

CAPE VERDE

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 16th 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 Cape Verde, despite recommendations on the issue during the UPR in 2008 and by the Committee on the Rights of the Child and the Human Rights Committee.

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

1 The initial review of Cape Verde by the Human Rights Council (2008)

1.1 Cape Verde was reviewed in the Universal Periodic Review in 2008 (session 3). The issue of corporal punishment of children was included in the compilation of UN information¹ and the summary of stakeholders' information,² and the following recommendations were made:³

“To incorporate explicit prohibition of physical punishment into national legislation and monitor its implementation strictly, particularly in the case of police dealing with minors (Chile);

“To adopt all necessary measures to put an end to the widespread practice of corporal punishment of minors at home, in school and by the police force, as recommended by the Committee on the Rights of the Child in 2003 (Germany)”

1.2 The Government did not explicitly accept or reject the recommendations but stated that “the State’s domestic legislation already prohibited all forms of violence by law enforcement officials, and that the monitoring and follow-up of relevant provisions would continue”.⁴ But the Government made no comment on corporal punishment of children in the home and in care settings. Today, as in 2008, corporal punishment of children in Cape Verde is lawful in the home and in non-institutional forms of care.

2 Legality of corporal punishment in Cape Verde

2.1 Corporal punishment is lawful in the **home**. Provisions against violence and abuse in the Juvenile Code, the Penal Code (2003) and the Constitution (2010) are not interpreted as prohibiting all corporal punishment in childrearing. Article 128 of the Civil Code (1999) confirms the right of a child not to be subjected to corporal punishment but, as the Government has confirmed, this applies only to schools and other institutions.⁵

2.2 Corporal punishment is prohibited in public and private **schools** under article 128 of the Civil Code.

2.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime: there is no provision for judicial corporal punishment in criminal law. It is unlawful as a disciplinary measure in penal institutions under article 128 of the Civil Code.

2.4 With regard to **alternative care settings**, article 128 of the Civil Code prohibits corporal punishment in care institutions, but there is no prohibition in relation to non-institutional forms of care.

3 Recommendations by human rights treaty monitoring bodies

3.1 In its concluding observations on the state party’s initial report in 2001, the **Committee on the Rights of the Child** recommended that the Government end the use of corporal punishment in schools and in the home in Cape Verde.⁶

¹ 6 October 2008, A/HRC/WG.6/3/CPV/2, Compilation of UN information, para. 13

² 16 September 2008, A/HRC/WG.6/3/SPV/3, Summary of stakeholders’ information, para. 1

³ 12 January 2009, A/HRC/10/81, Report of the Working Group, paras. 63(1) and 63(13)

⁴ 9 November 2009, A/HRC/10/29, Report of the Human Rights Council on its tenth session, para. 605

⁵ 9 January 2001, CRC/C/11/Add.23, Initial report to the Committee on the Rights of the Child, para. 127

⁶ 7 November 2001, CRC/C/15/Add.168, Concluding observations on initial report, paras. 35 and 36

3.2 In April 2012, the **Human Rights Committee** expressed concern that despite prohibition, corporal punishment continues to be inflicted on children in schools, penal institutions and care institutions; the Committee recommended that steps be taken to end it in all settings.⁷

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⁷ 23 April 2012, CCPR/C/CPV/CO/1, Concluding observations in the absence of a report, para. 12