

Corporal punishment of children in Sao Tome and Principe: Briefing for the Universal Periodic Review, 23rd session, 2015

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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 Sao Tome and Principe, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child and during the 1st cycle UPR of Sao Tome and Principe (which the Government accepted).

We hope the Working Group will note with concern the legality of corporal punishment of children in Sao Tome and Principe. We hope states will raise the issue during the review in 2015 and make a specific recommendation that Sao Tome and Principe prohibit all corporal punishment of children in all settings including the home and repeal the right to punish children “appropriately and moderately” in the Family Law.

1 Review of Sao Tome and Principe in the 1st cycle UPR (2011) and progress since then

1.1 Sao Tome and Principe was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 10). The issue of corporal punishment of children was raised in advance questions by the Netherlands, Hungary and Germany, in the compilation of UN information¹ and in the summary of stakeholders' information.² The following recommendations were made and were accepted by the Government:³

“Prohibit corporal punishment by law, protect victims and punish perpetrators (Germany);

“Enact legislation that legally prohibits corporal punishment of children in all settings, including at home and in care institutions (Hungary).”

1.2 Prohibiting and eliminating all corporal punishment of children in all settings including the home – through law reform and other measures – is a key obligation under the Convention on the Rights of

¹ 14 October 2010, A/HRC/WG.6/10/STP/2, Compilation of UN information, para. 8

² 17 September 2010, A/HRC/WG.6/10/STP/3, Summary of stakeholders' information, para. 1

³ 16 March 2011, A/HRC/17/13, Report of the working group, paras. 64(49) and 64(50)

the Child and other human rights instruments, though it is one frequently evaded by Governments. Since the initial UPR of Sao Tome and Principe, a new Penal Code 2012 has been adopted but it does not prohibit all corporal punishment of children. The legality of corporal punishment is the same today as at the time of the initial review in 2011.

2 Legality of corporal punishment in Sao Tome and Principe

- 2.1 **Summary:** In Sao Tome and Principe, corporal punishment of children appears to be unlawful in schools and as a sentence for crime, but it is not prohibited in the home, alternative care settings, day care and possibly penal institutions. **The Family Law is being revised, providing a key opportunity for prohibiting corporal punishment in childrearing.**
- 2.2 **Home (lawful):** Article 86 of the Family Law No. 2/77 confirms the right of parents to punish children “appropriately and moderately”. Provisions against violence and abuse in the Domestic Violence Law 2008, the Law reinforcing protection for victims of domestic violence 2008 and the Constitution 2003 are not interpreted as prohibiting all corporal punishment in childrearing. The Penal Code 2012 punishes cruelty against children (under 16) by parents, guardians and others charged with the care, custody or education of the child (art. 152): it does not explicitly prohibit all corporal punishment in childrearing.
- 2.3 The Family Law is being revised. This provides a key opportunity for enacting prohibition of all corporal punishment in childhood and repealing the right of parents to punish children “appropriately and moderately”.
- 2.4 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in alternative care settings. Corporal punishment is lawful under the right to punish children “appropriately and moderately” in article 86 of the Family Law.
- 2.5 **Day care (lawful):** There is no explicit prohibition of corporal punishment in alternative care settings. The right of parents to punish children “appropriately and moderately” in article 86 of the Family Code presumably applies to all person with parental authority.
- 2.6 **Schools (?unlawful):** Corporal punishment is reportedly unlawful in schools, but we have no details of applicable legislation.
- 2.7 **Penal institutions (lawful):** There appears to be no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.
- 2.8 **Sentence for crime (?unlawful):** Corporal punishment appears to be unlawful as a sentence for crime (unconfirmed). The Constitution prohibits torture and other cruel, inhuman or degrading treatment or punishment. We have no details of provisions in the Law on sentencing and incarceration measures 2003,⁴ the Penal Code, the Code of Criminal Procedure 1929 or the new Code of Criminal Procedure 2010.⁵

3 Recommendations by human rights treaty monitoring bodies

- 3.1 **CRC:** The Committee on the Rights of the Child has twice recommended to Sao Tome and Principe that corporal punishment be prohibited in the home and all other settings – in its concluding observations on the initial report in 2004⁶ and on the second-fourth report in 2013.⁷

⁴ Law No. 3/2003

⁵ Law No. 5/2010

⁶ 1 July 2004, CRC/C/15/Add.235, Concluding observations on initial report, paras. 33 and 34

⁷ 29 October 2013, CRC/C/STP/CO/2-4, Concluding observations on second-fourth report, paras. 6 and 7

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.