**BRIEFING ON EQUATORIAL GUINEA FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 124th session (October/November 2018)**

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

**This briefing describes the legality of corporal punishment of children in Equatorial Guinea. 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 Equatorial Guinea by the Human Rights Committee, the Committee on the Rights of the Child, and during the Universal Periodic Review of Equatorial Guinea 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 in the absence of a report for Equatorial Guinea, in particular asking what progress is being made towards enacting prohibition of all corporal punishment of children, however light, and**
* **in its concluding observations on Equatorial Guinea’s second state party report, recommend that legislation is enacted to prohibit all corporal punishment of children, however light, in all settings, including in the home.**

**1 The legality of corporal punishment of children in Equatorial Guinea**

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

1.2 ***Home (lawful):***Corporal punishment is lawful in the home. Under examination by the UN Committee on the Rights of the Child in 2004, the Government reported that corporal punishment was a crime punishable by law, but that this was not reflected in practice and it continued to be considered normal in childrearing.[[1]](#footnote-1) In fact, the law does not clearly prohibit corporal punishment; on the contrary, it authorises “reasonable and moderate correction” of children. Article 154 of the Civil Code 1889 states (unofficial translation): “… Parental authority shall always be exercised for the benefit of the children, according to their personality…. Parents may in the exercise of their power seek the assistance of the authority. They may also reasonably and moderately correct their children.” Article 268 includes a similar provision in relationship to tutors/guardians of children.

1.3 According to the Constitution 2012, the state shall protect the family, ensuring for it favourable “moral, cultural and economic conditions” (art. 22); the state shall protect the child “so that it can function normally and with moral, mental and physical security” (art. 23). Provisions against violence in the Penal Code 1980 do not include clear prohibition of all corporal punishment of children.

1.4 The drafting of a law on children has long been under consideration. In 2011, the proposed new law, which includes civil and penal measures for child protection as well as protection for children in conflict with the law, was reviewed by UNICEF.[[2]](#footnote-2) A draft Family Code and a draft Law on Gender Violence are under discussion, and were expected to be adopted by 2017.[[3]](#footnote-3) We do not know if prohibition is being proposed in the context of these reforms.

1.5 ***Alternative care settings (lawful)***: Corporal punishment is lawful in alternative care settings under the right to administer “reasonable and moderate” correction in articles 154 and 268 of the Civil Code 1889.

1.6 ***Day care (lawful)***: Corporal punishment is lawful in early childhood care and in day care for older children under the right to administer “reasonable and moderate” correction in articles 154 and 268 of the Civil Code 1889.

1.7 ***Schools (lawful):***Corporal punishment is lawful in schools. The Education Act states that discipline in schools must respect the dignity of the child, and the Ministry of Education has launched a campaign to stop the use of corporal punishment in schools, but there is no explicit prohibition of corporal punishment in law. In 2004, the Government informed the UN Committee on the Rights of the Child that the use of beatings as a punishment in schools had been eliminated.[[4]](#footnote-4)

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

1.9 ***Sentence for crime (unlawful):*** Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment (caning/whipping) in criminal law.

**2 Recommendations by human rights treaty bodies and during the UPR**

2.1 ***HRC:*** In 2004, the Human Rights Committee expressed concern at corporal punishment of children in Equatorial Guinea and recommended child protection measures to address it.[[5]](#footnote-5)

2.2 ***CRC:*** In 2004, the Committee on the Rights of the Child recommended that corporal punishment of children in Equatorial Guinea be explicitly prohibited in the family, schools and other institutions.[[6]](#footnote-6)

2.3 ***UPR:*** During the Universal Periodic Review of Equatorial Guinea in 2014, recommendations to eradicate corporal punishment of children were accepted by the Government.[[7]](#footnote-7)

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

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1. 11 March 2013, CRC/C/SR.990, Summary record of 990th meeting, para. 51 [↑](#footnote-ref-1)
2. UNICEF (2011), *Annual Report 2011 – Equatorial Guinea* [↑](#footnote-ref-2)
3. UNICEF (2013), *Annual Report 2013 – Equatorial Guinea* [↑](#footnote-ref-3)
4. 28 January 2004, CRC/C/11/Add.26, Initial state party report, para. 94 [↑](#footnote-ref-4)
5. 30 July 2004, CCPR/CO/79/GNQ, Concluding observations in the absence of a report, para. 10 [↑](#footnote-ref-5)
6. 3 November 2004, CRC/C/15/Add.245, Concluding observations on initial report, paras. 34 and 35 [↑](#footnote-ref-6)
7. 7 July 2014, A/HRC/27/13, Report of the working group, paras. 134(31) and 134(61) [↑](#footnote-ref-7)