



Global Initiative to  
**End All Corporal Punishment  
of Children**

## **FRANCE – COUNTRY REPORT**

### **Summary of necessary legal reform to achieve full prohibition**

#### ***Settings where explicit prohibition is necessary***

home, schools, penal institutions, alternative care settings

#### ***Is there a legal defence for corporal punishment which must be repealed?***

Yes – Customary law recognises a “right of correction”. This provision must be explicitly repealed and a clear law enacted prohibiting all corporal punishment in raising and disciplining children, including by parents, teachers and all adults with parental authority over children.

#### ***Other legislative measures necessary***

*Schools* – Explicit prohibition should be enacted in relation to all education settings, public and private, in addition to repeal of the “right of correction” in customary law.

*Penal institutions* – Given the widespread tolerance of corporal punishment in raising and disciplining children, general prohibitions against violence and protecting children’s human dignity are inadequate to prohibit all forms of corporal punishment. Explicit prohibition should be enacted of corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law.

*Alternative care settings* – Explicit prohibition should be enacted in legislation applicable to all alternative care settings, including public and private day care, residential institutions, foster care, etc, in addition to repeal of the customary “right of correction”.

# DETAILED COUNTRY REPORT

## Legality of corporal punishment

### Home

Corporal punishment is lawful in the home under the “right of correction” in customary law. Provisions against violence and abuse in the Criminal Code (1994), the Civil Code, Act No. 2007-293 (2007) reforming child welfare and Act No. 2006-399 (2006) concerning domestic violence and violence against children are not interpreted as prohibiting all corporal punishment in childrearing.

In November 2010, a bill to abolish all forms of physical and psychological violence against children (Bill No. 1971), intended to prohibit all corporal punishment in childrearing, was filed in the National Assembly.

### Schools

Ministerial circulars state that corporal punishment should not be used in schools (Circular No. 91-124 of 6 June 1991 regarding primary schools and Circular No. 2000-105 of 11 July 2000 for secondary schools) but there is no explicit prohibition in law and “light correction” is tolerated in the same way as it is for parents. A High Court ruling in 1889 allowed a “right to correction” for teachers; a ruling in 2000 stated that this did not apply to habitual and “non-educational” corporal punishment.

### Penal system

Corporal punishment is unlawful as a **sentence for crime** under the Criminal Code.

Corporal punishment is considered unlawful as a **disciplinary measure** in penal institutions, but there is no explicit prohibition in legislation. The Code of Criminal Procedure (1994) provides for respect for human dignity (article D.189) and prohibits violence towards detainees (article D.220). A decree of 4 April 1996 and its implementing circular of 12 April 1996 prohibit cruel, inhuman or degrading punishment.

### Alternative care

Corporal punishment is lawful in alternative care settings under the customary “right of correction”. In 2003 the Supreme Court confirmed that nannies and babysitters have this right.

### Prevalence research

A survey by the Union of Families in Europe (UFE) of 2,000 grandparents, parents and children found that 95% of adults and 96% of children have been smacked; 84% of grandparents and 87% of parents have administered corporal punishment. One in ten parents admitted to punishing their children with a “martinet” (a small whip); 30% of children said they had been punished with a martinet. When asked the reason for smacking their children, parents said it was part of “bringing up” their children (77%), it was to “relieve their feelings” (7%) or both of these things. When asked how they planned to discipline their own children when they become parents, 64% of children said “the same”. 61% of grandparents and 53% of parents said that they oppose a ban on corporal punishment of children.<sup>1</sup>

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<sup>1</sup> Union of Families in Europe (2007), *POUR ou CONTRE les fessées?*, Tassin : UFE

A questionnaire survey of 130 secondary school pupils in Toulon in 2001 found that fewer than one in ten had never been hit; 72 pupils reported having been hit moderately, 19 violently.<sup>2</sup>

## **Recommendations by human rights treaty bodies**

### *Committee on the Rights of the Child*

(11 June 2009, CRC/C/FRA/CO/4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 6, 57 and 58)

“The Committee regrets that some of the concerns and recommendations (CRC/C/15/Add. 240) it made upon consideration of the State party’s second periodic report have been insufficiently addressed, particularly those relating to ... corporal punishment....

“While taking note of the State party’s assertion that all forms of physical corporal punishment are prohibited in the French Penal Code, the Committee reiterates its concern that corporal punishment, in particular in the home, as well as in schools, remains widespread, especially in the Overseas Departments and Territories, and that a specific provision to prohibit explicitly corporal punishment against children is still missing.

“Reiterating its previous recommendation and in accordance with its General Comment No. 8, the Committee recommends that the State party explicitly prohibit corporal punishment in all settings, including in the family, in schools, in institutions and other childcare settings, increase awareness-raising in this respect and promote the value of education without violence according to article 28, para. 2 of the Convention. In this endeavour, the Committee further recommends that the State party follow-up on the Council of Europe’s campaign to achieve full prohibition of all forms of corporal punishment which it has signed up for.”

### *Committee on the Rights of the Child*

(30 June 2004, CRC/C/15/Add.240, Concluding observations on second report, paras. 38 and 39)

“The Committee welcomes the fact that the State party considers corporal punishment totally unacceptable and inadmissible, however it remains concerned that corporal punishment is not explicitly prohibited in the family, in schools, in institutions and in other childcare settings.

“The Committee encourages the State party to expressly prohibit corporal punishment by law in the family, in schools, in institutions and in other childcare settings. It further recommends awareness-raising and promotion of positive, non-violent forms of discipline, especially in families, schools and care institutions in light of article 28, paragraph 2, of the Convention.”

### *Committee on the Rights of the Child*

(25 April 1994, CRC/C/15/Add.20, Concluding observations on initial report, para. 24)

“The Committee would also like to suggest that further awareness-raising and educational measures be undertaken to prevent child abuse and the physical punishment of children.”

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<sup>2</sup> Survey by Olivier Maurel, reported in correspondence with the Global Initiative, January 2004

*European Committee of Social Rights*

(March 2005, Conclusions 2005)

“In the previous conclusion the Committee noted that the Penal Code prohibits violence against the person and provides for increased penalties where the victim is under 15 years of age or where the perpetrator is related to the child or has authority over the child, but does not necessarily cover all forms of corporal punishment which it found not to be in conformity with the Revised Charter. The Committee finds no information in the report that the situation has changed. The Committee notes therefore that corporal punishment is not prohibited in the home or in institutions and other childcare settings and that this situation is not in conformity with the Revised Charter.

“The Committee notes from another source that High Court ruling of 1889 allowed a ‘right to correction’ for teachers and for parents. A 2000 judicial ruling stated that corporal punishment which is repetitive and not educational is not covered by this right. The Committee asks the next report to explain the implications of the 2000 judicial ruling with regard to the use of corporal punishment in the home.

...

“The Committee concludes that the situation in France is not in conformity with Article 17.1 of the Revised Charter on the grounds that:

- corporal punishment of children is not prohibited....”

*European Committee of Social Rights*

(1 October 2003, Conclusions 2003 Vol. 1, page 173)

“As regards corporal punishment of children, the Committee notes that according to the report corporal punishment of children is not explicitly prohibited in the home, in school or in other institutions. Although the Penal Code prohibits violence against the person and provides for increased penalties where the victim is under 15 years of age or where the perpetrator is related to the child or has authority over the child. The Committee notes that these provisions of the Penal Code do not necessarily cover all forms of corporal punishment and therefore finds that the situation is not in conformity with the Revised Charter....

“The Committee concludes that the situation in France is not in conformity with Article 17.1 of the Revised Charter as the corporal punishment of children is not prohibited.”

*European Committee of Social Rights*

(1 January 2001, Conclusions XV-2 vol. 1, pages 220-225)

“The Committee wishes to know whether legislation prohibits all forms of corporal punishment of children, in schools, in institutions, in the home and elsewhere....”

## **Universal Periodic Review**

France was examined under the Universal Periodic Review in 2008. No recommendations were made concerning corporal punishment.

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

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