

Corporal punishment of children in Central African Republic: Briefing for the Universal Periodic Review, 17th session, 2013

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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 Central African Republic despite the Government's acceptance of recommendations on the issue made during the UPR in 2009 and repeated recommendations by the Committee on the Rights of the Child.

We hope the Working Group will note with concern the legality of corporal punishment in Central African Republic – and the immediate opportunity to address this in the draft new Family Code currently under discussion. We hope states will raise the issue during the review in 2013 and recommend to Central African Republic that legislation is enacted to explicitly prohibit corporal punishment of children in all settings including in the home as a matter of priority.

1 The review of Central African Republic in the first cycle (2009)

1.1 The Central African Republic was reviewed in the first cycle of the Universal Periodic Review in 2009 (session 5). The issue of corporal punishment of children was raised in the summary of stakeholders' information.¹ No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:²

“Continue efforts to promote all universally agreed human rights and fundamental freedoms (Egypt);

“Take all possible measures to ensure respect and promotion of international human rights law, international humanitarian law and international refugee law (Argentina);

“Take appropriate action to adopt and amend domestic legislation, including the Penal Code, and effectively implement this legislation to protect children from all forms of violence (Slovenia)”

1.2 Prohibiting and eliminating corporal punishment of children is a key obligation under the Convention on the Rights of the Child and other international human rights treaties. But it is an obligation too often ignored or evaded by governments. Since the UPR in 2009, a new Family Code has been drafted in the Central African Republic: the Global Initiative is trying to verify reports that it includes prohibition of corporal punishment.

1.3 Notwithstanding the moves towards law reform, in terms of legislation currently in force there has been no change in the legality of corporal punishment of children in Central African Republic since the initial review: today, as in 2009, corporal punishment is lawful in the home, schools, penal institutions and alternative care settings.

2 Legality and practice of corporal punishment in Central African Republic

2.1 ***Home (lawful)***: Article 580 of the Family Code 1997 states that parental authority includes the power “to reprimand and correct [the child] to the extent compatible with the age and level of understanding of the child”. Provisions against violence and abuse in the Family Code 1997, the Penal Code 2010, the Constitution 2004, Imperial Order No. 79/077 covering protection of youth 1979, and Law No. 280 1961 are not interpreted as prohibiting corporal punishment in childrearing.

2.2 ***Schools (lawful)***: Imperial Order No. 78/034 (1978) protects the physical and moral wellbeing of young persons in residential educational institutions or boarding schools, but does not prohibit corporal punishment. There is no prohibition of corporal punishment in other education settings.

2.3 ***Penal system (not fully prohibited)***: Corporal punishment as a sentence for crime is unlawful under the Penal Code 2010, the Penal Procedure Code 2010 and the Law on the Juvenile Court 1995. But there is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

¹ 19 February 2009, A/HRC/WG.6/5/CAF/3, Summary of stakeholders' information, para. 23

² 4 June 2009, Report of the working group, paras. 74(17), 74(19) and 74(31)

2.4 ***Alternative care settings (lawful)***: Corporal punishment is lawful under article 580 of the Family Code (see above).

2.5 UNICEF's major analysis in 2010 found that 89% of 2-14 year olds in Central African Republic were violently "disciplined" in the home in 2005-2006; a third experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement).³ Children with disabilities were more likely to experience severe physical punishment: 36% of disabled children aged 2-9 were hit or slapped on the face, head or ears or hit over and over as hard as possible with an implement, compared with 28% of non-disabled children.⁴

3 Recommendations by human rights treaty monitoring bodies

3.1 **CRC**: In 2000, the Committee on the Rights of the Child raised concerns about corporal punishment of children in Central African Republic.⁵ It appears that the state has not submitted a periodic report to the Committee since that time.

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children

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³ UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

⁴ UNICEF (2009), *Progress for Children: A report card on child protection*, NY: UNICEF

⁵ 18 October 2000, CRC/C/15/Add.138, Concluding observations on initial report, paras. 44 and 45