BRIEFING ON DJIBOUTI FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE – March 2013

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1 The human rights obligation to prohibit corporal punishment

1.1 The legality and practice of corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity and to equal protection under the law, and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment – rights guaranteed in the International Covenant on Civil and Political Rights and other international human rights instruments.

This briefing describes the legality of corporal punishment of children in Djibouti. In light of the obligation under international human rights law to prohibit all corporal punishment of children, the recommendations of the UN Secretary General’s Study on Violence against Children, and the recommendations to Djibouti by the Committee on the Rights of the Child and the Committee Against Torture and during Djibouti’s Universal Periodic Review in 2009, we hope the Human Rights Committee will:

- raise the issue of corporal punishment of children in its List of Issues for Djibouti, in particular asking what measures have been taken to ensure the law explicitly prohibits corporal punishment in all settings, including the home, and

- recommend to Djibouti, following its examination of the state party’s initial report, that legislation is enacted and enforced which explicitly prohibits corporal punishment in all settings, including the home, as a matter of priority, together with appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.
2 Legality of corporal punishment of children in Djibouti

2.1 Corporal punishment of children in Djibouti is unlawful as a sentence for crime and possibly in schools, but it is lawful in the home, care settings and penal institutions.

2.2 With regard to the home, provisions against violence and abuse in the Criminal Code (1995), the Family Code (2002) and the Constitution (1992) are not interpreted as prohibiting corporal punishment in childrearing.

2.3 The Government has stated that corporal punishment is prohibited in schools by regulations applicable to all education institutions but we were unable to confirm this and corporal punishment continues to be practised (see below). There is no prohibition of corporal punishment in the Outline Act on the Education System (1999).

2.4 In the penal system, corporal punishment is unlawful as a sentence for crime under the Criminal Code and the Constitutional prohibition of torture and cruel, inhuman or degrading punishment or treatment (article 16). There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

2.5 There is no explicit prohibition of corporal punishment in alternative care settings.

3 Prevalence of corporal punishment of children in Djibouti

3.1 UNICEF’s major 2010 analysis of data from 2005-2006 on discipline of children in the home found that in Djibouti, 72% of 2-14 year olds experienced violent “discipline” (physical punishment and/or psychological aggression); more than one in five experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement).

3.2 In other research, interviews with 1,669 children aged 9-14 in 19 schools revealed that corporal punishment is widespread in schools: 27.6% said they had been hit with an object such as a ruler, stick or “tuyau” (a PVC pipe), 19.5% had been forced to kneel in front of the class or outside as a punishment and 14.1% had been pinched or had their hair or ears pulled.

4 Recommendations by human rights treaty monitoring bodies and during the Universal Periodic Review

4.1 In 2008, the Committee on the Rights of the Child expressed concern at corporal punishment of children in Djibouti and recommended that it be explicitly prohibited in all settings, including the family, schools, alternative childcare and place of detention.

4.2 In 2011, the Committee Against Torture recommended that the Government consider amending the Criminal Code and Family Code to prohibit corporal punishment in all settings, including the home.

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1 23 September 2008, CRC/C/SR.1347, Summary record of examination by the Committee on the Rights of the Child, para. 48
4 7 October 2008, CRC/C/DJI/CO/2, Concluding observations on second report, paras. 35 and 36
5 22 December 2011, CAT/C/DJI/CO/1, Concluding observations on initial report, para. 23
4.3 During the **Universal Periodic Review** of Djibouti in 2009, a recommendation was made “to consider legislation which prohibits all forms of violence against children, including corporal punishment, and which promotes alternative forms of discipline”. The Government did not formally accept or reject the recommendation.

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*
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