**Observatory on Human Rights of Children**

**Policy Advocacy Competition 2024: Statement of Facts and Law**

**With the support of the UK Committee for UNICEF (UNICEF-UK)**

Please ensure you read and understand the document:

**Observatory on Human Rights of Children Policy Advocacy Competition 2024: About the Competition.**

**Observatory on Human Rights of Children Policy Advocacy Competition 2024: Competition Rules.**

These are available at: [**www.swansea.ac.uk/law/observatory/pac24**](http://www.swansea.ac.uk/law/observatory/pac24)

**Introduction**

Policy advocacy to promote government policies to progress children’s rights under the UN Convention on the Rights of the Child (UNCRC) is key to improving the lives of children.

This **Policy Advocacy Competition** (supported by UNICEF-UK)is an opportunity for teams of studentsto research a policy issue, prepare a briefing for a (fictional) Government Minister and to act as advocates for children’s rights.

**Your task**

After reading the information below on the People’s State of Jebbrovia you will be asked to prepare a written Policy Briefing for presentation to the Jebbrovian Children’s Minister.

You will be representing the position of the Children’s Commissioner for Jebbrovia.

Your briefing should set out the case for removing the defence of ‘justifiable punishment’ which is available to parents and carers with responsibility for a child as a defence to a criminal charge of assault in Jebbrovia.

When preparing your briefing you should take full account of any factors you identify in the information below which you consider relevant to making a persuasive case to the Minister.

A limited number of teams will be invited to make online oral presentation to the Jebbrovian Children’s Minsters.

**About Jebbrovia**

The People’s State of Jebbrovia (Jebbrovia) has a population of around 7 million people. About 20% of the population are aged 17 or younger. Jebbrovia is a secular State with a population that is racially and ethnically diverse. In a census in 2021 the majority (62%) described themselves as ‘white Jebbrovian’, with minorities describing themselves as ‘black Jebbrovian’ (19%), ‘Asian Jebbrovian’ (7%), or ‘Mixed Ethnicity’ (2%). Other racial and ethnic minorities were not recorded in the census as statistically significant. In the census a majority (58%) described themselves as ‘of no particular faith’ while some described themselves as ‘Christian’ (22%) ‘Muslim’ (6%) and ‘Jewish’ (3%). Other minority faiths were not recorded in the census as statistically significant.

In 2021 Jebbrovia was rated amongst the UN Member States classed as a ‘full democracy’ by the Economist Global Democracy Index. In 2020 Jebbrovian elections resulted in a slim majority for a centre-left party, the Jebrovian People’s Party (JPP). Support for the JPP ranges across racial, ethnic and faith populations. The main Jebbrovian opposition party is the Jebbrovian Republican League (the ‘League’), which is also a centrist party, but tends to appeal to a more right-of-centre conservative or traditionalist electorate. Prior to 2020 the JPP had been out of government since 2010.

In the 2020 elections both the JPP and the League focussed on ‘children’s welfare’ in their manifestos. Both parties committed to improve the social and economic welfare of children. The JPP promised to: ‘fully adopt the UN Convention on the Rights of the Child (UNCRC) as the basis for policy toward children and take steps to make the UNCRC relevant to the lives of children in Jebbrovia.’

When they gained power the JPP formed a government under the leadership of a First Minister who appointed a Minister for Children’s Rights. In her first act in office the Children’s Minister announced a ‘Programme of Reform for Children’. The Programme set out three ‘Overarching Pledges to the Children of Jebbrovia’:

* To prioritise the best interest of children in law and policy.
* To promote the welfare of children.
* To listen to children.

Jebbrovia signed and ratified the UNCRC in 1999, as well as all the other UN Core Human Rights Treaties. This step was taken when the League was in government.

**The UNCRC in Jebbrovian law**

Jebbrovia has not entered any reservations to the UNCRC. The UNCRC has not been incorporated into Jebbrovian national law (nor has any other human rights treaty).

**Relevant Jebbrovian National Law**

Jebbrovia has a written constitution adopted in 1919, the ‘Jebbrovian People’s Constitution’ which includes the following provisions:

* Article 1: ‘This Constitution shall be applied as guiding principles for all Jebbrovian law.’
* Article 2: ‘Where national Jebbrovian law conflicts with principles set out in this Constitution, this Constitution shall prevail.’
* Article 31: ‘The Parliament, Government and all organs of the Jebbrovian State shall take steps to comply with this nation’s international obligations and in so doing account must be had to Jebbrovian law, culture, values and national interests.’

The Constitution is otherwise silent on the status of international law (including human rights).

The Jebbrovian legal order comprises the Constitution and national law expressed through legislation. The role of the judiciary is primarily to apply the Constitution and legislation. While there are elements of ‘judge made’ law, this is only applicable where there is a ‘clear and obvious gap’ in the Constitution and legislation (a principle established in 1923 by the Jebbrovian Supreme Court). The legal order operates a system of precedent. The court structure, lowest court first, is: Ordinary Court, Appeal Court, Court of Second Appeal, Supreme Court.

The criminal standard of proof in Jebbrovia is ‘beyond reasonable doubt’.

Two Jebbrovian statutes are relevant:

***The Public Authorities (Due Regard) Act 2000***

* Section 21: All public authorities shall, when exercising their functions, have due regard to the desirability of giving better effect to the rights and freedoms to which the people of Jebbrovia are entitled by law, including international law which is applicable in the People’s State of Jebbrovia.

***The Criminal Offences Act 1960***

* Section 5(1): It is an offence of ordinary assault to assault any person by violence or by putting a person in fear of violence.
* Section 5(2): The maximum punishment for ordinary assault shall be 2 years imprisonment or a fine of up to 5000 Jebbrovian dollars.
* Section 6(1): Any assault which is an ordinary assault but which results in actual bodily harm shall be an aggravated assault.
* Section 6(2)7: The maximum punishment for aggravated assault shall be 14 years imprisonment or a fine of up to 25000 Jebbrovian dollars.
* Section 11: A person with parental responsibility for a child aged 17 years or younger shall have a defence to ordinary assault if it can be shown, on the balance of probabilities, that the ordinary assault was an act of justifiable punishment of that child.

**The context for the briefing**

Shortly after assuming power the Jebbrovian government embarked on its Programme of Reform for Children, which included a consultation with children led by the Children’s Commissioner for Jebbrovia (CCfJ). The CCfJ carried out an online and in-person consultation which engaged 16,000 children from diverse communities across Jebbrovia. As a result of the consultation the following priorities emerged as key priorities for children in Jebbrovia:

* End child poverty (98% support).
* Government and others should listen to children (92% support).
* Protect us from harm and violence in all circumstances (89% support).
* Support our families (89% support).
* Make our schools better places for learning (78%).

These findings have been provided to the Jebbrovian government and made public.

In a policy statement to the Jebbrovian Parliament shortly after her appointment in 2020 the Children’s Minister pledged to: ‘eradicate violence against children, and to support families to bring up children in an environment of love, trust, appropriate direction and responsibility.’ A Parliamentary motion commending the statement was passed unanimously by the Jebbrovian Parliament.

A separate motion presented by a JPP Member of Parliament proposed that the ‘Government should, without delay bring forward legislation to remove the defence of justifiable punishment.’ This motion was passed by a slim majority, with some JPP members abstaining. A counter-motion was presented by a League Member of Parliament proposing that ‘this Parliament supports the right of parents to impose physical punishment on their offspring.’ Very few League members voted for the motion, some JPP members abstained, but the vast majority of JPP members voted against the motion and so it was rejected.

A confidential meeting was held between the CCfJ and the Children’s Minister shortly after the above Parliamentary proceedings. A note of the meeting taken by CCfJ staff which records that: ‘the Minister spoke about rights, not much discussion, said she wanted to end violence, including looking closely at justifiable punishment. She said she personally was very much for repeal and would work on this with officials.’

In Concluding Observations by the Committee on the Rights of the Child on the People’s State of Jebbrovia in 2019 the Committee: *‘notes with grave concern the continuance of the defence of justifiable punishment. The Committee recalls that in its previous Concluding Observations in 2014 it was recommended that the Government take immediate action to end this defence. We repeat this recommendation in the present Concluding Observations.*’

The League, which was in government at the time, responded in writing to the Chair of the Committee that: *‘there are no plans to repeal this defence at the present time as it has the support of parents and indeed children in Jebbrovia.’* The League government did not provide evidence to support its response.

The CCfJ and the Jebbrovian Commission for Rights, as well as over 50 non-governmental organizations signed a letter to the Children’s Minister in 2023 calling for ‘urgent repeal´ of the defence of justifiable punishment referring to: ‘a convincing body of evidence to confirm the harm that physical punishment causes children.’ The letter did not refer to any specific source of evidence. The letter also expressed concern over delay in publishing proposals under the Programme of Reform for Children.

In 2020, shortly after the Progamme for Reform was announced the Jebbrovian Parents Association (JPA) became very active on social media. The JPA claims to represent and campaign for parents ‘from all Jebbrovia’s diverse communities.’ The JPA’s main campaign claim is to ‘uphold the rights of parents to be parents’ and it has regularly taken to social media to warn both the Children’s Minister and the CCfJ not to ‘behave like bullies and force their way into the family home by imposing their view of parenting on respectable, caring parents who chose to discipline their children with a loving smack.’

The JPA campaign has been amplified by the nation’s most popular newspaper, the Daily News, which has run headlines including ‘Government to put loving parents in jail for smacking terror kids’ and ‘What next, presents for naughty children who deserve a smack’.

The Government’s polling suggests that the adult public is split over the issue of removing the defence of justifiable punishment: 51% support repeal, 32% are against, and the remainder are undecided. Of those who oppose reform, 98% express concern that removing the defence would be bad for children as it would result in parents being sent to prison. On a different question the Government poll showed 98% support for ‘doing more to protect children from violence’.

Since 2021 the CCfJ has been in discussion with senior police officers who are agreed that repeal of the defence of justifiable punishment would ‘be very unlikely to result in an increase in imprisonment of parents’. Jebbrovia’s most senior police officer recently confirmed this opinion at the 2023 Conference of Police Leadership. The CCfJ has also met with senior social care leaders who have since written to the CCfJ (2023) to confirm their view that ‘better education and information for parents on how to discipline children without violence’ will drastically reduce the risk that parents will be convicted of assault if the defence of justifiable punishment is repealed.

In January 2024 the Congress of Faith Leaders (Congress) issued a public statement supporting the ‘rights of parents and children’ and called on the Government to ‘respect the discipline choices of loving parents, including those who decide on physical punishment, who feel themselves guided by their commitment to their faith or to their cultural heritage.’ The Congress is a highly influential body amongst faith communities in Jebbrovia, but its statement was criticized as ‘unduly pandering to tradition’ by a growing ‘Unity in Faith’ (UiF) movement which has strong support amongst younger people of diverse faiths in Jebbrovia.

The Children’s Minister has invited the CCfJ to provide a briefing on the issue of ‘the merits and arguments of repealing the defence of justifiable punishment’ and has asked the CCfJ ‘to take full account of the realities of making progress on this issue, including the strength of support for retaining the defence.’

**Format and content of the briefing**

You are in the position of representing the CCfJ.

Your briefing is for the Children’s Minister but will not be treated as a confidential document.

You should not speculate or try to elaborate on the information you have been given above. You may rely on source materials (see next section).

You may choose the style of writing and presentation for your briefing.

**Relying on sources**

When thinking about sources you should be mindful of the fact that these are being presented to a busy Minister and her staff, who will not have time to track down obscure source materials, or indeed a very large number of sources. You should select a sensible number of appropriate sources.

You should use Footnotes to reference sources in the briefing (see Competition Rules for more information).