

Corporal punishment of children in Central African Republic

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Child population 2,242,000 (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 settings, day care, schools and penal institutions.

Article 580 of the Family Code confirms the power of those with parental authority “to reprimand and correct” the child; 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. All legal defences for the use of corporal punishment should be repealed.

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, preschools, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Schools – Prohibition should be enacted in relation to all education settings, public and private.

Penal institutions – Legislation should prohibit 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. Article 580 of the Family Code 1997 states that parental authority includes the power “to reprimand and correct to the extent compatible with the age and level of understanding of the child”. Article 44.2 of the Child Protection Code 2020 states that (unofficial translation) “parents must ensure that family discipline is administered in a way which ensure that the child is treated with humanity”. This strengthens children’s protection from violence but does not prohibit all corporal punishment. Other provisions against violence and abuse in the Family Code, the Penal Code 2010, the Constitution 2016, Imperial Order No. 79/077 covering protection of youth 1979, and Law No. 280 1961 are not interpreted as prohibiting corporal punishment in childrearing. Act No. 06.032 2006 protecting women against violence defines violence against women as “including all acts of violence directed against females and which cause or might cause an adverse effect or physical, sexual or psychological suffering, including the threat of such acts and constraint or arbitrary deprivation of liberty, whether in public or private life” (art. 1), but it does not explicitly prohibit all corporal punishment in childrearing.

A new Family Code has been drafted but has yet to be adopted by the National Assembly: we have yet to verify reports that it would prohibit corporal punishment. The Government stated in February 2017 that corporal punishment would be prohibited shortly.¹ The Government reported in September 2019 that the adoption of the new Family Code was still pending, with a committee conducting a review to “determine the main themes of the new Code”.² The Criminal Code is being revised.

Alternative care settings

Corporal punishment is lawful in alternative care settings under the power of those with parental authority to “reprimand and correct” the child in article 580 of the Family Code 1997. Article 50 of the Child Protection Code 2020 states that (unofficial translation): “The State ensures that discipline is administered in such a way that the child is treated with humanity in schools, public institutions or private formal institutions. Violent discipline is prohibited by this law.” Though this protects children from more severe forms of violence, ‘lighter’ corporal punishment is not prohibited.

Day care

Corporal punishment is lawful in day care under the power of those with parental authority to “reprimand and correct” the child in article 580 of the Family Code 1997.

Schools

Corporal punishment is lawful in schools. Imperial Order No. 78/034 (1978) covers the physical and moral protection of young persons in residential educational institutions or boarding schools, but does not prohibit corporal punishment. Children are protected from harsh corporal punishment under article 50 of the Child Protection Code 2020 (see under “Alternative care settings”).

¹ 7 February 2017, CRC/C/SR.2171, Summary records of 2171st meeting, para. 23

² 11 September 2019, CCPR/C/CAF/Q/3/Add.1, Reply to list of issues, para. 58

Penal institutions

There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions. We have been unable to examine the full text of the Decree No. 160087 of 18 February 2016 on the organization, operation and internal regulations of prisons, but there are no indications it prohibits corporal punishment. Children are protected from harsh corporal punishment under article 50 of the Child Protection Code 2020 (see under “Alternative care settings”).

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in the Penal Code 2010, the Penal Procedure Code 2010 or the Law on the Juvenile Court 2002.

Universal Periodic Review of Central African Republic’s human rights record

The Central African Republic was examined in the first cycle of the Universal Periodic Review in 2009 (session 5). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:³

“Continue efforts to promote all universally agreed human rights and fundamental freedoms (Egypt);

“Take all possible measures to ensure respect and promotion of international human rights law, international humanitarian law and international refugee law (Argentina);

“Take appropriate action to adopt and amend domestic legislation, including the Penal Code, and effectively implement this legislation to protect children from all forms of violence (Slovenia)”

Examination in the second cycle took place in 2013 (session 17). No specific recommendations on corporal punishment were made. However, the following recommendations relevant to prohibition of corporal punishment were made and were accepted by the Government:⁴

“Take necessary steps domestically to ensure compliance with the obligations under the international human rights instruments to which it is a party (South Africa);

“Take all the necessary measures to ensure the protection of the rights of the child ... (Luxembourg)”

Third cycle examination took place in 2018 (session 31). The following recommendation was made:⁵

“Explicitly prohibit corporal punishment of children in all settings (Montenegro)”

The recommendation was later noted without comments.⁶

³ 4 June 2009, Report of the working group, paras. 74(17), 74(19) and 74(31)

⁴ 6 January 2014, A/HRC/25/11, Report of the working group, paras. 104(1) and 105(25)

⁵ 7 January 2019, A/HRC/40/12, Report of the Working Group, para. 121(186)

⁶ 8 March 2019, A/HRC/40/12/Add.1 Advance version, Report of the Working Group: Addendum

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(8 March 2017, CRC/C/CAF/CO/2, Concluding observations on second report, paras. 6, 7, 38 and 39)

“The Committee notes the draft law on the protection of the child but is concerned about some provisions not being fully aligned with the Convention.

“The Committee recommends that the State party ensure that the draft law on the protection of the child is promptly adopted and is fully aligned with the Convention and, in particular, ensure that the language is gender-sensitive; that the prohibition of discrimination encompasses all grounds; that the guiding principle regarding adoption is the best interests of the child; that corporal punishment is explicitly prohibited in all settings; that girls are not criminalized for their sexual and reproductive health choices; and that child victims have access to physical and psychological rehabilitation and health services.”

“The Committee notes the State party’s intention to prohibit corporal punishment but remains concerned that it is still not prohibited in all settings, in particular in the home, alternative care, schools and penal institutions and is very concerned at the extremely high levels of violent “disciplining” endured by children.

“In the light of 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, the Committee recommends that the State party:

- (a) Prohibit corporal punishment in all settings in the draft law on the protection of the child;
- (b) Review its legislation, in particular the Family Code of 1997, the Criminal Code of 2010, the Constitution of 2004, Imperial Order No. 79/077 covering protection of youth of 1979 and law No. 280 of 1961 to include prohibition of corporal punishment in child-rearing;
- (c) Promote positive, non-violent and participatory forms of child-rearing and discipline.”

Committee on the Rights of the Child

(18 October 2000, CRC/C/15/Add.138, Concluding observations on initial report, paras. 44 and 45)

“The Committee is concerned at incidents of police brutality and corporal punishment committed against children, notably in Bangui.

“The Committee recommends that the State party end all acts of violence against children, including corporal punishment, committed by, among others, members of the police forces. The Committee also recommends that the State party provide child rights training programmes for police and detention officials.”

Committee on Economic, Social and Cultural Rights

([March 2018], E/C.12/CAF/CO/1 Advance unedited version, Concluding observations on initial report, paras. 35 and 36, in French only)

“Le Comité est préoccupé par le fait que l'article 580 du Code de famille paraît autoriser les châtiments corporels au sein de la famille et dans les structures de protection de l'enfance (art. 10).

"Le Comité recommande à l'Etat partie d'amender sa législation afin d'interdire explicitement les châtiments corporels dans toutes les circonstances, et d'assurer l'application effective de cette interdiction."

Prevalence/attitudinal research in the last ten years

A survey of 2,643 children aged 10-17 in 975 households found that nearly half (49.19 %) of them experienced corporal punishment, the most common perpetrators being fathers (56.5%) and mothers (36.11%).

(Mande Djapou, F. (2013), *Châtiment Corporel des Enfants en République Centrafricaine 2012-2013*, Réseau National des ONG de Jeunesse en Droits de l'Homme)

A study involving 765 people aged 10 years and older and who attended schools or higher education institutions found that of the 47.2% of respondents (50.9% of males and 45% of females) who had been smacked, slapped or beaten at school in the past year, 32.9% of males and 34% of females said the perpetrator was a male teacher or other staff member and 2.7% of males and 4.6% of females said the perpetrator was a female teacher or other staff member.

(Mimche, H. & Tanang, P. (2013), "Les violences basées sur le genre à l'école en République centrafricaine", *Recherches & Educations*, 8, 49-63)

According to statistics collected in 2010-2011 under round 4 of the UNICEF Multiple Indicator Cluster Survey programme (MICS4), 92% of children aged 2-14 experienced violent "discipline" (physical punishment and/or psychological aggression) in the home in the month prior to the survey. More than eight children in ten (81%) experienced physical punishment, while a smaller percentage (30%) of mothers and caregivers thought physical punishment was necessary in childrearing. Thirty-seven per cent of children were severe physically punished (hit or slapped on the face, head or ears or hit over and over with an implement), 84% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted).

(L'Institut Centrafricain des Statistiques, et des Etudes Economiques et Sociales (2012), *Enquête par grappes à indicateurs multiples MICS, RCA 2010*, Bangui: ICASEES)