

Corporal punishment of children in Gabon: Briefing for the Universal Periodic Review, 28th session, 2017

From the Global Initiative to End All Corporal Punishment of Children, March 2017



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 Gabon, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, the Committee Against Torture and the African Committee of Experts on the Rights and Welfare of the Child, and the recommendations made during the 2nd cycle UPR of Gabon in 2012 (which the Government accepted).

We hope the Working Group will note with concern the legality of corporal punishment of children in Gabon. We hope states will raise the issue during the review in 2017 and make a specific recommendation that Gabon clearly prohibit all corporal punishment of children in all settings including the home.

1 Review of Gabon in the 2nd cycle UPR (2012) and progress since

- 1.1 Gabon was reviewed in the second cycle of the Universal Periodic Review in 2012 (session 14). The issue of corporal punishment of children was raised in the summary of stakeholders' information.¹ The Government accepted recommendations on awareness raising in schools and on the development of a comprehensive national strategy but no recommendations were made on a legal prohibition of corporal punishment.²
- 1.2 Since the second cycle review in 2012, the Government has been reporting on the drafting of a new Family Code and a Children's Code. However, despite the state's international obligation to enact a legal ban of all corporal punishment of children, prohibition has not been included in the drafts.
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Gabon. We hope states will raise the issue during the review in 2017 and make a specific recommendation that Gabon immediately prohibit all corporal punishment of children in all settings, including the home.**

¹ 24 July 2012, A/HRC/WG.6/14/GAB/3, Summary of stakeholders' views, paras. 3-7

² 13 December 2012, A/HRC/22/5, Report of the working group, paras. 101(31) and 101(69)

2 Legality of corporal punishment in Gabon

Summary of current law and opportunities for achieving prohibition

Corporal punishment of children in Gabon is unlawful in the penal system, schools and some preschool settings, but it is not prohibited in the home and in all alternative care and day care settings. Drafting is under way of a new Family Code and a new Children's Code: these reforms provide immediate opportunities for achieving prohibition of corporal punishment.

2.1 **Home (*lawful*)**: There appears to be no defence for the use of corporal punishment in childrearing in the Penal Code 1963 or the Civil Code 1972, but provisions against violence and abuse in these and other laws are not interpreted as prohibiting corporal punishment of children.

2.2 In reporting in 2012 on the UPR recommendation to prohibit corporal punishment made in 2008, the Government stated that the Ministry of Social Affairs is developing a code of social action but went on to suggest that corporal punishment is punishable under existing law.³ In reporting to the Committee on the Rights of Persons with Disabilities in 2013, the Government referred to the preparation of a new Family Code.⁴ In 2015, the Government reported that the drafting of the Family Code had been initiated,⁵ but as at March 2017 the draft has still not been finalised. A Children's Code is being drafted with the support of UNICEF.⁶ As at May 2015, the draft did not include prohibition of corporal punishment.⁷ In August 2016, the Government adopted the draft and transmitted it to the State Council for validation.

2.3 In reporting to the African Committee of Experts on the Rights and Welfare of the Child, the Government stated that customary practices regarding corporal punishment still exist and that challenging this "is seen as an interference in the private life of the family".⁸ The Government went on to report measures to prohibit corporal punishment only in relation to schools. The report confirmed, too, that there is no legislation on domestic violence.

2.4 **Alternative care settings (*lawful*)**: There is no explicit prohibition of corporal punishment in alternative care settings.

2.5 **Day care (*partially lawful*)**: Corporal punishment is unlawful in preschool provision under article 108 of the Law on Orientation of Education, Training and Research 2011 (see below), but it is not explicitly prohibited in other early childhood care and in day care for older children.

2.6 **Schools (*unlawful*)**: Corporal punishment is unlawful in schools under article 108 of the Law on Orientation of Education, Training and Research 2011,⁹ which came into force in February 2012 (unofficial translation): "Prohibited in schools and universities: Punishment or abuse and other forms of violence or humiliation..." In reporting to the African Committee of Experts on the

³ 6 August 2012, A/HRC/WG.6/14/GAB/1, National report to the UPR, para. 48

⁴ 14 July 2014, CRPD/C/GAB/1, Initial state party report, para. 121

⁵ Gabon government delegation reporting to the Committee on the Rights of Persons with Disabilities, http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/03CCC7A42C292BC7C1257EA800462478?OpenDocument, accessed 1 September 2015

⁶ Information provided in correspondence with the Global Initiative, 30 January 2015

⁷ Information provided to the Global Initiative, May 2015

⁸ [2015], Initial state party report

⁹ Law No. 21/2011

Rights and Welfare of the Child, the Government noted the “adoption of an order of the Ministry of Education prohibiting corporal punishment in schools”.¹⁰

- 2.7 **Penal institutions (unlawful):** Corporal punishment is explicitly prohibited as a disciplinary measure in penal institutions in article 79 of the Law on the Judicial Regime of Protection of Children 2010 (unofficial translation): “Any action or disciplinary proceedings against a minor must be compatible with respect for dignity. It is forbidden, even for disciplinary reasons, to impose a juvenile detainee to cruel, inhuman or degrading treatment, including corporal punishment, confinement in a dark cell in a dungeon or in isolation, or any other punishment that may prejudice his physical or mental health.”
- 2.8 **Sentence for crime (unlawful):** There is no provision for judicial corporal punishment in criminal law.

3 Recommendations by human rights treaty bodies

- 3.1 **CRC:** In 2002, the Committee on the Rights of the Child expressed concern at corporal punishment of children in Gabon and recommended it be prohibited in the home and in schools and other institutions.¹¹ The Committee reiterated that concern in 2016 when it recommended that all corporal punishment be prohibited in all settings.¹²
- 3.2 **CAT:** In 2013, the Committee Against Torture expressed concern at corporal punishment of children in Gabon, including in the home. The Committee appears to have been misled to believe that corporal punishment was prohibited and recommended that efforts be made to ensure implementation of the law.¹³
- 3.3 **UPR:** In the first cycle Universal Periodic Review of Gabon in 2008, a recommendation was made to prohibit corporal punishment in all places to which the Government did not respond.¹⁴ At the second cycle review in 2012, recommendations were made concerning awareness raising on corporal punishment in schools and the development of a comprehensive national strategy to fight the worst forms of corporal punishment, both of which the Government accepted – but no recommendations were made concerning the obligation under human rights law to prohibit all corporal punishment by law.¹⁵
- 3.4 **ACERWC:** In 2015, the African Committee of Experts on the Rights and Welfare of the Child recommended that Gabon prohibit corporal punishment in all settings.¹⁶

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@encorporalpunishment.org

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 since 2011 the Committee on the Rights of Persons with Disabilities.

¹⁰ [2015], Initial state party report

¹¹ 1 February 2002, CRC/C/15/Add.171, Concluding observations on initial report, para. 40

¹² 3 June 2016, CRC/C/GAB/CO/2, Concluding observations on second report, paras. 30 and 31

¹³ 17 January 2013, CAT/C/GAB/CO/1, Concluding observations on initial report, paras. 25 and 26

¹⁴ 28 May 2008, A/HRC/8/35, Report of the working group, para. 60(15)

¹⁵ 13 December 2012, A/HRC/22/5, Report of the working group, paras. 101(31) and 101(69)

¹⁶ [November 2015], Concluding observations on initial report, para. 26