

Corporal punishment of children in Ethiopia

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Child population 48,448,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, some alternative care settings and some day care.

Article 576 of the Criminal Code 2005 recognises the power of parents and others with parental responsibilities to take “a disciplinary measure that does not contravene the law, for the purpose of proper upbringing” and article 258 of the Revised Family Code 2000 states that “the guardian may take the necessary disciplinary measures for the purpose of ensuring the upbringing of the minor”. These provisions need to be repealed and the law should prohibit all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults exercise parental authority over children.

Alternative care settings – Corporal punishment in state-run care institutions is prohibited under the Constitution. Legislation should be enacted to prohibit corporal punishment in institutions that are not state-run and in all non-institutional forms of alternative care (foster care, places of safety, emergency care, etc).

Day care – Corporal punishment is prohibited in day care institutions under the Constitution. It should not be prohibited by law in all other early childhood care (nurseries, crèches, kindergartens, preschools, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc), including private as well as state organised, and non-institutional as well as institutional arrangements.

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. Article 576 of the Revised Criminal Code 2005 punishes maltreatment of children but states in paragraph 3: “The taking, by parents or other persons having similar responsibilities, of a disciplinary measure that does not contravene the law, for the purposes of proper upbringing, is not subject to this provision.” Provisions in the Civil Code 1960 allowing for “light bodily punishment” as an educative measure within the family were repealed but the Revised Family Code 2000 states that “the guardian may take the necessary disciplinary measures for the purpose of ensuring the upbringing of the minor” (art. 258). Provisions against violence and abuse in the Constitution 1995, the Criminal Code 2005 and the Revised Family Code 2000 are not interpreted as prohibiting corporal punishment in childrearing. The Government reported to the Committee on the Rights of the Child in 2012 that the provision allowing parental discipline in the Revised Criminal Code is a “positive improvement” on the previous authorisation of “reasonable chastisement” in the Penal Code 1957 and that “federal and regional education institutions and justice bodies are working towards the abolishment of corporal punishment both in homes and schools”.¹ But there was no indication of law reform to prohibit all corporal punishment in childrearing.

Alternative care settings

Corporal punishment is prohibited in child care institutions by article 36 of the Constitution 1995 (see under “Schools”), but we have yet to confirm that this applies to private as well as state provided care. There appears to be no prohibition in relation to non-institutional childcare, where the provisions in the Revised Criminal Code 2005 (art. 576) and the Revised Family Code 2000 (art. 25) allowing for disciplinary measures by persons with parental authority would presumably apply.

Day care

Corporal punishment is prohibited in institutions by article 36 of the Constitution 1995 (see under “Schools”), but we have yet to confirm that this applies to private as well as state provided care. There appears to be no prohibition in relation to non-institutional forms of day care, where the provisions in the Revised Criminal Code 2005 (art. 576) and the Revised Family Code 2000 (art. 25) allowing for disciplinary measures by persons with parental authority would presumably apply.

Schools

Corporal punishment is explicitly prohibited in schools in article 36 of the Constitution 1995, which states: “(1) Every child has the right ... (e) to be free of corporal punishment or cruel and inhumane treatment in schools and other institutions responsible for the care of children.” Corporal punishment is not among permitted disciplinary measures in the school administration regulation issued by the Ministry of Education in 1998.

¹ 23 December 2013, CRC/C/ETH/4-5, Fourth/fifth state party report, paras. 98 and 100

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions. The Constitution 1995 states that all persons in detention have the right to “treatments respecting their dignity” (art. 21) and article 36 explicitly protects children from corporal punishment in institutions (see under “Schools”).

Sentence for crime

Corporal punishment is unlawful as a sentence for crime under the Revised Criminal Code 2005.

Universal Periodic Review of Ethiopia’s human rights record

Ethiopia was examined in the first cycle of the Universal Periodic Review in 2009 (session 6). The following recommendation was made:²

“Give favourable consideration to prohibit the death penalty and corporal punishment in the Constitution and Ethiopian legislation in the area of the right to life (Mexico)”

The Government rejected the recommendation and stated: “The Federal Constitution explicitly guaranteed the right of the child to be free from corporal punishment. The Criminal Code provided for measures and penalties applicable to young persons, and these enumerations did not include corporal punishment.”³

Examination in the second cycle took place in 2014 (session 19). During the review the Government stated that Ethiopia was “committed to improving the rights and welfare of children and was taking steps to eliminate corporal punishment in family settings, which was prohibited under the Constitution”.⁴ The following recommendations were made:⁵

“Enhance endeavours to abolish corporal punishment of children (Cyprus);

“Criminalize all forms of corporal punishment against children and sign and ratify the Optional Protocol to the CRC on a communications procedure (Portugal)”

The Government accepted the first of these but rejected the second.⁶

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(3 June 2015, CRC/C/ETH/CO/4-5 Advance Unedited Version, Concluding observations on fourth/fifth report, paras. 41 and 42)

“While welcoming the promotion of positive forms of discipline through the elaboration of awareness-raising and training programmes, targeting particularly professionals working with and for children, the Committee is concerned that the law does not expressly prohibit corporal punishment

² 4 January 2010, A/HRC/13/17, Report of the working group, para. 99(14)

³ 8 February 2011, A/HRC/13/56, Report of the Human Rights Council on its thirteenth Session, para. 744

⁴ 8 May 2014, A/HRC/WG.6/19/L.12 Ad Advance Unedited Version, Draft report of the working group, para. 98

⁵ 7 July 2014, A/HRC/27/14, Report of the working group, paras. 155(85) and 157(4)

⁶ 7 July 2014, A/HRC/27/14, Report of the working group, para. 155; 17 September 2014, A/HRC/27/14/Add.1, Report of the working group: Addendum

in the home and in the institutional child and day care centres where adults exercise parental authority over children. The Committee is also concerned that corporal punishment is still widely practiced and accepted in schools, the home and other settings.

“With reference to the Committee’s general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, and general comment No. 13 (2011) on the rights of the child to freedom from all forms of violence, the Committee recommends that the State party:

- a) prohibit expressly all forms of corporal punishment in all settings, including in the home and alternative care, by revising the relevant provisions of the Revised Family and Criminal Codes; and
- b) further develop programmes promoting positive forms of discipline, in the home, in schools, alternative care, and other institutions, by focusing particularly on children in vulnerable situations, including children with disabilities, children in street situations, children deprived of parental care, children living in poverty, children in conflict with law.”

Committee on the Rights of the Child

(1 November 2006, CRC/C/ETH/CO/3, Concluding observations on third report, paras. 33 and 34)

“While taking note of the Constitutional provision prohibiting corporal punishment in schools, the Committee remains concerned that ‘reasonable chastisement’ is permitted according to the Penal Code and that corporal punishment is still widely practised in the home, the schools and in other settings.

“The Committee recommends that the State party explicitly prohibit corporal punishment within the home and enforce the prohibition in all settings, including in the family, the schools and alternative childcare. The Committee also recommends that the State party conduct awareness-raising campaigns to ensure that alternative forms of discipline are used, in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28, paragraph 2, while taking due account of general comment No. 8 of the Committee on the Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment (2006). The Committee also recommends the State party to seek technical assistance from UNICEF in order to implement relevant programmes in the school environment.”

Committee on the Rights of the Child

(21 February 2001, CRC/C/15/Add.144, Concluding observations on second report, paras. 6, 38 and 39)

“The Committee notes the interim prohibition by the Ministry of Education of the use of corporal punishment by schools....

“While noting the Ministry of Education’s interim measures prohibiting the use of corporal punishment in schools, the Committee remains concerned that, in practice, corporal punishment remains common in schools and in the context of the family.

“In the light of article 28.2 of the Convention, the Committee recommends that the State party permanently prohibit all forms of corporal punishment, including the context of the school and the family, inter alia, through the enforcement of appropriate legislation, through awareness raising activities for parents, teachers and other relevant groups and through the training of teachers in alternative disciplinary sanctions which are not harmful to children. The Committee recommends

that, for this purpose, the State party consider taking advantage of the current drafting of a new penal code. The Committee recommends, in addition, that children be provided with mechanisms through which they can report and complain of corporal punishment practices.”

Committee on the Rights of the Child

(24 January 1997, CRC/C/15/Add.67, Concluding observations on initial report, paras. 13 and 27)

“The Committee notes with concern the non-compatibility of certain provisions of domestic law with the principles and rights enshrined in the Convention, such as the provision for a different minimum age of marriage between girls (15 years of age) and boys (18 years of age), the provision in the Penal Code for the possibility to sentence children to corporal punishment, the provision in the Civil Code for ‘light bodily punishment’ as an educative measure within the family and the limitation of the right to counsel when the child may be represented by his or her parents or legal guardian during legal proceedings.

“The Committee recommends that the Government pursue the process of bringing existing legislation into line with the provisions of the Convention and that the best interests of the child be fully taken into account in the drafting of new legislation. In this regard, the Committee particularly recommends that the provisions for the minimum age of marriage for girls at 15 years, the sentencing of children to corporal punishment, the ‘light bodily punishment’ as an educational measure within the family, and the limitation of the right to legal counsel of children be abolished as a matter of priority.”

Committee Against Torture

(20 January 2011, CAT/C/ETH/CO/1, Concluding observations on initial report, para. 28)

“The Committee notes with concern that, while corporal punishment is prohibited in schools, childcare institutions and as a penal or disciplinary sanction in the penal system, it is not prohibited as a disciplinary measure in the home or alternative care settings for purposes of “proper upbringing”, under article 576 of the revised Criminal Code (2005) and article 258 of the revised Family Code (2000) (arts. 2, 10 and 16).

The State party should consider amending its revised Criminal Code and Family Code, with a view to prohibiting corporal punishment in child-rearing in the home and alternative care settings and raise public awareness on positive, participatory and non-violent forms of discipline.”

Committee on Economic, Social and Cultural Rights

(31 May 2012, E/C.12/ETH/CO/1-3, Concluding observations on initial-third report, para. 18)

“The Committee notes with concern the high level of child abuse, in particular sexual abuse. The Committee is also concerned that corporal punishment is lawful in the home and alternative care settings for purposes of ‘proper upbringing’, under article 576 of the Criminal Code and article 258 of the Family Code (art.10).

The Committee recommends that the State party take urgent steps to combat and prevent child abuse and neglect, including through establishing effective mechanisms for the reception, monitoring and investigation of reports of cases of child abuse. The Committee also urges the State party to amend its Criminal Code and Family Code as a matter of priority to prohibit corporal punishment in child-rearing in the home and alternative care settings.”

Committee on the Rights of Persons with Disabilities

(4 November 2016, CRPD/C/ETH/CO/1, Concluding observations on initial report, paras. 15 and 16)

“The Committee is concerned about the lack of specific legislation to address and ensure the protection of the rights of children with disabilities against abandonment, neglect, mistreatment and corporal punishment in all aspects of life.

“The Committee recommends that the State party adopt and implement specific legislation to address the protection of children with disabilities against abandonment, neglect and mistreatment, including through the support of parents of children with disabilities. It also urges the State party to abolish, in law and in practice, corporal punishment against children with disabilities in all spheres.”

African Committee of Experts on the Rights and Welfare of the Child

([December 2014], Concluding observations on initial report, para. 23)

“The Committee is concerned that there are some forms of corporal punishment not prohibited by the law. This exposes children to abuse as it is difficult to assess and monitor the level of violence that corporal punishment causes. Hence, the Committee encourages the State Party to prohibit corporal punishment within the family, school and other alternative care institutions. The Committee encourages the Government to explicitly outlaw corporal punishment in the Criminal Code. To this end the Government needs to create awareness on positive parenting and disciplining of children.”

Prevalence/attitudinal research in the last ten years

The Young Lives longitudinal study, which is following two cohorts of children in Ethiopia, India (the states of Andhra Pradesh and Telangana), Peru and Vietnam over 15 years, found that in Ethiopia 38% of 8 year-olds and 12% of 15 year-olds said they had been physically punished by a teacher in the past week; 76% of 8 year-olds and 49% of 15 year-olds said they had seen other children being physically punished. Among 8 year-olds, corporal punishment was more common for boys (44%) than girls (31%), in urban areas (41%) than rural areas (35%), and in public schools (40%) than private schools (32%). Almost 6% of 8 year-olds cited “teachers beating” as the most important reason for disliking school.

(Ogando Portela, M. J. & Pells, K. (2015), *Corporal Punishment in Schools: Longitudinal Evidence from Ethiopia, India, Peru and Viet Nam*, Innocenti Discussion Paper No. 2015-02, Florence, Italy: UNICEF Office of Research)

A study involving 47 focus group discussions and 26 interviews with children and adults found that corporal punishment was widespread: 68% of the focus groups who discussed parental corporal punishment said beating was common, 15% said it was rare and 17% said it did not happen; 63% of the groups who discussed corporal punishment by teachers said beating was common, 6% rare and 31% it did not happen. Corporal punishment usually involved children being beaten with a hand or a stick. Other punishments included shouting at children, pinching them, forcing them to maintain painful positions and forcing them to look at the sun.

(Lelieveld, M. (2011), *Child Protection in the Somali Region of Ethiopia*, BRIDGES Project, Feinstein International Center & Tufts University)

A 2010 African Child Policy Forum report on violence against children with disabilities in Cameroon, Ethiopia, Senegal, Uganda and Zambia documented a very high level of violence. Nearly a thousand 18-24 year olds took part in the study across the five countries, reporting on their experiences as

children. In Ethiopia, 68% had experienced at least one type of physical violence during their childhood. Over 50% had been hit, punched, kicked or beaten; over 25% had been denied food. The most common perpetrators of physical violence were mothers (12.5%), fathers (12.1%) and other relatives (15%). Across the five countries, 23% said they had experienced physical violence that was “mostly discipline, reasonable and justified”, 27% physical violence that was “mostly discipline but not reasonable or justified”. Twenty-six per cent said they had experienced emotional violence that was “discipline, but not reasonable or justified”, 22% that was “disciplinary, reasonable and justified”. Across all five countries, more than half (54%) of those who had been physically beaten said they had suffered broken bones, teeth, bleeding or bruising; 2% had been permanently disabled; 21% required medical attention; 13% had to miss school or work; and 20% had needed rest at home. For all five countries, the majority of respondents with physical, visual and intellectual disabilities experienced physical violence more than 10 times. The report recommends prohibition of all corporal punishment, including in the home, as a way to minimise the risk of violence against children with disabilities.

(The African Child Policy Forum (2010), *Violence Against Children With Disabilities in Africa: Field Studies from Cameroon, Ethiopia, Senegal, Uganda and Zambia*, Addis Ababa: The African Child Policy Forum)

A 2010 study into childcare institutions in Ethiopia studied 87 institutions through visits, document reviews, interviews and focus groups with institution staff, parents of children living in institutions and former residents. The study found that children in institutions were frequently subjected to physical, sexual, and psychological abuse and exploitation. In focus group discussions, foster care was also discussed. Participants stated that children in foster care, too, often experienced violence at the hands of their caregivers, and that foster children were treated as “second-class citizens”. The report does not examine the extent to which the violence was inflicted in the context of “discipline”.

(FHI (2010), *Improving Care Options for Children in Ethiopia through Understanding Institutional Child Care and Factors Driving Institutionalization*)

A study in 116 schools in various areas of Ethiopia, which looked at violence against girls in schools, found that 34% of students but only 25% of teachers stated that girls experience corporal punishment in schools.

(Save the Children Denmark (2008), *A study on violence against girls in primary schools and its impacts on girls' education in Ethiopia*, Addis Ababa, www.ungei.org/resources/files/Study_on_Violence_Against_Schoolgirls_final.pdf)