

Corporal punishment of children in Seychelles: Briefing for the Universal Periodic Review, 24th session, 2016

From Dr Sharon Owen, Research and Information Coordinator,
Global Initiative, sharon@endcorporalpunishment.org



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

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 Seychelles, corporal punishment of children is lawful, despite recommendations to prohibit/eliminate it by the Committee on the Rights of the Child and during the 1st cycle UPR of Seychelles (which the Government accepted).

We hope the Working Group will note with concern the legality of corporal punishment of children in Seychelles. We hope states will raise the issue during the review in 2016 and make a specific recommendation that the Seychelles clearly prohibit all corporal punishment of children in all settings including the home and explicitly repeal the right “to administer proper punishment” in the Children Act.

1 Review of the Seychelles in the 1st cycle UPR (2011) and progress since then

1.1 The Seychelles was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 11). The issue of corporal punishment of children was raised in the compilation of UN information¹ and in the summary of stakeholders’ information.² During the review the Government asserted that the Children Act prohibits corporal punishment in school and corporal punishment was explicitly prohibited by the 1993 Constitution.³ However, research by the Global Initiative finds no explicit prohibition of corporal punishment in the Children Act or the Constitution (see below). The following recommendation was made to the Seychelles:⁴

“Establish a de jure moratorium on the use of corporal punishment (Hungary)”

1.2 The Government appears to have accepted the recommendation in its general acceptance of recommendations concerning protection of children.⁵

1.3 Prohibiting and eliminating all corporal punishment of children in all settings including the home – through law reform and other measures – is a key obligation under the Convention on the Rights of the Child and other human rights instruments, though it is one frequently evaded by Governments. Since the initial UPR of the Seychelles in 2011, there has been no change in the legality of corporal punishment of children: it remains lawful in the home, alternative care settings, day care, schools and penal institutions.

¹ 21 February 2011, A/HRC/WG.6/11/SYC/2, Compilation of UN information, para. 20

² 16 February 2011, A/HRC/WG.6/11/SYC/3, Summary of stakeholders’ information, paras. 1, 2, 3 and 4

³ 11 July 2011, A/HRC/18/7, Report of the working group, paras. 17 and 65

⁴ 11 July 2011, A/HRC/18/7, Report of the working group, para. 100(49)

⁵ 18 November 2011, A/HRC/18/2, Report of the Human Rights Council on its eighteenth session, para. 339

1.4 We hope the Working Group will note with concern the legality of corporal punishment of children in Seychelles. We hope states will raise the issue during the review in 2016 and make a specific recommendation that the Seychelles clearly prohibit all corporal punishment of children in all settings including the home and explicitly repeal the right “to administer proper punishment” in the Children Act.

2 Legality of corporal punishment in Seychelles

2.1 **Summary:** In the Seychelles, corporal punishment is unlawful as a sentence for crime but it is not prohibited in the home, alternative care settings, day care, schools and penal institutions.

2.2 **Home (lawful):** Corporal punishment is lawful in the home under the common law right to inflict “reasonable chastisement” on children. This is confirmed in article 70 of the Children Act 1982, which prohibits cruelty to children but states: “(7) Nothing in this section affects the right of a parent, guardian, teacher or other person having the lawful control or charge of a child to administer proper punishment to him if that punishment does not contravene subsection (1).” Subsection (1) prohibits assault and ill-treatment which causes or is likely to cause “unnecessary suffering, moral danger or injury to health” but does not prohibit all corporal punishment in childrearing. Provisions against violence and abuse in the Family Violence (Protection of Victims) Act 2000, the Penal Code 1955 and the Constitution 1993 are not interpreted as prohibiting corporal punishment in childrearing.

2.3 **Alternative care settings (lawful):** Corporal punishment is lawful in alternative care settings under the right “to administer proper punishment” in the Children Act 1982 (art. 70). Establishments provided and maintained under the Children Act include children’s homes for initial or temporary care of children under 16 and children’s homes for children who are orphaned or abandoned (art. 100). The Act provides for the Minister to make regulations for “the conduct of residential and other establishments and for securing the welfare of persons residing or accommodated in them, including ... (iii) specifying the occasions on which corporal punishment may be given to children in those establishments and the persons who may give it” (art. 107).

2.4 The Children (Adoption) Rules and the Children Act (Foster Care) Regulations do not provide for corporal punishment, but they do not explicitly prohibit it.

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 proper punishment” in the Children Act 1982 (art. 70). Establishments provided and maintained under the Children Act include day care for children under 4 (art. 100). The Act provides for the Minister to make regulations on corporal punishment (art. 107).

2.6 **Schools (lawful):** The Government has stated that corporal punishment is prohibited in schools in the Children Act 1982.⁶ However, the Act does not explicitly prohibit corporal punishment; rather it provides for the right of teachers “to administer proper punishment” (art. 70).

2.7 **Penal institutions (lawful):** Corporal punishment is lawful as a disciplinary measure in penal institutions under the right “to administer proper punishment” in the Children Act 1982 (art. 70). Establishments provided and maintained under the Children Act include juvenile centres (residential training establishments, attendance centres, residential re-orientation centres and youth residential treatment centres) (art. 100). Article 107 of the Act as amended in 1998 states that the Minister may make regulations for “the conduct of residential and other establishments and for securing the welfare of persons residing or accommodated in them, including ... (iii) specifying the occasions on which corporal punishment may be given to children in those establishments and the persons who may give it”. The Children Act (Juvenile Court) Rules do not

⁶ 2 March 2011, A/HRC/WG.6/11/SYC/1, National report to the UPR, para. 59

provide for corporal punishment, but they do not prohibit it. There is no prohibition of corporal punishment in the Prisons Act 1991.

2.8 *Sentence for crime (unlawful)*: There is no provision for judicial corporal punishment in criminal law.

3 Recommendations by human rights treaty bodies

3.1 *CRC*: In examining the initial report of the Seychelles in 2002, the Committee was led to believe that corporal punishment was prohibited: the Committee went on to express concern at the widespread use of corporal punishment and recommend proper implementation of the prohibition.⁷ Following re-examination of the state party in 2012, the Committee noted the absence of explicit prohibition of corporal punishment in law and the existence of the right to inflict “reasonable chastisement” on children, and recommended that corporal punishment be prohibited in law in the home and other settings.⁸

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@encorporalpunishment.org
June 2015

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.

⁷ 30 October 2002, CRC/C/15/Add.189, Concluding observations on initial report, paras. 5, 32 and 33

⁸ 23 January 2012, CRC/C/SYC/CO/2-4, Concluding observations on second to fourth report, paras. 42 and 43