

Corporal punishment of children in Equatorial Guinea: Briefing for the Universal Periodic Review, 33rd session, May 2019



GLOBAL INITIATIVE TO
**End All Corporal
Punishment of Children**

From the Global Initiative to End All Corporal Punishment of Children, October 2018

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In Equatorial Guinea, corporal punishment of children is still lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child and the Human Rights Committee.

We hope the Working Group will note with concern the legality of corporal punishment of children in Equatorial Guinea. We hope states will raise the issue during the review in 2019 and make a specific recommendation that Equatorial Guinea draft and enact legislation as a matter of priority to explicitly prohibit corporal punishment of children in all settings, including the home, and repeal all legal defences for its use.

1 Review of Equatorial Guinea in the 2nd cycle UPR (2014) and progress since

1.1 Equatorial Guinea was reviewed in the second cycle of the Universal Periodic Review in 2014 (session 19). The issue of corporal punishment of children was raised in the summary of stakeholders' information,¹ and the Government accepted recommendations to “eradicate” corporal punishment.²

1.2 Since the review, there has been no change in the legality of corporal punishment. No progress has seemingly been made on the draft law on children and no Bills have been introduced on prohibition of corporal punishment of children.

1.3 **We hope the Working Group will note with concern the continued legality of corporal punishment of children in Equatorial Guinea. We hope states will raise the issue during the review in 2019 and make a specific recommendation that Equatorial Guinea draft and enact legislation as a matter of priority to explicitly prohibit corporal punishment of children in all settings, including the home, and repeal all legal defences for its use.**

¹ 21 January 2014, A/HRC/WG.6/19/GNQ/3, Summary of stakeholders' views, para. 26

² 7 July 2014, A/HRC/27/13, Report of the working group, paras. 134(31) and 134(61)

2 Legality of corporal punishment in Equatorial Guinea

Summary of current law and reforms needed to achieve prohibition

Corporal punishment in Equatorial Guinea is prohibited as a sentence for a crime but it is still lawful in the home, in alternative and day care settings, in schools, and in penal institutions. Legislation should be enacted to explicitly prohibit all corporal punishment in all settings, including the home, and all legal defences for its use, including in the Civil Code 1889, should be repealed.

- 2.1 **Home (lawful):** Corporal punishment is lawful in the home. Under examination by the UN Committee on the Rights of the Child in 2004, the Government reported that corporal punishment was a crime punishable by law, but that this was not reflected in practice and it continued to be considered normal in childrearing.³ In fact, the law does not clearly prohibit corporal punishment; on the contrary, it authorises “reasonable and moderate correction” of children. Article 154 of the Civil Code 1889 states (unofficial translation): “... Parental authority shall always be exercised for the benefit of the children, according to their personality.... Parents may in the exercise of their power seek the assistance of the authority. They may also reasonably and moderately correct their children.” Article 268 includes a similar provision in relationship to tutors/guardians of children.
- 2.2 According to the Constitution 2012, the state shall protect the family, ensuring for it favourable “moral, cultural and economic conditions” (art. 22); the state shall protect the child “so that it can function normally and with moral, mental and physical security” (art. 23). Provisions against violence in the Penal Code 1980 do not include clear prohibition of all corporal punishment of children.
- 2.3 The drafting of a law on children has long been under consideration. In 2011, the proposed new law, which includes civil and penal measures for child protection as well as protection for children in conflict with the law, was reviewed by UNICEF.⁴ A draft Family Code and a draft Law on Gender Violence are under discussion, expected to be adopted by 2017.⁵ We do not know if prohibition is being proposed in the context of these reforms.
- 2.4 **Alternative care settings (lawful):** Corporal punishment is lawful in alternative care settings under the right to administer “reasonable and moderate” correction in articles 154 and 268 of the Civil Code 1889.
- 2.5 **Day care (lawful):** Corporal punishment is lawful in early childhood care and in day care for older children under the right to administer “reasonable and moderate” correction in articles 154 and 268 of the Civil Code 1889.
- 2.6 **Schools (lawful):** Corporal punishment is lawful in schools. The Education Act states that discipline in schools must respect the dignity of the child, and the Ministry of Education has launched a campaign to stop the use of corporal punishment in schools, but there is no explicit prohibition of corporal punishment in law. In 2004, the Government informed the UN

³ 11 March 2013, CRC/C/SR.990, Summary record of 990th meeting, para. 51

⁴ UNICEF (2011), *Annual Report 2011 – Equatorial Guinea*

⁵ UNICEF (2013), *Annual Report 2013 – Equatorial Guinea*

Committee on the Rights of the Child that the use of beatings as a punishment in schools had been eliminated.⁶

2.7 **Penal institutions (lawful)**: There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

2.8 **Sentence for crime (unlawful)**: Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment (caning/whipping) in criminal law.

3 Recommendations by human rights treaty bodies

3.1 **CRC**: In 2004, the Committee on the Rights of the Child recommended that corporal punishment of children in Equatorial Guinea be explicitly prohibited in the family, schools and other institutions.⁷

3.2 **HRC**: In 2004, the Human Rights Committee expressed concern at corporal punishment of children in Equatorial Guinea and recommended child protection measures to address it.⁸

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and since 2011 the Committee on the Rights of Persons with Disabilities.

⁶ 28 January 2004, CRC/C/11/Add.26, Initial state party report, para. 94

⁷ 3 November 2004, CRC/C/15/Add.245, Concluding observations on initial report, paras. 34 and 35

⁸ 30 July 2004, CCPR/CO/79/GNQ, Concluding observations in the absence of a report, para. 10