Corporal punishment of children in Equatorial Guinea

LAST UPDATED March 2024
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Child population 588,000 (UNICEF, 2020)

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings, day care, schools and penal institutions.

Articles 154 and 268 of the Civil Code 1889 confirm the right of those with parental authority to administer "reasonable and moderate" forms of correction. These provisions should be repealed and prohibition enacted of all corporal punishment of children by parents and others with parental authority.

Alternative care settings – Corporal punishment should be prohibited in all alternative care settings (foster care, institutions, places of safety, emergency care, etc), including public and private day care, residential care, foster care, etc.

Day care – Corporal punishment should be prohibited in all early childhood care (nurseries, crèches, kindergartens, preschools, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Schools – Prohibition of corporal punishment should be enacted in legislation applicable to all education settings, public and private, in addition to repeal of all legal defences for the use of corporal punishment.

Penal institutions – Prohibition should be enacted of corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law.

Current legality of corporal punishment

Home

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.[1] 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.

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.

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.[2] A draft Family Code and a draft Law on Gender Violence are under discussion, expected to be adopted by 2017.[3] As of July 2019, both were still pending.[4] We do not know if prohibition is being proposed in the context of these reforms. In 2019, the Government accepted a UPR recommendation to enact legislation prohibiting corporal punishment of children in all settings.[5]

Alternative care settings

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.

Day care

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.

Schools

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

Penal institutions

There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

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[1] 11 March 2013, CRC/C/SR.990, Summary record of 990th meeting, para. 51
[2] UNICEF (2011), Annual Report 2011 – Equatorial Guinea
[3] UNICEF (2013), Annual Report 2013 – Equatorial Guinea
[4] 2 July 2019, A/HRC/42/13, Report of the Working Group, paras. 32 and 43
[5] 2 July 2019, A/HRC/42/13, Report of the Working Group, paras. 123(48), 123(49) and 123(50); 30 August 2019, A/HRC/42/13/Add.1, Report of the Working Group: Addendum
[6] 28 January 2004, CRC/C/11/Add.26, Initial state party report, para. 94

Sentence for crime

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

Universal Periodic Review of Equatorial Guinea's human rights record

Equatorial Guinea was examined in the first cycle of the Universal Periodic Review in 2009. No recommendations were made specifically concerning corporal punishment of children. However, the following recommendation was made and was accepted by the Government:[7]

> "Strengthen efforts to fulfil obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) (Australia)."

Examination in the second cycle took place in 2014 (session 19). The following recommendations were made and were accepted by the Government:[8]

> "Prioritize the promotion of the rights of the child by ensuring that national legislation is in line with its obligations under the relevant international human rights instruments, by providing more resources to create and fully implement programmes that promote the security and safety of children, such as measures to eradicate corporal punishment and domestic violence … (Philippines)
>
> "Continue to develop programmes aimed at providing support to vulnerable children and, specifically, eradicate the practice of corporal punishment (Djibouti)"

Third cycle examination took place in 2019 (session 33). The following recommendations were made:[9]

> "Adopt without delay a law prohibiting the infliction of corporal punishment on children in all settings, including the family (Senegal);
>
> "Prioritize the protection of children's rights, to eradicate corporal punishment in all settings, including at home and repeal defence arguments to justify it (Algeria);
>
> "Prioritize the protection of the rights of the child, eradicating corporal punishment and domestic violence and enhancing access to education services (Kyrgyzstan)"

The Government supported the recommendations.[10]

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

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

"The Committee is concerned that corporal punishment is not expressly prohibited by law and is widely practised and socially accepted. It also notes with concern the lack of available data on ill-treatment of children, including corporal punishment, beating and depriving children of their liberty as a punishment.

"The Committee recommends that the State party:

a) expressly prohibit corporal punishment by law in the family, schools and other institutions;

b) carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

c) seek technical assistance from, among others, UNICEF in this regard."

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[7] 4 January 2010, A/HRC/13/16, Report of the working group, para. 70(15)
[8] 7 July 2014, A/HRC/27/13, Report of the working group, paras. 134(31) and 134(61)
[9] 2 July 2019, A/HRC/42/13, Report of the Working Group, paras. 123(48), 123(49) and 123(50)
[10] 30 August 2019, A/HRC/42/13/Add.1, Report of the Working Group: Addendum

Human Rights Committee

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

"The Committee notes with concern the lack of protection for children, whether indigenous or from neighbouring countries, in the areas of health, work and education, as borne out in the latter field by the low levels of education, the repeater and dropout rates and the low tax expenditure per pupil. It is also concerned by the corporal punishment inflicted on children, allegedly as a remedial measure, and by the prostitution of young girls. The State party should, in conformity with articles 24 and 7 of the Covenant, put into practice child protection programmes in the above-mentioned areas."

Prevalence/attitudinal research in the last ten years

In 2008 and 2009, the Ministry of Social Affairs and Advancement of Women (MINASPROM) conducted a National Child Protection Study, involving 749 children, 100 teachers and 152 parents. Preliminary analysis revealed that 80% of children and adolescents had received physical punishment or verbal abuse in the family. In 2011, UNICEF reported that a study had found that 54% of children had experienced corporal punishment at school.

(Reported in 14 April 2011, CEDAW/C/GNQ/6 Advance Unedited Version, Sixth state party report to the Committee on the Elimination of Discrimination Against Women, paras. 56 and 57; UNICEF (2011), Annual Report 2011 - Equatorial Guinea)

End Corporal Punishment acts as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We support and analyse national progress, monitor legality and implementation worldwide, partner with organisations at all levels, and engage with human rights treaty body systems. End Corporal Punishment is hosted by the World Health Organization and supported by a multi-partner Advisory Committee.