

Corporal punishment of children in Equatorial Guinea: Briefing for the Universal Periodic Review, 47th session, Oct./Nov. 2024

From End Corporal Punishment, March 2024

This submission provides an update on the legality of corporal punishment of children in Equatorial Guinea since its review in the third cycle UPR in 2019. Corporal punishment prohibition is still to be fully achieved in the home, alternative care settings, day care, schools and penal institutions.

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 recommendations to prohibit it by the Committee on the Rights of the Child and other human rights treaty bodies.

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 2024 and make a specific recommendation that Equatorial Guinea accelerates its efforts to clearly prohibit all corporal punishment of children in every setting of their lives and repeal any legal defence allowing its use, as a matter of priority.

1 Review of Equatorial Guinea in the 3rd cycle UPR (2019) and progress since

1.1 Equatorial Guinea was reviewed in the third cycle of the Universal Periodic Review in 2019 (session 33). Recommendations to prohibit corporal punishment in all settings were made¹ and supported by the Government.²

¹ 2 July 2019, A/HRC/42/13, Report of the Working Group, paras. 123(48), 123(49) and 123(50)

² 30 August 2019, A/HRC/42/13/Add.1, Report of the Working Group: Addendum



1.2 Following the review, no legislation to explicitly prohibit corporal punishment of children in all settings seems to have been adopted.

1.3 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 2024 and make a specific recommendation that Equatorial Guinea intensify its efforts to enact a law to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, as a matter of urgency.

2 Legality of corporal punishment in Equatorial Guinea

Summary of current law and opportunities for achieving 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.

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 have no further information about the progress of these reforms and we do not know if prohibition is

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*



- 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 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

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