

Corporal punishment of children in Angola

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Child population 13,598,000 (UNICEF, 2015)

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings, day care, schools and penal institutions.

Article 10 of the Child Law 2012 provides for the concept of “justifiable correction”. The near universal acceptance of corporal punishment in “disciplining” children means that in the absence of explicit prohibition this may be construed as a defence for the use of corporal punishment. This provision should be repealed or amended to clarify that no corporal punishment is justifiable and prohibition of corporal punishment enacted in relation to parents and all persons with parental authority.

Alternative care settings – Prohibition should be enacted in legislation applicable to all alternative care settings (foster care, institutions, places of safety, emergency care, etc).

Day care – Corporal punishment should be prohibited in all early childhood care (nurseries, crèches, kindergartens, preschools, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Schools – Legislation should prohibit corporal punishment in all education settings, public and private.

Penal institutions – Prohibition should be enacted of corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law.

Current legality of corporal punishment

Home

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 2012¹ 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.

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.

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”.

A New Penal Code 2019 has been adopted.² We have been unable to check the text. 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 previous Penal Code punished habitual cruelty against children (art. 157). The Code of Criminal Procedure and the Family Code are being revised:³ we do not know if prohibition has been proposed in this context.

The Government had originally 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 However, it 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.⁵ 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”.⁶ But as detailed above, there is no explicit prohibition of all corporal punishment, however light. As a result, the Global Initiative no longer considers Angola committed to prohibiting all corporal punishment of children without delay. In

¹ Act No. 25/12 of 22 August 2012

² 8 May 2019, CCPR/C/AGO/CO/2, Concluding observations on second report, para. 3(a)

³ 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

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

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

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

February 2020, the Government again accepted UPR recommendations to prohibit all corporal punishment of children.⁷

Alternative care settings

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 (see under “Home”) but there is no explicit prohibition of all such punishment, however light.

Day care

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 (see under “Home”) but there is no explicit prohibition of all such punishment, however light.

Schools

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 (see under “Home”) 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.⁸

Penal institutions

There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

Sentence for crime

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 (see under “Home”).

Universal Periodic Review of Angola’s human rights record

Angola was examined in the first cycle of the Universal Periodic Review in 2010 (session 7). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:⁹

“To adapt domestic legislation to the international normative framework (Chad);

“To strengthen and intensify its actions to prevent and reduce violence against children (Portugal);

“To expeditiously take the actions necessary to combat the negative phenomenon of violence against children, and to provide efficient rehabilitation and reintegration schemes for victims (Slovakia);

⁷ 11 December 2019, A/HRC/43/11, Report of the Working Group, paras. 146(248) and 146(249); 19 February 2020, A/HRC/43/11/Add.1, Report of the Working Group: Addendum

⁸ 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

⁹ 24 March 2010, A/HRC/14/11, Report of the working group, paras. 87(26), 87(59), 87(66) and 87(70)

“To strengthen its efforts to fulfil its obligations under CRC (Australia).”

Examination in the second cycle took place in 2014 (session 20). The following recommendations were made and were accepted by the Government:¹⁰

“Explicitly prohibit all forms of corporal punishment in the upbringing and education of children (Uruguay);

“Continue to strengthen efforts to eliminate all types of violence against children including through the criminalization of corporal punishment (Portugal)”

Third cycle examination took place in 2019 (session 34). The following recommendations were made:¹¹

“Enact legislation to prohibit corporal punishment for children in all settings, including the home, and repeal all legal defences for its use (Zambia);

“Adopt legislation to explicitly prohibit corporal punishment of children in all settings (Brazil)”

The Government later supported the recommendations.¹²

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

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

“The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party’s attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: (...) all forms of violence against children, including corporal punishment (para. 21)...”

“The Committee is concerned that:

- (a) Its previous recommendations have not been implemented, namely explicitly prohibiting corporal punishment in law in all settings;
- (b) As a consequence, corporal punishment remains lawful in the State party, except as a sentence for a crime;
- (c) The State party submits that corporal punishment is considered a crime in all instances when this statement is not supported by the laws, including the Children’s Act, which provides for the legal defence of “justifiable correction” in its article 10 against the crime of assault when it is inflicted upon children for disciplinary purposes;
- (d) It is reported, including by the State party, that corporal punishment is being exercised by teachers in schools.

“Reiterating its concluding observations (see CRC/C/AGO/CO/2-4, para. 37) and with reference to its general comments No. 13 (2011) on the right of the child to freedom from all forms of violence and No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, taking note of target 16.2 of the Sustainable Development Goals on ending all forms of violence against children, and in view of the State party’s acceptance of relevant recommendations from its Universal Periodic Review in 2014, the Committee urges the State party to:

- (a) Amend the Children’s Act, including by removing the legal defence of the concept of “justifiable correction”, and the Domestic Violence Act, as well as the Family Code and the Penal Code, both currently under revision as a whole, and any other relevant legislation, to explicitly prohibit the use of

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

¹¹ 11 December 2019, A/HRC/43/11, Report of the Working Group, paras. 146(248) and 146(249)

¹² 19 February 2020, A/HRC/43/11/Add.1, Report of the Working Group: Addendum

corporal punishment in all settings, including at home, in schools, in alternative care settings, in day care institutions and in penal institutions;

(b) Strengthen training programmes for teachers, and public education, awareness-raising and social mobilization programmes involving children, families and communities on the harmful effects of corporal punishment, with a view to changing attitudes and promoting alternative, positive and non-violent forms of child-rearing and discipline.”

Committee on the Rights of the Child

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

“While the Committee notes that corporal punishment is unlawful as a sentence for a crime, it is concerned that corporal punishment remains lawful in the home and that there is no explicit prohibition of corporal punishment in schools, in alternative care settings and as a disciplinary measure in penal institutions.

“The Committee recommends that the State party explicitly prohibit by law all forms of violence against children, including corporal punishment, in all settings, including in the family, schools, alternative childcare and places of detention for juveniles, and implement those laws effectively. It also recommends that the State party carry out awareness-raising campaigns focusing on parents, teachers and the general public on the eradication of corporal punishment and the promotion of alternative forms of discipline in a manner consistent with the child’s human dignity and in accordance with the Convention, especially articles 19 and 28, paragraph 2, taking into account the Committee’s general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.”

Committee on the Rights of the Child

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

“The Committee is concerned at the common use of corporal punishment in families and in schools and other institutions for children.

“The Committee recommends that the State party take effective measures to enforce the ban on corporal punishment in schools and other institutions; to prohibit the use of violence against children, including corporal punishment, by parents and other caregivers; and to undertake campaigns to educate families, teachers, and other professionals working with and for children on alternative ways of disciplining children.

“The Committee is concerned about the growing cases of abuse and violence against children, including sexual abuse in their homes, in schools and in other institutions.

“The Committee recommends that the State party strengthen current efforts to address the problem of child abuse, including by ensuring that:

b) public education campaigns about the negative consequences of ill-treatment and preventive programmes, including family development programmes, promoting positive, non-violent forms of discipline are conducted....”

Human Rights Committee

(8 May 2019, CCPR/C/AGO/CO/2, Concluding observations on second report, paras. 47 and 48)

“(…) The Committee is also concerned that all forms of corporal punishment are not yet prohibited in all settings...”

“(…) The State party should take practical steps, including through legislative measures, to put an end to all forms of corporal punishment in all settings...”

African Committee of Experts on the Rights and Welfare of the Child

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

“The Committee also notes that corporal punishment is highly practiced at various settings; including at schools and home. The Committee encourages the State Party to craft legislation which bans corporal punishment in all settings and to also take administrative measures to train teachers and parents on positive disciplining.”

Prevalence/attitudinal research in the last ten years

None identified.

[End Corporal Punishment](#) is a critical initiative of the [Global Partnership to End Violence Against Children](#). Previously known as The Global Initiative to End All Corporal Punishment of Children, we act as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We track global progress, support and hold governments to account, partner with organisations at all levels, and engage with human rights treaty body systems.