

Corporal punishment of children in Algeria

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Child population 13,067,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Summary of necessary legal reform to achieve full prohibition

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

There appears to be no confirmation in legislation of a right of parents and others with parental authority to administer physical punishment, but legal provisions against violence are not interpreted as prohibiting all corporal punishment in childrearing. The near universal acceptance of corporal punishment in “disciplining” children necessitates a clear statement in law that all corporal punishment, however “light”, is prohibited.

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).

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. Provisions against violence and abuse in the Criminal Code, the Family Code 1984, Law No. 72-03 on the protection of childhood and adolescence 1972 and the Constitution 1996 (amended 2016) are not interpreted as prohibiting corporal punishment in childrearing. Article 62 of the Family Code states that “the rights of custody consist of maintenance, schooling and education of the child in the religion of his father and in the safeguarding of his physical and moral health” (unofficial translation). There is no indication that this is intended to prohibit physical punishment in childrearing.

In its report to the Committee on the Rights of the Child in 2011, the Government stated that corporal punishment “is strictly prohibited in schools, within the family and within all other contexts and institutions”.¹ Under examination by the Committee in 2012, the Government again asserted that “the Criminal Code expressly prohibited corporal punishment in the home, in schools and in other institutions”.² However, with the exception of schools there is no explicit prohibition of corporal punishment in law. Article 269 of the Criminal Code punishes violence against children with the exception of light violence (“*a l’exclusion des violences legeres*”); article 442 addresses offences against the person and article 442bis punishes light violence, but there is nothing to suggest this prohibits all corporal punishment in childrearing. Amendments to the Criminal Code in 2006 and in 2015 did not include prohibition of corporal punishment.

Article 2 of the Child Protection Act no. 15-12, passed in July 2015, defines a “child in danger” (a child who can benefit from child protection mechanisms) as a child exposed to “... mistreatment, including torture, attacks on his/her physical integrity, confinement, withholdment of food or any acts of violence that may influence the child’s emotional or psychological health” (unofficial translation). The Act also states that children can enjoy all the rights awarded to them by the UN Convention of the Child (art. 3), and that the state has the duty to protect them from all forms of violence (art. 6). These provisions are not however interpreted as prohibiting all forms of corporal punishment.

The National Plan of Action for Children 2008-2015 identified physical punishment of children as a problem, citing research on child discipline and confirming the need for legal and other measures to address it in the home and schools, but it did not clearly state an intention to prohibit all corporal punishment by parents. The Government had originally signalled its commitment to prohibition by clearly accepting the recommendation to prohibit in all settings made during the Universal Periodic Review of Algeria in 2012.³ However, no clear action towards law reform has been taken since then and, during the Universal Periodic Review in 2017, the Government only partially accepted the recommendation to prohibit corporal punishment in all settings, ‘noting’ the part stating “in all settings”.⁴ As a result, the Global Initiative no longer considers Algeria committed to prohibiting all corporal punishment of children without delay.

Alternative care settings

There is no explicit prohibition of corporal punishment in alternative care settings, where it is lawful as for parents (see under “Home”).

¹ 18 July 2011, CRC/C/DZA/3-4, Third/fourth report to the Committee on the Rights of the Child, para. 82

² 14 June 2012, CRC/C/SR.1714, Summary record of 1714th meeting, para. 9

³ 5 July 2012, A/HRC/21/13, Report of the working group, para. 129 (100)

⁴ 19 September 2017, A/HRC/36/13/Add.1, Report of the working group: Addendum, paras. 48 and 49

Day care

There is no explicit prohibition of corporal punishment in early childhood care or in day care for older children.

Schools

Corporal punishment is prohibited in schools in article 21 of the Education Act 2008 (unofficial translation): “Corporal punishment, abuse and all forms of moral harassment is prohibited in schools. Violators of the provisions of this section are liable to administrative sanctions, without prejudice to prosecution.” The Government has reported that ministerial circulars are regularly issued to remind schools of the prohibition, and administrative sanctions are taken against those who use corporal punishment.⁵

Penal institutions

There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions. The Code on the organisation of penal institutions is currently being reviewed.⁶

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not among the permitted measures available to the courts in articles 444 and 445 of the Code of Criminal Procedure.

Universal Periodic Review of Algeria’s human rights record

Algeria was examined in the first cycle of the Universal Periodic Review in 2008 (session 1). No recommendation was made specifically concerning corporal punishment of children.

Examination in the second cycle took place in 2012 (session 13). The following recommendation was made:⁷

“Prohibit specifically and by law all corporal punishment of children at home, care institutions, penitentiary centres and any other settings, in conformity with article 19 of CRC (Uruguay), take all necessary steps to prohibit corporal punishment in all settings and align its national legislation with the provisions of the CRC (Hungary)”

The Government accepted the recommendation.⁸

The third cycle examination took place in 2017 (session 27). The following recommendation was made:⁹

⁵ [2015], Initial state party report to the African Committee of Experts on the Rights and Welfare of the Child, para. 185

⁶ See <http://www.maghrebemergent.info/actualite/breves/fil-maghreb/79903-algerie-le-projet-de-code-sur-l-organisation-penitentiaire-prochainement-a-l-apn.html>, accessed 19 October 2017

⁷ 5 July 2012, A/HRC/21/13, Report of the working group, para. 129 (100)

⁸ 20 September 2012, A/HRC/21/13/Add.1, Report of the working group: Addendum, para. 4

⁹ 18 May 2017, A/HRC/WG.6/27/L.11, Draft report of the Working Group, para. 6(201)

“Enact legislation to explicitly prohibit corporal punishment of children in all settings (Montenegro)”

The Government partially accepted the recommendation, noting the part stating “in all settings”.¹⁰

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(18 July 2012, CRC/C/DZA/CO/3-4, Concluding observations on third/fourth report, paras. 7, 8, 43 and 44)

“The Committee, while welcoming the State party’s efforts to implement the concluding observations on its previous reports (CRC/C/15/Add.269), notes with regret that some of the recommendations contained therein have not been fully addressed.

“The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the second periodic report under the Convention that have not been implemented or sufficiently implemented, particularly those related to interpretative declarations, legislation, independent monitoring, cooperation with civil society, non-discrimination, corporal punishment, parental responsibilities, violence against children, children with disabilities and refugee children. The Committee further urges the State party to provide adequate follow-up to the recommendations contained in the present concluding observations.

“While noting as positive the prohibition of corporal punishment, psychological ill-treatment and all forms of bullying in schools contained in the Education Act No. 08–04 of 23 January 2008, the Committee is however concerned that corporal punishment remains widely accepted in society and routinely used as a disciplinary measure in schools. The Committee is also concerned that corporal punishment remains lawful in the home and in alternative-care settings and that there is no explicit legal prohibition of the use of corporal punishment as a disciplinary measure in penal institutions, as already stated in the previous concluding observations (CRC/C/15/Add.269, para. 41).

“The Committee urges the State party:

- a) to prohibit corporal punishment unequivocally in all settings;
- b) to ensure that laws prohibiting corporal punishment are effectively implemented and that legal proceedings are systematically initiated against those responsible of mistreating children;
- c) to introduce sustained public education, awareness-raising and social mobilization programmes, involving children, families, communities and religious leaders, on both the physical and the psychological harmful effects of corporal punishment with a view to changing the general attitude towards this practice and promoting positive, non-violent and participatory forms of child-rearing and discipline as an alternative to corporal punishment;
- d) to ensure the involvement and participation of the whole society, including children, in the design and implementation of preventive strategies against corporal punishment of children; and
- e) to take into account its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.”

¹⁰ 19 September 2017, A/HRC/36/13/Add.1, Report of the working group: Addendum, paras. 48 and 49

Committee on the Rights of the Child

(12 October 2005, Concluding observations on second report, CRC/C/15/Add.269, paras. 41 and 42)

“The Committee notes with concern that corporal punishment is lawful in the home and that, according to a survey in 1999, it is widely accepted in society as a form of discipline. The Committee also notes with concern the lack of an explicit prohibition of corporal punishment in alternative care settings. Notwithstanding the fact that corporal punishment is prohibited in schools, the Committee remains concerned that it is still used as a disciplinary measure.

“The Committee urges the State party to adopt legislation explicitly prohibiting corporal punishment in the home, in public and private alternative care, in schools and in all other settings, and to conduct public education and awareness-raising campaigns promoting children’s right to protection from all forms of violence as well as alternative, participatory, non-violent forms of discipline. In addition, the Committee recommends that the State party improve the effectiveness of the monitoring system in order to ensure that abuse of power by teachers or other professionals working with and for children does not take place in schools or other institutions.”

Committee on the Rights of the Child

(18 June 1997, CRC/C/15/Add.76, Concluding observations on initial report, paras. 21 and 35)

“The Committee is concerned at the lack of appropriate measures to combat and prevent ill-treatment and abuse within the family, and at the lack of information on this matter. The Committee is further concerned that disciplinary measures in schools often involve corporal punishment, although it is prohibited by law.

“The Committee recommends that special attention be given to the problems of ill-treatment and abuse, including sexual abuse, of children within the family and corporal punishment in schools, and stresses the need for information and education campaigns to prevent and combat the use of any form of physical or mental violence on children, in accordance with article 19 of the Convention. The Committee also suggests that comprehensive studies on these problems be initiated in order to understand them better and to facilitate the elaboration of policies and programmes, including rehabilitation programmes, to combat them effectively.”

Committee Against Torture

(26 May 2008, CAT/C/DZA/CO/3, Concluding observations on third report, para. 19)

“While noting with satisfaction that corporal punishment against children is forbidden in school, the Committee remains concerned about the lack of any provision in the legislation of the State party prohibiting the use of this practice within the family. The Committee also notes with concern the lack of any provision in its domestic legislation prohibiting domestic violence against women (art. 16).

The State party should incorporate into its domestic legislation a provision prohibiting the use of corporal punishment against children within the family and domestic violence against women.”

Committee on Economic, Social and Cultural Rights

(7 June 2010, E/C.12/DZA/CO/4, Concluding observations on third/fourth report, para. 15)

“The Committee is concerned that violence against women, including spousal abuse, continues to be a widespread problem in the State party. The Committee is also concerned that domestic legislation

does not contain specific provisions prohibiting and criminalizing domestic violence, including marital rape, and that corporal punishment of children within the family and alternative care settings is not prohibited (art. 10).

The Committee recommends that the State party amend legislation, including the Penal Code, to prohibit and criminalize domestic violence, including marital rape, and prohibit corporal punishment of children within the family and alternative care settings.”

Prevalence/attitudinal research in the last ten years

According to a 2012-2013 survey, 71% of children age 2–14 years were subjected to physical punishment during the month preceding the survey, with 23% of children subjected to severe physical punishment. In contrast, only 18% of respondents believed that physical punishment is needed to educate a child. A total of 86% of children were subjected to at least one form of psychological or physical punishment by their parents or other adult household members, while 9% of children experienced only non-violent discipline.

(Ministère de la Santé, de la Population et de la Réforme Hospitalière, UNICEF & UNFPA (2015), *Suivi de la situation des enfants et des femmes: Enquête par Grappes à Indicateurs Multiples (MICS) 2012-2013*, Algiers, Algeria: Ministère de la Santé, de la Population et de la Réforme Hospitalière)

Research reported in 2008 found that of 1,700 Algerian families, 70% whip their children and use violence for disciplinary reasons. The most commonly used implements in corporal punishment were found to be rocks and shoes; parents also reported using their hands to beat children’s faces and heads. Punishments often resulted in injuries and bruising.

(Reported in *Echorouk Online*, 6 January 2008)