

Corporal punishment of children in Monaco: Briefing for the Universal Periodic Review, 31st session, November 2018

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



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 Monaco, corporal punishment of children is still lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and the Committee Against Torture.

We hope the Working Group will note with concern the legality of corporal punishment of children in Monaco. We hope states will raise the issue during the review in 2018 and make a specific recommendation that Monaco draft and enact legislation as a matter of priority to clearly prohibit all corporal punishment of children in all settings, including in the home.

1 Review of Monaco in the 2nd cycle UPR (2013) and progress since

- 1.1 Monaco was reviewed in the second cycle of the Universal Periodic Review in 2013 (session 17). The issue of corporal punishment of children was raised in the compilation of UN information¹ and the summary of stakeholders' information.² No recommendations were issued specifically on corporal punishment but the Government accepted general recommendations on protecting children's rights and fighting domestic violence.³
- 1.2 Since the review, there has been no change in the legality of corporal punishment of children. Following his visit to Monaco in January 2017, the Council of Europe's Commissioner for Human Rights pointed out that the Government could strengthen the "protection of children's rights by banning all forms of corporal punishment of children as a clear demonstration that all forms of violence against children are unacceptable".⁴
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Monaco. We hope states will raise the issue during the review in 2018 and make a specific recommendation that Monaco draft and enact legislation as a matter of priority to clearly prohibit all corporal punishment of children in all settings, including in the home.**

¹ 7 August 2013, A/HRC/WG.6/17/MCO/2, Compilation of UN information, para. 12

² 30 July 2013, A/HRC/WG.6/17/MCO/3, Summary of stakeholders' views, paras. 21, 22, 23, 24 and 25

³ 3 January 2014, A/HRC/25/12, Report of the working group, paras. 89(24) and 89 (38)

⁴ See <http://www.coe.int/en/web/commissioner/-/monaco-doit-consolider-les-progres-accomplis-en-matiere-de-protection-des-droits-des-enfants-des-personnes-handicapees-et-des-personnes-lgbti>, accessed 22 March 2017

2 Legality of corporal punishment in Monaco

Summary of current law and reforms needed to achieve prohibition

Corporal punishment of children in Monaco is lawful in the home and in alternative care and day care settings. Legislation should be enacted to explicitly prohibit all corporal punishment, however light, in all settings including in the home.

- 2.1 **Home (lawful)**: Corporal punishment is lawful in the home. The Government has repeatedly asserted that the criminal law on assault and battery, strengthened by amendments in 2007, adequately protects children from corporal punishment in all settings.⁵ However, there is no explicit prohibition of corporal punishment in the Penal Code or its amending laws, Law No. 1.344 of 26 December 2007 increasing the punishment for crimes and offences against children and Law No. 1382 of 20 July 2011 on the prevention and repression of specific violence.
- 2.2 **Alternative care settings (lawful)**: There is no explicit prohibition of corporal punishment in alternative care settings. Corporal punishment is lawful as for parents.
- 2.3 **Day care (lawful)**: There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children.
- 2.4 **Schools (unlawful)**: Corporal punishment is unlawful in schools. It is not among the permitted disciplinary measures listed in the Education Law 2007 but it is not explicitly prohibited.
- 2.5 **Penal institutions (unlawful)**: Corporal punishment is considered unlawful as a disciplinary measure in penal institutions, but there is no explicit prohibition in legislation.
- 2.6 **Sentence for crime (unlawful)**: Corporal punishment is unlawful as a sentence for crime. It is not a permitted sanction for crime under the Criminal Code.

3 Recommendations by human rights treaty bodies

- 3.1 **CRC**: The Committee on the Rights of the Child has twice recommended that corporal punishment of children be prohibited in the home and all other settings – in concluding observations on the state party's initial report in 2001⁶ and on the second/third report in 2013.⁷
- 3.2 **CAT**: In 2011, the Committee Against Torture recommended prohibition of corporal punishment of children in all settings.⁸

⁵ 23 May 2011, Written replies to the Committee Against Torture; 27 May 2011, CAT/C/SR.1003, Summary record of examination by the Committee Against Torture, para. 21; 13 August 2012, CRC/C/MCO/2-3, Second/third report to the Committee on the Rights of the Child, paras. 213-217; 23 August 2013, CRC/C/MCO/Q/2-3/Add.1, Reply to list of issues; 15 April 2014, E/C.12/MCO/Q/2-3/Add.1, Reply to list of issues, paras. 133, 134, 135, 136 and 137; 17 November 2017, CEDAW/C/SR.1556, Summary records of 1556th meeting

⁶ 8 June 2001, CRC/C/15/Add.158, Concluding observations on initial report, paras. 26 and 27

⁷ 29 October 2013, CRC/C/MCO/CO/2-3, Concluding observations on second/third report, paras. 6, 7, 28 and 29

⁸ 17 June 2011, CAT/C/MCO/4-5, Concluding observations on fourth/fifth report, para. 11

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