

Corporal punishment of children in Albania

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Child population 678,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Law reform has been achieved. Corporal punishment is unlawful in all settings, including the home.

Prohibition of corporal punishment

Home

Corporal punishment is unlawful in the home. Article 21 of the Law on the Protection of the Rights of the Child 2010 states: “The child shall be protected from any form of ... (a) physical and psychological violence, (b) corporal punishment and degrading and humiliating treatment....” Article 3(ç) defines “physical violence” as “every attempt to damage or actual physical damage, or injury to the child, including corporal punishment, which are not accidental” (official translation). Corporal punishment is defined in article 3(f): “‘Corporal punishment’ is any form of punishment resorting to the use of force aimed to cause pain or suffering, even in the slightest extent, by parents, siblings, grandparents, legal representative, relative or any other person legally responsible for the child. Corporal punishment includes such forms as: beating, torturing, violent shaking, burning, slapping, kicking, pinching, scratching, biting, scolding, forced action and use of substances to cause physical and mental discomfort.” In addition, article 26 of the Law states: “No child shall be subjected to torture, punishment, cruel, inhuman or degrading treatment.”

The 2010 Law, which came into force in May 2011, provides for its implementation through structures at central and local levels – at central level the National Council for Protection of Child Rights, the Minister Coordinating Action on Protection of Child Rights and the State Agency for the Protection of Child Rights, and at local level the Unit for the Rights of the Child at the Regional Council and the Children’s Protection Unit at municipality/commune level – to work with non-profit organisations in line with rules determined by the Council of Ministers (arts. 32-39). Article 40 of the Law punishes by fines violations of the rights mentioned in articles 21 and 26 (and others), when they are not offences under criminal law.

The Criminal Code, as amended in 2008 by Law No. 9859, punishes “physical or psychological abuse of the child by the person who is obliged to care for him/her” with imprisonment from three months to two years (art. 124b). The Law on Measures against Violence in Domestic Relations provides for

other measures to protect the child from violence in the home, based on the best interests of the child.¹

Alternative care settings

Corporal punishment is unlawful in alternative care settings under article 21 of the Law on the Protection of the Rights of the Child 2010 (see under “Home”).

Day care

Corporal punishment is unlawful in early childhood care and in day care for older children under article 21 of the Law on the Protection of the Rights of the Child 2010 (see under “Home”).

Schools

Corporal punishment is explicitly prohibited in schools in article 36(2) of the Fundamental Normative Provision, based on Law No. 7952 “For the Pre-University Educational System” 1995, which states: “The individuality and human dignity of the pre-school child and pupil is respected. It is protected from physical and psychological violence, discrimination and isolation. In kindergarten and schools, it is categorically prohibited to have children made subject to corporal punishment or hazing.” Article 21 of the Law on the Protection of the Rights of the Child 2010 also applies (see under “Home”).

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 21 of the Law on the Protection of the Rights of the Child 2010 (see under “Home”). Prior to the enactment of this law, it was considered unlawful under a number of laws providing for the humane treatment of persons in conflict with the law but it was not explicitly prohibited.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not a permitted punishment under the Criminal Code. Article 25 of the Constitution states: “No one may be subjected to cruel, inhuman or degrading torture or punishment.” There is a similar provision in the Criminal Procedure Code 1995 and the Law on the Protection of the Rights of the Child 2010 (art. 26).

Universal Periodic Review of Albania’s human rights record

Albania was examined in the first cycle of the Universal Periodic Review in 2009 (session 6). The following recommendations were made:²

“Prohibit corporal punishment as a method of admonishing children and adolescents (Chile);

“Prohibit by law the practice of corporal punishment of children as a disciplinary method (Argentina)”

¹ 21 July 2014, A/HRC/27/4/Add.1, Report of the working group: Addendum, para. 26

² 4 January 2010, A/HRC/13/16, Report of the working group, paras. 70(1) and 70(2)

The Government rejected the recommendations but nevertheless, as described above, law reform was subsequently achieved which made unlawful all corporal punishment of children, including by parents.

Examination in the second cycle took place in 2014 (session 19). During the review the Government confirmed that corporal punishment is banned, that awareness campaigns and professional training are being carried out and that efforts are being made to improve the links between the child protection system and the domestic violence referral mechanism.³ The following recommendation was made:⁴

“Implement more efficiently the existing laws which prohibit the corporal punishment of children (Spain)”

The Government accepted the recommendation.⁵

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(7 December 2012, CRC/C/ALB/CO/2-4, Concluding observations on second-fourth report, paras. 41 and 42)

“While welcoming that corporal punishment is explicitly prohibited in all settings, the Committee is concerned that various forms of corporal punishment are widely practiced at home, in schools and in institutions. Furthermore, the Committee, while noting that the Law on Pre-University Education prohibits corporal punishment, regrets that it does not specify the necessary legal mechanisms for prevention of violence and protection of children in the school premises, nor does it provide for sanctions against teachers who use violence, or for procedures to identify and report violence.

“In the light of its general comment No. 8 (CRC/C/GC/8, 2006), the Committee urges the State party to:

- a) ensure that laws prohibiting corporal punishment are effectively implemented and that legal proceedings are systematically initiated against persons subjecting children to corporal punishment;
- b) improve the law on Pre-University Education, especially by introducing legal mechanisms for prevention of violence and protection of children in the school premises, sanctions against teachers who use violence and procedures to identify and report violence;
- c) introduce continuous public education, awareness-raising and social mobilization programmes, involving children and their families, community leaders and the media in the process, on harmful physical and psychological effects of corporal punishment, with a view to changing the general attitude towards this practice; and
- d) promote positive non-violent and participatory forms of child-rearing, and alternative forms of discipline and education.”

³ 7 July 2014, A/HRC/27/4, Report of the working group, paras. 30 and 58

⁴ 7 July 2014, A/HRC/27/4, Report of the working group, para. 106(10)

⁵ 21 July 2014, A/HRC/27/4/Add.1, Report of the working group: Addendum, paras. 25, 26 and 27

Committee on the Rights of the Child

(31 March 2005, CRC/C/15/Add.249, Concluding observations on initial report paras. 50 and 51)

“The Committee is concerned that corporal punishment remains lawful in the family, and continues to be used as a disciplinary method.

“The Committee urges the State party to expressly prohibit by law all corporal punishment in the family. The State party is further encouraged to undertake awareness-raising campaigns and education programmes on non-violent forms of discipline, and to conduct research into the prevalence of corporal punishment of children in the family.”

Committee Against Torture

(26 June 2012, CAT/C/ALB/CO/2, Concluding observations on second report, para. 14)

“While welcoming the Law no. 9669 of 18 December 2006 ‘On measures against violence in family relations’ prompting the establishment of appropriate police structures, protection mechanisms for victims of family violence and series of training activities, and noting the adoption of the national ‘Strategy on Gender Equality and Reduction of Violence on Gender Base and Violence in the Family’ on 16 June 2011, the Committee expresses concern about the absence of specific criminal offences punishing violence against women that would consider marital rape and domestic violence as specific penal offences. The Committee is also particularly concerned by the high incidence of violence against children in the family and schools, and the public acceptance of corporal punishment of children (arts. 2 and 16).

The Committee urges the State party to:

- a) prepare and adopt, as a matter of priority, a comprehensive legislation on violence against women that would establish marital rape and domestic violence as specific penal offences;
- b) adopt the new draft law against violence against children at schools, prohibit corporal punishment in all settings, including home and alternative care settings and hold the perpetrators of such acts accountable;
- c) take measures at all levels of the government to ensure public awareness of the prohibition and harm of violence against children and women in all sectors.”

Human Rights Committee

(22 August 2013, CCPR/C/ALB/CO/2, Concluding observations on second report, para. 11)

“While commending the State party for criminalizing domestic violence and spousal rape in its Criminal Code, the Committee notes with regret the continuing reports of domestic violence against women and children, including corporal punishment. It is particularly concerned at reports of ineffective police investigation into complaints of domestic violence, which in turn result in actual impunity of perpetrators. The Committee is also concerned about the rare number of convictions and the lack of follow-up to protection orders, rendering them largely ineffective. Finally, the Committee is concerned about the lack of a sufficient number of shelters for victims of domestic violence (arts. 3, 7 and 24).

The State party should:

- a) adopt a comprehensive approach to preventing and addressing violence against women and children in all its forms and manifestations;
- b) intensify its awareness-raising measures among the police, judiciary, prosecutors, community representatives, women and men on the magnitude of domestic violence and its detrimental impact on the lives of victims;
- c) encourage non-violent forms of discipline as alternatives to corporal punishment;”

Prevalence/attitudinal research in the last ten years

A 2012 Save the Children end project evaluation examined support for statements commonly used to support corporal punishment of children, such as ‘Whoever hits the child, does it for his/her best’. Support for this statement was seen to decline among teachers over 3 years of project implementation. In Durrës district, over 32% of teachers agreed with the statement and 58% disagreed in 2009; in 2012, support had fallen to 15.4% and over 80% of teachers disagreed with the statement. Similarly in Elbasan district, support for the statement declined from 24.1% in 2009 to 14.7% in 2012, while disagreement with the statement grew from 51.8% to 85.3% in the same time.

(Di Maio, M. A. & Buka M. (2012), *Violence against Children in Schools and Families in Durrës, Elbasan and Berat Districts: End Project Evaluation, Final Report*, Tirana, Albania: Save the Children)

According to UNICEF statistics collected between 2005 and 2013, 77% of children aged 2-14 experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in the month prior to the survey. Nearly seven in ten experienced physical punishment and 62% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted). A much smaller percentage (13%) of mothers and caregivers thought physical punishment was necessary in childrearing.

(UNICEF (2014), *Hidden in Plain Sight: A statistical analysis of violence against children*, NY: UNICEF)

In a 2009 survey of 195 parents of children attending two schools and two kindergartens, 59% agreed that slapping a child or pulling their ear would not harm them; 51% believed that people slap children “for their own good”, 34% thought that if children were not slapped, they would be out of control, and 29% agreed that “if you talk to a child and they don’t obey, you should slap them”. However, 77% disagreed that corporal punishment is a good way of disciplining children; 68% disagreed it is the only way to discipline some children, and 80% disagreed that hitting makes a child a decent human being. Nearly three quarters (74%) of parents agreed that corporal punishment is absolutely harmful, 79% agreed that corporal punishment should be banned completely.

(Karaj, T. (2009), *Parents’ Beliefs about Corporal Punishment of Children*, Tirana: Save the Children in Albania)

A 2009 survey of 92 teachers working in two schools and two kindergartens found that 30% of teachers believed that people slap children “for their own good”, 21% that if children were not slapped they would be out of control and 11% that children must be slapped because they make mistakes; 21% agreed that “if you talk to a child and they don’t obey, you should slap them”. Nearly nine teachers in ten (89%) disagreed that corporal punishment is a good way to discipline children; 78% disagreed that corporal punishment is the only way to discipline some children, and 84% disagreed that hitting makes a child a decent human being. Eight teachers in ten agreed that corporal punishment is absolutely harmful, 78.4% believed that it should be banned completely.

(Karaj, T. (2009), *Teachers’ Beliefs about Corporal Punishment of Children*, Tirana: Save the Children in Albania)