



End Violence
Against Children



End Corporal
Punishment

Corporal punishment of children in Burkina Faso

LAST UPDATED February 2022

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Child population 9,475,000 (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, penal institutions.

A “right of correction” of parents is recognised, though it appears not to be confirmed in written legislation, and 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 – Corporal punishment should be prohibited in all alternative care settings (foster care, institutions, places of safety, emergency care, etc).

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

Schools – Corporal punishment should be prohibited in all schools, public and private, for children of all ages.

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. The Government has confirmed that the law recognises a “right to correction of parents towards their children” (“le droit de correction des parents à l’égard de leurs enfants”),¹ though it would appear that this “right” is not explicitly confirmed in criminal or civil law (information unconfirmed). Provisions against violence and abuse in the Children’s Code 2006 (a compilation of laws relating to children), the Criminal Code 2018, and in the Law on Violence Against Women and Girls 2015 are not interpreted as prohibiting corporal punishment in childrearing.

In May 2014, the National Assembly passed the Law on Protection of Children in Conflict with the Law or in Danger 2014.² The provisions in the Law apply to all children (art. 1), defined as person under 18 (art. 2). Article 5 states (unofficial translation): “Notwithstanding the rules relating to the exercise of parental authority, the child has the right to protection of the law against arbitrary or unlawful interference with his privacy, family, home or correspondence, and against all unlawful attacks on his honour and reputation.” Article 7 states: “The child must be protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.” The Law does not prohibit corporal punishment.

During the Universal Periodic Review of Burkina Faso in 2013, the Government had repeatedly asserted that corporal punishment is prohibited in all settings, including the home,³ contradicting the information provided to the African Committee in 2012 (see above). The Government then accepted the recommendation made during the review to implement legislation against corporal punishment but rejected the recommendation to prohibit it in all settings.⁴

A draft Child Protection Code which would prohibit corporal punishment in all settings has been under discussions since 2013. It states in article 220 (unofficial translation): “Physical punishment at home, at school, in the street or in other institutions is prohibited with respect to the child. Corporal punishment means any physical punishment inflicted on children by parents, teachers or others, by means of blows or injuries, mutilation, imprisonment, marking, shaving hair or other violent, humiliating and degrading ways.” Articles 221 and 222 provide sanctions for perpetrators of corporal punishment. The text underwent a technical validation process in November 2016. National consultations initiated during the drafting of the Code have been put on hold pending the review of related laws, including the Criminal Code and the Code on the Person and the Family (which has been ongoing since 2012).⁵ The Government reported in 2017 that the Constitution was under review and that the review of the Code on the Person and the Family was still ongoing.⁶ The Criminal Code adopted in May 2018 did not explicitly prohibit corporal punishment of children. As at August 2019 the draft Child Protection Code had not yet been validated by the Government for introduction to the Parliament,⁷ though the Government did accept 2018 UPR recommendations to adopt the Child Protection Code.⁸

In 2017 in response to a recommendation to explicitly prohibit corporal punishment in legislation, the Government declared that domestic legislation prohibited all violence against children and that awareness-raising sessions were being held on the harmfulness of corporal punishment.⁹ During the Universal Periodic Review in 2018, Burkina Faso noted without comments a recommendation to prohibit corporal punishment in all settings.¹⁰ Consequently, the Global Initiative no longer considers Burkina Faso committed to prohibiting all corporal punishment of children without delay. Despite including an explicit prohibition of corporal punishment in the Child Protection Code drafted in 2013,

¹ Second/third state party report to the African Committee of Experts on the Rights and Welfare of the Child, 2012, para. 68

² Loi No. 015-2014/AN portant protection de l’enfant en conflit avec la loi ou en danger

³ 8 July 2013, A/HRC/24/4, Report of the working group, paras. 18 and 66

⁴ 8 July 2013, A/HRC/24/4, Report of the working group, paras. 135(106) and 138(6)

⁵ 2 March 2018, A/HRC/WG.6/30/BFA/1, National report to the UPR, para. 79

⁶ 16 June 2017, CEDAW/C/BFA/Q/7/Add.1, Reply to list of issues, paras. 1 and 75

⁷ Information provided to the Global Initiative, August 2019

⁸ 6 July 2018, A/HRC/39/4, Report of the Working Group, para. 125(146)

⁹ [December 2017], CAT/C/BFA/2, Second report, paras. 109 and 110

¹⁰ 6 July 2018, A/HRC/39/4, Report of the Working Group, para. 126(30); 11 September 2018, A/HRC/39/4/Add.1 Advance unedited version, Report of the Working Group: Addendum

the Government has not taken any clear action since then to indicate that it intends to pursue law reform.

In May 2018, during the 31st session of the African Committee of Experts on the Rights and Welfare of the Child, the Government indicated that there is a clear legal prohibition of corporal punishment under the Criminal Code and that whenever a case of corporal punishment is reported, it is brought before courts and measures are taken against it.¹¹

In November 2019, Burkina Faso became a Pathfinder country with the Global Partnership to End Violence Against Children. This commits the Government to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals.

Alternative care settings

There is no prohibition of corporal punishment in alternative care settings, where it is lawful as for parents (see under “Home”). It would be prohibited in the Child Protection Bill (see under “Home”).

Day care

Corporal punishment is prohibited in preschool education settings under Decree No. 2018-333 /MENA/SG on the adoption of the internal regulations of preschool settings in Burkina Faso. However, there is no explicit prohibition in other early childhood care or in day care for older children. It would be prohibited in the Child Protection Bill (see under “Home”).

Schools

Corporal punishment is unlawful in primary schools but lawful in other schools. It is explicitly prohibited in primary schools in Decree No. 2008-236/PRES/PM/MEBA/MESSRS/MASSN/MATD of 8 May 2008 on the organisation of primary education, article 66 of which states: “Corporal punishment is expressly prohibited in schools under penalty of disciplinary action, without prejudice to criminal penalties in accordance with applicable laws.” However, there is no law explicitly prohibiting corporal punishment at secondary level. Act No. 013-2007/AN of 30 July 2007 on Education Policy prohibits all forms of violence (art. 47), but it does not explicitly prohibit corporal punishment.

Penal institutions

Corporal punishment is considered unlawful as a disciplinary measure in penal institutions under Law No. 010-2017 on the penitentiary regime in Burkina Faso, although there is no explicit prohibition. Article 23 of the law states that all inmates must be treated with respect to their human dignity and article 24 prohibits all forms of torture and cruel, inhuman and degrading treatment. According to its article 151, regulations are to be adopted to specify disciplinary rules in penal institutions – as of November 2017, the regulations were still under discussions.¹²

Law No 010-2017 repealed Decree No. AN VI-103/FP/MIJ of 1 December 1988 on the organisation, rules and regulations of detention facilities, which did not include corporal punishment among the disciplinary measures that may be imposed on juveniles but allowed for the use of force by prison staff in certain circumstances, including “in case of physical apathy following orders” (unofficial translation). Corporal punishment in penal institutions would be prohibited in the Child Protection Bill (see under “Home”).

¹¹ May 2018, ACERWC/RPT(XXXI) 31st ordinary session, para. 53

¹² See <http://dggsp.justice.gov.bf/atelier-de-validation-des-textes-dapplication-de-la-loi-10/#more-813>, accessed 5 March 2018

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in the Law on Protection of Children in Conflict with the Law or in Danger 2014 or the Criminal Code. Article 2 of the Constitution 1991 prohibits inhuman, cruel, degrading and humiliating treatment, and physical or mental torture.

Universal Periodic Review of Burkina Faso's human rights record

Burkina Faso was examined in the first cycle of the Universal Periodic Review in 2008 (session 3). No recommendations were made concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:¹³

“Submit regularly reports to treaty bodies (Gabon), take further steps to present periodic reports to the treaty bodies and implement the recommendations in a timely fashion (United Kingdom);

“Effectively implement the international instruments ratified that focus on the protection of the child and children's rights (Italy); make further efforts to ensure that the social services provided for children remain a priority (Djibouti) and take appropriate measures to protect the most vulnerable children, particularly girls, disabled children and rural children, and ensure effective protection of children against sexual abuse, all forms of violence and exploitation, trafficking and child labour (Luxembourg)”

The second cycle review took place in 2013 (session 16). During the review, the Government stated that corporal punishment is prohibited in the home and other settings.¹⁴ The following recommendations were made:¹⁵

“Ensure implementation of the laws against corporal punishment by encouraging the report of cases and by providing the means for effective investigation and prosecution of perpetrators (Liechtenstein);

“Explicitly prohibit corporal punishment in all settings, including the home and all care settings (Liechtenstein)”

The Government accepted the first of these, regarding implementation of existing laws, but rejected the recommendation to prohibit corporal punishment in all settings.

Third cycle examination took place in 2018 (session 30). Burkina Faso's national report stated that “in an effort to combat the practice of subjecting children to corporal punishment, awareness-raising sessions on the harmful effects of such punishment are conducted for customary and religious leaders, civil society organizations and persons involved in the criminal justice system. In addition, the State has introduced a hotline (116) that people can use to report cases of child abuse.”¹⁶

The following recommendations were extended:¹⁷

“Finalize the review of the necessary legislation and complete the drafting and adoption of the Child Protection Code (Uganda)”

“Ensure that the capacity of the National Council of Children is strengthened in order to intensify efforts aimed at combatting trafficking of children, protecting children from sexual abuse, corporal punishment and the worst forms of child labour as well as to end early and forced marriages (Namibia)”

“Revise current legislation in order to explicitly prohibit a corporal punishment of children in all settings, including at home (Montenegro)”

¹³ 7 January 2009, A/HRC/10/80, Report of the working group, paras. 98(5) and 98(15)

¹⁴ 8 July 2013, A/HRC/24/4, Report of the working group, paras. 18 and 66

¹⁵ 8 July 2013, A/HRC/24/4, Report of the working group, paras. 135(106) and 138(6)

¹⁶ 2 March 2018, A/HRC/WG.6/30/BFA/1, National report to the UPR, para. 107

¹⁷ 6 July 2018, A/HRC/39/4, Report of the Working Group, paras. 125(146), 125(149) and 126(30)

Burkina Faso immediately supported the first two recommendations. The final recommendation was later noted without comments.¹⁸

The Government committed to submitting its mid-term report by 31 May 2020.¹⁹

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(9 February 2010, CRC/C/BFA/CO/3-4, Concluding observations on third/fourth report, paras. 40 and 41)

“The Committee, while welcoming the circular sent by the Education Ministry to schools stressing the adverse consequences of corporal punishment, as well as the creation of a National Council against Violence in Education areas, notes with great concern that children are commonly beaten, whipped, insulted and humiliated by their teachers. The Committee also notes with concern that in spite of existing laws, corporal punishment continues to be widely practiced in alternate care settings, in situations of employment and in the home, where it remains lawful.

“The Committee urges the State party to take all the necessary measures to eradicate corporal punishment, and in particular:

- a) explicitly prohibit corporal punishment by law in the family and all situations of child-rearing, and ensure that those laws are effectively implemented and that legal proceedings are systematically initiated against those responsible for mistreating children;
- b) conduct a comprehensive study to assess the causes, nature and extent of corporal punishment;
- c) introduce public education, awareness-raising and social mobilization campaigns on the harmful effects of corporal punishment with a view to changing the general attitude towards this practice, and promote positive, non-violent, participatory forms of child-rearing and education;
- d) ensure that an educational programme is undertaken against corporal punishment, insisting both on the child rights and psychological aspects;
- e) 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 (arts. 19; 28, para. 2; and 37, inter alia).”

Committee on the Rights of the Child

(9 October 2002, CRC/C/15/Add.193, Concluding observations on second report, paras. 36, 37 and 51)

“While noting that child abuse is prohibited under the Penal Code, the Committee is concerned at the incidence of abuse, including sexual abuse, and neglect of children in the State party, and that insufficient efforts have been made to protect children....

“The Committee recommends that the State party:

- a) undertake a study on violence, including sexual violence, against children within the family, at schools and in other institutions in order to assess the scope, nature and causes of this practice with a view to adopting and implementing a comprehensive plan of action and effective measures and policies, in conformity with article 19 of the Convention, and to changing attitudes;
- b) take all necessary steps to introduce the legal prohibition of the use of corporal punishment in schools and other institutions and at home....

“The Committee recommends that the State party:

¹⁸ 11 September 2018, A/HRC/39/4/Add.1 Advance unedited version, Report of the Working Group: Addendum

¹⁹ 6 July 2018, A/HRC/39/4, Report of the Working Group, para. 129

k) implement the ban on corporal punishment in schools and train teachers in the use of alternative measures of discipline...”

Committee Against Torture

(2 January 2014, CAT/C/BFA/CO/1, Concluding observations on initial report, para. 22)

“ ... The Committee also remains concerned by reports that children continue to be subjected to corporal punishment in the home (arts. 2, 12 and 16).

The State party should: ...

c) conduct campaigns to raise awareness of the harmful effects of corporal punishment on children; and

d) revise its legislation to include a prohibition on corporal punishment in the home.”

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

(February 2019, Concluding observations on the fourth/sixth report of Burkina Faso, para. 19, in French only)

« Le Comité est [aussi] préoccupé par le fait que le châtime corporel à la maison n'est pas interdit au Burkina Faso et d'après les données de l'UNICEF, un grand nombre d'enfants (56%) est affecté par le châtime corporel. Par conséquent, le Comité recommande au Gouvernement du Burkina Faso de : ... (c) interdire le châtime corporel dans tous les milieux, et ; (d) allouer les ressources adéquates pour la mise en œuvre efficace des lois adoptées de même que les plans d'action pour remédier aux abus, aux mauvais traitements et à la torture auxquels sont confrontés les enfants. »

(Concluding observations on the initial report of Burkina Faso, 2010, in French only)

“Le Comité retient qu'il existe encore quelques résistances sur l'abandon des châtime corporels et recommande à l'État partie de renforcer les mesures prises pour éradiquer ce phénomène surtout au niveau des établissements scolaires.”

Prevalence/attitudinal research in the last ten years

A study on violence against children in Burkina Faso carried out in 2018, revealed that 15.6% of children aged 12-17 and 24.9% of children aged 0-11 were subjected to physical violence during the last 12 months preceding the survey. Physical violence occurred mostly in the parental home, with 89.9% for children aged 0-11 years and 65.7% for children aged 12-17 years. Physical violence at school representing 5.9% among children aged 0-11 years and 21.9% among children aged 12-17 years.

According to the study, emotional abuse affected 25.7% of children aged 12-17 and 27.2% of children aged 0-11. The parental home (73.3%), streets (12.2%) and schools (11.3%) being the main settings for infliction of emotional violence against children aged 12-17. For children aged 0-11 years, emotional violence mainly took place in the parental home (94.4%).

(Ministère de la femme, de la solidarité nationale, de la famille et de l'action humanitaire, UNICEF, Save the Children [2018], Étude nationale sur les violences faites aux enfants au Burkina Faso, Ouagadougou, Burkina Faso)

[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.