**BRIEFING ON ANGOLA FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 123rd session (July 2018)**

*From the Global Initiative to End All Corporal Punishment of Children, April 2018*

**This briefing describes the legality of corporal punishment of children in Angola. In light of the obligation under international human rights treaties to prohibit all corporal punishment of children, the global commitment to ending violence against children – including corporal punishment – in the context of the 2030 Agenda for Sustainable Development, the recommendations of the UN Secretary General’s Study on Violence against Children, and those made to Angola by the Committee on the Rights of the Child and during the Universal Periodic Review in 2014 (which the Government accepted), we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues for Angola, in particular asking what progress is being made towards fulfilling its commitment to explicitly prohibit all corporal punishment of children in legislation, and**
* **in its concluding observations on Angola’s second state party report, recommend that legislation is enacted as a matter of priority to explicitly prohibit corporal punishment of children in all settings, including in the home, and to repeal all legal defences and authorisations for its use.**

**1 The report of Angola to the Human Rights Committee**

* 1. Angola’s second periodic report to the Human Rights Committee (CCPR/C/AGO/2) touches upon the issue of violence against children but does not address corporal punishment. Despite Angola’s commitment to explicitly prohibit all forms of corporal punishment during its 2014 Universal Periodic Review, no progress has been made since and the Government misleadingly reported in early 2018 that corporal punishment was already criminalised.[[1]](#footnote-1)

**1.2 In light of the state’s obligation and commitment to explicitly prohibit corporal punishment in all settings, we hope the Committee will raise the issue of corporal punishment of children in its review of Angola and recommend that prohibition of corporal punishment in all settings, including in the home, is enacted as a matter of priority.**

**2 The legality of corporal punishment of children in Angola**

2.1 ***Summary:*** Corporal punishment of children in Angola is prohibited as a sentence for a crime but it is still lawful in all other settings, including in the home.

2.2 ***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 2012[[2]](#footnote-2) 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.

2.3 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.

2.4 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”. The Penal Code punishes habitual cruelty against children but does not prohibit all corporal punishment (art. 157). The Code is being revised: an early draft of the new Code punished violence and cruel treatment of children but did not include prohibition of all corporal punishment in the home or any other setting. The Code of Criminal Procedure and the Family Code are also being revised:[[3]](#footnote-3) we do not know if prohibition has been proposed in this context.

2.5 The Government signalled its commitment to reforming the law to prohibit all corporal punishment by clearly accepting recommendations to do so made during the Universal Periodic Review of Angola in 2014.[[4]](#footnote-4) However, it misleadingly reported to the Committee on the Rights of the Child in 2018 that all corporal punishment of children was already criminalised under the provisions for assault.[[5]](#footnote-5)

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.[[6]](#footnote-6)

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 and during the UPR**

3.1 ***CRC:*** The Committee on the Rights of the Child has twice 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[[7]](#footnote-7) and on the second-fourth report in 2010.[[8]](#footnote-8)

3.2 ***UPR:*** Angola was examined in the first cycle of the Universal Periodic Review in 2010 (session 7). No recommendations were made specifically concerning corporal punishment but the Government accepted recommendations to fulfil its obligations under the CRC, to address violence against children and to harmonise domestic law with international standards.[[9]](#footnote-9) At the second cycle review in 2014 (session 20), the Government accepted recommendations to prohibit all corporal punishment of children.[[10]](#footnote-10)

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1. 16 February 2018, CRC/C/AGO/Q/5-7/Add.1, Reply to list of issues, para. 33 [↑](#footnote-ref-1)
2. Act No. 25/12 of 22 August 2012 [↑](#footnote-ref-2)
3. See <http://allafrica.com/stories/201710170723.html> and <https://www.einnews.com/pr_news/410020492/parliament-speaker-calls-for-dialogue>, accessed 8 November 2017 [↑](#footnote-ref-3)
4. 5 December 2014, A/HRC/28/11, Report of the working group, paras. 134(87) and 134(95) [↑](#footnote-ref-4)
5. 16 February 2018, CRC/C/AGO/Q/5-7/Add.1, Reply to list of issues, para. 33 [↑](#footnote-ref-5)
6. See [http://www.angop.ao/angola/pt\_pt/noticias/politica/2016/7/32/Angola-Aprovada-Lei-Bases-Educacao,6a8cabea-564f-45a9-a672-039c30b1100f.html](http://www.angop.ao/angola/pt_pt/noticias/politica/2016/7/32/Angola-Aprovada-Lei-Bases-Educacao%2C6a8cabea-564f-45a9-a672-039c30b1100f.html), accessed 8 November 2017 [↑](#footnote-ref-6)
7. 3 November 2004, CRC/C/15/Add.246, Concluding observations on initial report, paras. 32, 33, 36 and 37 [↑](#footnote-ref-7)
8. 11 October 2010, CRC/C/AGO/CO/2-4, Concluding observations on second to fourth report, paras. 36 and 37 [↑](#footnote-ref-8)
9. 24 March 2010, A/HRC/14/11, Report of the working group, paras. 87(26), 87(59), 87(66) and 87(70) [↑](#footnote-ref-9)
10. 5 December 2014, A/HRC/28/11, Report of the working group, paras. 134(87) and 134(95) [↑](#footnote-ref-10)