

EQUATORIAL GUINEA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 19th session, 2014

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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 Equatorial Guinea, corporal punishment of children is lawful, despite the recommendations to prohibit it by the Committee on the Rights of the Child and the Government's acceptance of relevant recommendations during the first cycle UPR in 2009.

We hope the Working Group will note with concern the legality of corporal punishment in Equatorial Guinea. We hope states will raise the issue during the review in 2014 and make a specific recommendation that legislation is enacted in Equatorial Guinea to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of priority.

1 The initial review of Equatorial Guinea by the Human Rights Council (2009)

- 1.1 Equatorial Guinea was reviewed in the first cycle of the Universal Periodic Review in 2009 (session 6). The issue of corporal punishment was included in the compilation of UN information¹ and in the summary of stakeholders' information² and was raised in an advanced question.³ No recommendations were made specifically concerning corporal punishment but the Government accepted a recommendation to strengthen efforts to fulfil obligations under the Convention on the Rights of the Child.⁴
- 1.2 Compliance with the Convention on the Rights of the Child and other human rights treaties involves, among other things, enacting legislation to explicitly prohibit all corporal punishment of children in all settings, including the home. But despite the Government's acceptance of the above mentioned recommendation, there has been no change in the legality of corporal punishment in Equatorial Guinea since the UPR in 2009: it remains lawful in the home, schools, penal institutions and alternative care settings.

¹ 18 September 2009, A/HRC/WG.6/6/GNQ/2, Compilation of UN information, paras. 21 and 63

² 8 September 2009, A/HRC/WG.6/6/GNQ/3, Summary of stakeholders' information, para. 11

³ Advance Question by Hungary

⁴ 4 January 2010, A/HRC/13/16, Report of the working group, para. 70(15)

1.3 The near universal acceptance of a degree of violent punishment in childrearing and deeply held views that parents and other adults have a “right” to physically punish children can challenge efforts to achieve prohibition. This situation also means that corporal punishment – at least to some degree – is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence. **It is for these reasons that we respectfully urge members of the Working Group to specifically recommend prohibition of corporal punishment in the review of Equatorial Guinea.**

2 Legality of corporal punishment in Equatorial Guinea

- 2.1 **Home (lawful):** The Spanish Civil Code 1967 is in force, and this allows for parents and guardians to use “reasonable and moderate” forms of “correction” (articles 154 and 268). Provisions against violence in the Penal Code 1980 and the Constitution 1996 are not interpreted as prohibiting corporal punishment of children.
- 2.2 **Schools (lawful):** 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.
- 2.3 **Penal system – sentence for crime (unlawful):** There is no provision for judicial corporal punishment in criminal law.
- 2.4 **Penal system – disciplinary measure in penal institutions (lawful):** There is no explicit prohibition of corporal punishment.
- 2.5 **Alternative care settings (lawful):** Corporal punishment is lawful in under the right to administer “reasonable and moderate” correction in the Civil Code 1967 (see above).

3 Recommendations by human rights treaty monitoring 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.⁵
- 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.⁶

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 in 2011 began briefing the Committee on the Rights of Persons with Disabilities.

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

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