

# Corporal punishment of children in Monaco: Briefing for the Universal Periodic Review, 17<sup>th</sup> session, 2013

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Global Initiative to  
**End All Corporal Punishment  
of Children**

*Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General's Study on Violence against Children, as a highly significant issue, both for asserting children's status as rights holders and for the prevention of all forms of violence.*

*In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies and also regional human rights mechanisms have condemned all corporal punishment. In October 2006, the report of the UN Secretary General's Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment as a matter of priority.*

*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 in 2011 began briefing the Committee on the Rights of Persons with Disabilities. There is growing progress across all regions in challenging this common form of violence against children. But many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope the Working Group of the UPR will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies on this issue, as well as to the recommendations made during the first cycle of the UPR.*

**Corporal punishment of children is lawful in Monaco despite the recommendations to prohibit it by the Committee on the Rights of the Child and the Committee Against Torture.**

**We hope the Working Group will note with concern the legality of corporal punishment in Monaco. We hope states will raise the issue during the review in 2013 and recommend to Monaco that legislation is enacted to explicitly prohibit corporal punishment of children in all settings, including in the home, as a matter of priority.**

## **1 The review of Monaco in the first cycle (2009)**

- 1.1 Monaco was reviewed in the first cycle of the Universal Periodic Review in 2009 (session 5). The issue of corporal punishment of children was raised in the compilation of UN information<sup>1</sup> and in the summary of stakeholders' information.<sup>2</sup> However, no recommendations relevant to corporal punishment were made during the review.
- 1.2 Prohibiting and eliminating corporal punishment of children in all settings is an obligation on states under the Convention on the Rights of the Child and other international human rights treaties. But it is an obligation too often ignored or evaded by governments. Raising the issue during the UPR, and making recommendations to prohibit corporal punishment of children, serves to remind states of this obligation and increases pressure on them to fulfil it. This can be particularly useful when states have repeatedly and erroneously claimed that law reform is unnecessary, as has Monaco (see below).

## **2 Legality of corporal punishment in Monaco**

- 2.1 **Summary:** Corporal punishment of children in Monaco is lawful in the home and in alternative care settings; while it is considered unlawful in penal institutions it is not explicitly prohibited.
- 2.2 **Home (lawful):** The Government has repeatedly asserted – to the Committee Against Torture and the Committee on the Rights of the Child – that the criminal law on assault and battery, strengthened by amendments in 2007, adequately protects children from corporal punishment in all settings.<sup>3</sup> But in fact there is no explicit prohibition of corporal punishment in the Penal Code or in its amending laws, Law No. 1.344 of 26 December 2007 increasing the punishment for crimes and offences against children and Law No. 1382 of 20 July 2011 on the prevention and repression of specific violence.
- 2.3 As amended, articles 236 to 239 of the Penal Code punish violence and assault, including that which does not result in injury. Article 243 punishes “whoever wilfully injures or strikes a minor below the age of sixteen ... or which has voluntarily exercised against him any violence or assault”; articles 238-1 and 421 punish violence which does not result in illness or disability, including by individuals aware of the vulnerability or dependence of the victim. However, there is no explicit reference to corporal punishment or to violence and assault inflicted in the name of “discipline” or “correction”. Apart from the above mentioned Government assertions to treaty bodies, we have found no evidence that the law is interpreted as prohibiting all corporal punishment, however light, in childrearing. The legislation itself does not send a clear message that all forms of corporal punishment, including by parents, are prohibited.
- 2.4 **Schools (unlawful):** Corporal punishment is not among the permitted disciplinary measures listed in the Education Law 2007 but it is not explicitly prohibited.
- 2.5 **Penal system (unlawful):** There is no provision for judicial corporal punishment in criminal law. Corporal punishment is considered unlawful as a disciplinary measure in penal institutions, but there is no explicit prohibition in legislation.

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<sup>1</sup> 6 March 2009, A/HRC/WG.6/5/MCO/2, Compilation of UN information, para. 21

<sup>2</sup> 19 February 2009, A/HRC/WG.6/5/MCO/3, Summary of stakeholders' information, paras. 19 and 20

<sup>3</sup> 23 May 2011, Written replies to the Committee Against Torture; 27 May 2011, CAT/C/SR.1003, Summary record of examination by the Committee Against Torture, para. 21; 13 August 2012, CRC/C/MCO/2-3, Second/third report to the Committee on the Rights of the Child, paras. 213-217

2.6 *Alternative care settings (lawful)*: There is no explicit prohibition of corporal punishment in alternative care settings.

### **3 Recommendations by human rights treaty monitoring bodies**

3.1 *CRC*: In 2001, the Committee on the Rights of the Child recommended prohibition of corporal punishment of children in the family in Monaco.<sup>4</sup>

3.2 *CAT*: In 2011, the Committee Against Torture recommended that corporal punishment of children in Monaco be prohibited in all areas of life.<sup>5</sup>

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

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March 2013

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<sup>4</sup> 8 June 2001, CRC/C/15/Add.158, Concluding observations on initial report, paras. 26 and 27

<sup>5</sup> 17 June 2011, CAT/C/MCO/4-5, Concluding observations on fourth/fifth report, para. 11