

**BRIEFING ON CHAD FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 120th session (July 2017)**

*From the Global Initiative to End All Corporal Punishment of Children, April 2017*

**This briefing describes the legality of corporal punishment of children in Chad. In light of the obligation under international human rights treaties to prohibit all corporal punishment of children, the global commitment to ending violence against children – including corporal punishment – in the context of the 2030 Agenda for Sustainable Development, the recommendations of the UN Secretary General’s Study on Violence against Children, the recommendations made to Chad by the Human Rights Committee in 2014, the Committee on the Rights of the Child (in 1999 and 2009), the Committee Against Torture in 2009, and during the UPR in 2009 and 2013, we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues Prior to Reporting for Chad, in particular asking what progress has been made to ensure that corporal punishment of children is prohibited in all settings, and**
* **in its concluding observations on Chad’s third periodic report, recommend that explicit prohibition of corporal punishment of children in all settings is included in the Child Protection Code, and that the Code is enacted and implemented as a matter of priority.**

**1 The legality of corporal punishment of children in Chad**

1.1 ***Summary:*** In Chad, corporal punishment is unlawful in schools and as a sentence for a crime, but it is not fully prohibited in the home, in all forms of alternative care and day care settings, and in penal institutions.

1.2 ***Home (lawful):***According to article 222 of the Constitution 1996 (amended 2005), international treaties have supremacy over domestic legislation when they are ratified and published. However, corporal punishment is not explicitly prohibited in law and provisions against violence and abuse in the Penal Code, the Constitution and Act No. 06/PR/2002 on the promotion of reproductive health are not interpreted as prohibiting corporal punishment in childrearing.

1.3 National laws are being reviewed with a view to harmonisation with international standards. A draft Child Protection Code is under discussion, as well as a draft Code on the Person and the Family, a draft Criminal Code, and a draft revised Code of Criminal Procedure. Proposed amendments to the Criminal Code address harmful practices but do not include prohibition of corporal punishment.[[1]](#footnote-1) The Government’s 2014 report to the African Committee of Experts on the Rights and Welfare of the Child indicated that the draft Child Protection Code includes prohibition of corporal punishment in its article 167, which states “the use of corporal punishment on a child for purposes of correction or discipline is prohibited. Parents must ensure that discipline is done in a way that the child is treated with humanity and with the rest due to his/her dignity”.[[2]](#footnote-2)

1.4 ***Alternative care settings (lawful):***In 2014, the Government reported to the Human Rights Council that corporal punishment is prohibited by law in public institutions.[[3]](#footnote-3) We have yet to identify prohibiting legislation. There is no explicit prohibition of corporal punishment in other forms of alternative care, where it is lawful as for parents.

1.5 ***Day care (lawful):***In 2014, the Government reported to the Human Rights Council that corporal punishment is prohibited by law in public institutions.[[4]](#footnote-4) We have yet to identify prohibiting legislation. There is no explicit prohibition of corporal punishment in other early childhood care and in day care for older children.

1.6 ***Schools (?unlawful):***Corporal punishment is considered unlawful in schools, under Law No. 016/PR/06 on the education system, though it is not explicitly prohibited. Article 113 states (unofficial translation): “The right to physical and moral integrity of pupils and students is guaranteed. As such, the following are prohibited: - physical abuse or any other form of violence or humiliation….”

1.7 ***Penal institutions (lawful):***In 2014, the Government reported to the Human Rights Council that corporal punishment is prohibited by law in public institutions.[[5]](#footnote-5) We have yet to identify prohibiting legislation. Article 9 of Decree No. 269/PR/MIS/IGSP/1995 on the Code of ethics of the national police states that the use of force should be limited to what is strictly necessary and commensurate to the goal to be achieved, and article 10 prohibits violence and inhuman or degrading treatment against persons under the responsibility of the police, but there is no explicit prohibition of corporal punishment.

1.8 ***Sentence for crime (unlawful):*** Corporal punishment is unlawful as a sentence for crime under Act No. 07/PR/1999 concerning criminal procedures for children aged 13-18 years and Act No. 04/PR/1998 on the organisation of the judiciary. The Constitution (art. 18), the Penal Code (art. 247) and Act No. 06/PR/2002 prohibit torture and degrading and humiliating treatment.

**2 Recommendations by human rights treaty bodies and during the UPR**

2.1 ***HRC:*** In 2014, the Human Rights Committee expressed concern that corporal punishment of children was still widespread in schools and in homes, and recommended that the Government take measures to end corporal punishment in all settings.[[6]](#footnote-6)

2.2 ***CRC:*** The Committee on the Rights of the Child first expressed concern about corporal punishment of children in Chad – and recommended its prohibition in all settings including the home – following examination of the state party’s initial report in 1999.[[7]](#footnote-7) The Committee reiterated its concerns and recommendations in 2009.[[8]](#footnote-8)

2.3 ***CAT:*** In its 2009 concluding observations on the state party’s initial report, the Committee Against Torture recommended that legislation prohibiting corporal punishment in “families, educational and religious establishments, alternative care institutions and places of juvenile detention” be enacted.[[9]](#footnote-9)

2.4 ***UPR:*** In 2009, the Government accepted a recommendation to prohibit corporal punishment of children in all settings.[[10]](#footnote-10) However during the second cycle Universal Periodic Review, the Government rejected a recommendation to fulfil its previous UPR commitment and enact legislation prohibiting corporal punishment in all settings.[[11]](#footnote-11) The Government also stated that corporal punishment in public institutions is prohibited by law, but gave no precise legal references.[[12]](#footnote-12)

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

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1. Ibid, para. 582 [↑](#footnote-ref-1)
2. December 2014, Initial report of Chad to the African Committee of Experts on the Rights and Welfare of the Child, para. 155 [↑](#footnote-ref-2)
3. Ibid., para. 569 [↑](#footnote-ref-3)
4. Idem. [↑](#footnote-ref-4)
5. Idem. [↑](#footnote-ref-5)
6. ([April 2014], CCPR/C/CO/TCD/2 Advance Unedited Version, Concluding observations on second report, para. 14 [↑](#footnote-ref-6)
7. 24 August 1999, CRC/C/15/Add.107, Concluding observations on initial report, para. 25 [↑](#footnote-ref-7)
8. 12 February 2009, CRC/C/TCD/CO/2, Concluding observations on second report, paras. 45 and 46 [↑](#footnote-ref-8)
9. 4 June 2009, CAT/C/TCD/CO/1, Concluding observations on initial report, para. 32 [↑](#footnote-ref-9)
10. 5 October 2009, A/HRC/12/5, Report of the working group, para. 82(37) [↑](#footnote-ref-10)
11. 31 October 2013, A/HRC/WG.6/17/L.12 Unedited Version, Draft report of the working group, para. 110(74); 27 March 2014, A/HRC/25/2 Advance Unedited Version, Draft report of the Human Rights Council on its twenty-fifth session, para. 561 [↑](#footnote-ref-11)
12. 27 March 2014, A/HRC/25/2 Advance Unedited Version, Draft report of the Human Rights Council on its twenty-fifth session, para. 569 [↑](#footnote-ref-12)