

Corporal punishment of children in Angola: Briefing for the Universal Periodic Review, 34th session, November 2019



GLOBAL INITIATIVE TO
**End All Corporal
Punishment of Children**

From the Global Initiative to End All Corporal Punishment of Children, March 2019

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 Angola, corporal punishment of children is still lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and the African Committee of Experts on the Rights and Welfare of the Child.

We hope the Working Group will note with concern the legality of corporal punishment of children in Angola. We hope states will raise the issue during the review in 2019 and make a specific recommendation that Angola draft and enact legislation as a matter of priority to explicitly prohibit corporal punishment of children in all settings, including the home, and repeal all legal defences for its use.

1 Review of Angola in the 2nd cycle UPR (2014) and progress since

- 1.1 Angola was reviewed in the second cycle of the Universal Periodic Review in 2014 (session 20). The issue of corporal punishment of children was raised in the compilation of UN information¹ and in the summary of stakeholders' information.² The Government accepted two recommendations to prohibit all corporal punishment of children.³
- 1.2 Since the review, there has been no change in the legality of corporal punishment. In fact, the Government has recently declared that all corporal punishment of children was already criminalised,⁴ despite the absence of such prohibition in domestic legislation.
- 1.3 **We hope the Working Group will note with concern the continued legality of corporal punishment of children in Angola. We hope states will raise the issue during the review in 2019 and make a specific recommendation that Angola draft and enact legislation as a matter of priority to explicitly prohibit corporal punishment of children in all settings, including the home, and repeal all legal defences for its use.**

¹ 18 August 2014, A/HRC/WG.6/20/AGO/2, Compilation of UN information, para. 32

² 5 August 2014, A/HRC/WG.6/20/AGO/3, Summary of stakeholders' views, para. 21

³ 5 December 2014, A/HRC/28/11, Report of the working group, paras. 134(87) and 134(95)

⁴ 16 February 2018, CRC/C/AGO/Q/5-7/Add.1, Reply to list of issues, para. 33; see also 3 December 2018, CCPR/C/AGO/Q/2/Add.1, Reply to list of issues, para. 108

2 Legality of corporal punishment in Angola

Summary of current law and reforms needed to achieve prohibition

Corporal punishment in Angola is prohibited as a sentence for a crime but it is still lawful in the home, in alternative and day care settings, in schools and in penal institutions. Legislation should be enacted to explicitly prohibit all corporal punishment in all settings, including the home, and all legal defences for its use, including in the Child Law 2012, should be repealed.

- 2.1 **Home (lawful):** Corporal punishment is lawful in the home. A number of new laws have been enacted but they do not prohibit all corporal punishment of children. The Child Law 2012⁵ states that the child “shall not be treated in any negligent, discriminatory, violent or cruel manner” (art. 7), that all citizens have a duty “to safeguard the dignity of the child thus protecting them from any such inhuman, cruel, violent, exploiting, humiliating, compromising or discriminatory treatment or other forms of treatment against the dignity and physical integrity of the child” (art. 8) and that “in safeguarding the right to respect of dignity and physical, mental or moral integrity of the child, he or she has the right to be guided and to be disciplined in accordance with his or her age, and his or her physical and mental condition. No corrective measure applied to the child can be justified if by virtue of his or her tender age or any other reason the child is unable to understand the purpose intended by the measure” (art. 10). The Law does not prohibit all corporal punishment in the home or in any other setting.
- 2.2 The Domestic Violence Act 2010 applies to relationships within the family and to “others based on reasons of proximity, affection, education and natural relations, especially a) in kindergarten, b) in nursing homes, c) in hospitals, d) in schools, e) in female or male boarding homes and f) in similar community or social spaces” (unofficial translation). Article 3 defines domestic violence as “any act or omission that causes injury or deformity and temporary or permanent psychological damage” and physical violence as “all conduct which offends bodily integrity or health”. This makes corporal punishment of some severity unlawful but does not effectively prohibit all forms of corporal punishment, without exception, in childrearing and education. The Family Code provisions on parental duties and rights do not prohibit all corporal punishment in childrearing.
- 2.3 Article 36 of the Constitution 2010 protects the right of everyone “not to be subjected to any form of violence by public or private entities”, “not to be tortured or treated or punished in a cruel, inhumane or degrading manner” and “to fully enjoy physical and mental integrity”; article 60 reiterates that “no one shall be subjected to torture, forced labour or cruel, degrading or inhuman treatment”. However, there is no explicit confirmation of children’s right not to be subjected to corporal punishment in any form: article 80 on Childhood confirms only protection from “abuse of authority”.
- 2.4 The Penal Code punishes habitual cruelty against children but does not prohibit all corporal punishment (art. 157). The Code is being revised:⁶ an early draft of the new Code punished violence and cruel treatment of children but did not include prohibition of all corporal

⁵ Act No. 25/12 of 22 August 2012

⁶ 3 December 2018, CCPR/C/AGO/Q/2/Add.1, Reply to list of issues, para. 17

punishment in the home or any other setting. The Code of Criminal Procedure and the Family Code are also being revised:⁷ we do not know if prohibition has been proposed in this context.

2.5 The Government reported to the Committee on the Rights of the Child in 2018 that all corporal punishment of children “when administered by an official in any setting” was already criminalised under the provisions for assault.⁸ Later in the same year, the Government reported to the Human Rights Committee that the “corporal punishment of a child by any person in any setting is considered an offence which, depending on how it is characterized, can be classified as simple assault or negligent assault causing serious bodily injury”.⁹ However as detailed above, there is no explicit prohibition of all corporal punishment, however light.

2.6 **Alternative care settings (lawful):** Corporal punishment is lawful in alternative care settings. Corporal punishment of some severity is unlawful under the Domestic Violence Act 2010 and limited protection is given by the Child Law 2012 but there is no explicit prohibition of all such punishment, however light.

2.7 **Day care (lawful):** Corporal punishment is lawful in day care settings. Corporal punishment of some severity is unlawful under the Domestic Violence Act 2010 and limited protection is given by the Child Law 2012 but there is no explicit prohibition of all such punishment, however light.

2.8 **Schools (lawful):** Corporal punishment is not prohibited in schools. Corporal punishment of some severity is possibly unlawful under the Domestic Violence Act 2010 and limited protection is given by the Child Law 2012 but there is no explicit prohibition. The Education Law 2001 is silent on the issue. Amendments were voted in 2016 but did not appear to address corporal punishment.¹⁰

2.9 **Penal institutions (lawful):** There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

2.10 **Sentence for crime (unlawful):** Corporal punishment is unlawful as a sentence for crime under the Penal Code, the Court for Minors Act 1996 and the Code of Procedure for the Court for Minors, which make no provision for judicial corporal punishment. The Constitutional prohibition of cruel, inhuman and degrading treatment of every person applies.

3 Recommendations by human rights treaty bodies

3.1 **CRC:** The Committee on the Rights of the Child has on three occasions recommended to Angola that legislation be enacted to explicitly prohibit corporal punishment in all settings, including the home – in its concluding observations on the state party’s initial report in 2004,¹¹ on the second-fourth report in 2010¹² and on the fifth/seventh report in 2018.¹³

⁷ 3 December 2018, CCPR/C/AGO/Q/2/Add.1, Reply to list of issues, para. 38; see also 16 February 2018, CRC/C/AGO/Q/5-7/Add.1, Reply to list of issues, para. 18 and <http://allafrica.com/stories/201710170723.html> and https://www.einnews.com/pr_news/410020492/parliament-speaker-calls-for-dialogue, accessed 8 November 2017

⁸ 16 February 2018, CRC/C/AGO/Q/5-7/Add.1, Reply to list of issues, para. 33

⁹ 3 December 2018, CCPR/C/AGO/Q/2/Add.1, Reply to list of issues, para. 108

¹⁰ See http://www.angop.ao/angola/pt_pt/noticias/politica/2016/7/32/Angola-Aprovada-Lei-Bases-Educacao.6a8cabea-564f-45a9-a672-039c30b1100f.html, accessed 8 November 2017

¹¹ 3 November 2004, CRC/C/15/Add.246, Concluding observations on initial report, paras. 32, 33, 36 and 37

¹² 11 October 2010, CRC/C/AGO/CO/2-4, Concluding observations on second to fourth report, paras. 36 and 37

¹³ 1 June 2018, CRC/C/AGO/5-7 Advance unedited version, Concluding observations on fifth/seventh report, paras. 4, 20 and 21

3.2 **ACERWC**: The African Committee of Experts on the Rights and Welfare of the Child recommended to Angola in 2017 that it craft legislation banning corporal punishment in all settings.¹⁴

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

¹⁴ [December 2017], Concluding observations on initial report, para. 26