of the Republic of Somaliland (see above).

1.6 Corporal punishment is lawful in **alternative care settings** except in Somaliland, where it is prohibited in article 24 of the Constitution of the Republic of Somaliland (see above).

2 Recommendations by human rights treaty monitoring bodies

2.1 Somalia has signed but not ratified the UN Convention on the Rights of the Child.

¹ Garowe Online, 27 April 2009; Shabelle Media Network, 19 April 2009