

Corporal punishment of children in Chad

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Child population 7,671,000 (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 and penal institutions.

We have been unable to establish whether or not legislation confirms 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 – 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. According to article 222 of the Constitution 1996 (amended 2005), international treaties have supremacy over domestic legislation when they are ratified and published. However, corporal punishment is not explicitly prohibited in law and provisions against violence and abuse in the Penal Code, the Constitution and Act No. 06/PR/2002 on the promotion of reproductive health are not interpreted as prohibiting corporal punishment in childrearing.

National laws are being reviewed with a view to harmonisation with international standards, and in 2009 the Government signalled its commitment to prohibition by clearly accepting the recommendation to take legislative measures to address and prevent corporal punishment in all settings made during the Universal Periodic Review of Chad.¹ However, the Government rejected recommendations to prohibit made during the UPR in 2013.² Recommendations made in 2018 received a mixed response, with a recommendation to “continue measures to prohibit corporal punishment” supported and another to put an end to corporal punishment noted.³

A draft Child Protection Code and a draft Code on the Person and the Family are under discussion. In 2014, proposed amendments to the Criminal Code addressed harmful practices but did not include prohibition of corporal punishment.⁴ When examined by the UN Human Rights Committee in 2014, the Government replied to a question about progress towards prohibiting corporal punishment only by stating it is prohibited in schools.⁵ The Government also stated that parents “generally opposed” corporal punishment.⁶ New Criminal Code and Criminal Procedure Code were adopted in December 2016:⁷ we have been unable to examine the text of the Criminal Procedure Code but there are no indications corporal punishment was addressed. There is no explicit prohibition in the Criminal Code 2017.

The Government’s 2014 report to the African Committee of Experts on the Rights and Welfare of the Child indicated that the draft Child Protection Code includes prohibition of corporal punishment in its article 167, which states “the use of corporal punishment on a child for purposes of correction or discipline is prohibited. Parents must ensure that discipline is done in a way that the child is treated with humanity and with the rest due to his/her dignity”.⁸ As at November 2017, it appears that the legislative process is still ongoing.

¹ 5 October 2009, A/HRC/12/5, Report of the working group, para. 82(37)

² 27 March 2014, A/HRC/25/2 Advance Unedited Version, Draft report of the Human Rights Council on its twenty-fifth session, para. 561

³ 28 December 2018, A/HRC/40/15, Report of the Working Group, paras. 114(187) and 115(9)

⁴ Ibid, para. 582

⁵ 18 February 2014, CCPR/C/TCD/Q/2/Add.1, Reply to list of issues, para. 26; 19 March 2014, CCPR/C/SR.3048, Summary record of 3048th meeting, para. 11

⁶ 19 March 2014, CCPR/C/SR.3048, Summary record of 3048th meeting, para. 45

⁷ See <http://tchadinfos.com/tchad/tchad-adoption-du-nouveau-code-penal/> and <http://tchadinfos.com/politique/tchad-le-code-de-procedure-penale-est-adopte/>, both accessed 7 November 2017

⁸ December 2014, Initial report of Chad to the African Committee of Experts on the Rights and Welfare of the Child, para. 155

Alternative care settings

In 2014, the Government reported to the Human Rights Council that corporal punishment is prohibited by law in public institutions.⁹ We have yet to identify prohibiting legislation. There is no explicit prohibition of corporal punishment in other forms of alternative care, where it is lawful as for parents (see under “Home”).

Day care

In 2014, the Government reported to the Human Rights Council that corporal punishment is prohibited by law in public institutions.¹⁰ We have yet to identify prohibiting legislation. There is reportedly an Early Childhood Strategy which advises against corporal punishment in day care – we have no further information. There is no explicit prohibition of corporal punishment in other early childhood care and in day care for older children.

Schools

Corporal punishment is considered unlawful in schools, under Law No. 016/PR/06 on the education system, though it is not explicitly prohibited. Article 113 states (unofficial translation): “The right to physical and moral integrity of pupils and students is guaranteed. As such, the following are prohibited: - physical abuse or any other form of violence or humiliation....”

Penal institutions

In 2014, the Government reported to the Human Rights Council that corporal punishment is prohibited by law in public institutions.¹¹ We have yet to identify prohibiting legislation. Act No. 019/PR/2017 of 28 July 2017 on the prison system has been adopted but we have been unable to examine the text.¹² Article 9 of Decree No. 269/PR/MIS/IGSP/1995 on the Code of ethics of the national police states that the use of force should be limited to what is strictly necessary and commensurate to the goal to be achieved, and article 10 prohibits violence and inhuman or degrading treatment against persons under the responsibility of the police, but there is no explicit prohibition of corporal punishment.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime under Act No. 07/PR/1999 concerning criminal procedures for children aged 13-18 years and Act No. 04/PR/1998 on the organisation of the judiciary. The Constitution (art. 18), the Penal Code 2017 (art. 342) and Act No. 06/PR/2002 prohibit torture and degrading and humiliating treatment.

⁹ 27 March 2014, A/HRC/25/2 Advance Unedited Version, Draft report of the Human Rights Council on its twenty-fifth session, para. 569

¹⁰ 27 March 2014, A/HRC/25/2 Advance Unedited Version, Draft report of the Human Rights Council on its twenty-fifth session, para. 569

¹¹ 27 March 2014, A/HRC/25/2 Advance Unedited Version, Draft report of the Human Rights Council on its twenty-fifth session, para. 569

¹² 30 August 2018, A/HRC/WG.6/31/TCD/1, National report to the UPR, para. 11

Universal Periodic Review of Chad’s human rights record

Chad was examined in the first cycle of the Universal Periodic Review in 2009 (session 5). The following recommendation was made and was accepted by the Government:¹³

“Take all necessary legislative and policy measures to address and prevent all forms of violence against children in all settings, including corporal punishment, and to strengthen the awareness-raising activities (Slovenia)”

Examination in the second cycle took place in 2013 (session 17). The following recommendation was made:¹⁴

“In line with its previous UPR commitment enact legislation to prohibit corporal punishment in all settings (Hungary)”

The Government rejected the recommendation.¹⁵ The Government also stated that corporal punishment in public institutions is prohibited by law, but gave no precise legal references.¹⁶

Third cycle examination took place in 2018 (session 31). The following recommendations were made:

“Continue measures to prohibit corporal punishment, under all circumstances, against children (Algeria)”

“Undertake practical measures to put an end to corporal punishment of children in all settings (Montenegro)”

The Government had a mixed response to the above recommendations, supporting the first one but noting the second.¹⁷

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(12 February 2009, CRC/C/TCD/CO/2, Concluding observations on second report, paras. 45 and 46)

“While the Committee welcomes the fact that corporal punishment has been forbidden in schools, it notes with concern that children are still subjected to corporal punishment in schools, particularly Koranic schools. The Committee also notes with concern that corporal punishment remains lawful in the home, in alternative care centres and as a disciplinary measure in penal institutions.

“The Committee recommends that the State party explicitly prohibit by law corporal punishment in all settings, including in the family, in all forms of schools, alternative childcare and places of detention for juveniles, and implement those laws effectively. It also recommends that the State party intensify its awareness-raising campaigns in order to promote the use of alternative forms of discipline in a manner consistent with the child’s human dignity and in accordance with the Convention, especially article 28, paragraph 2, taking into account the Committee’s general comment

¹³ 5 October 2009, A/HRC/12/5, Report of the working group, para. 82(37)

¹⁴ 31 October 2013, A/HRC/WG.6/17/L.12 Unedited Version, Draft report of the working group, para. 110(74)

¹⁵ 27 March 2014, A/HRC/25/2 Advance Unedited Version, Draft report of the Human Rights Council on its twenty-fifth session, para. 561

¹⁶ 27 March 2014, A/HRC/25/2 Advance Unedited Version, Draft report of the Human Rights Council on its twenty-fifth session, para. 569

¹⁷ 28 December 2018, A/HRC/40/15, Report of the Working Group, paras. 114(187) and 115(9)

No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.”

Committee on the Rights of the Child

(24 August 1999, CRC/C/15/Add.107, Concluding observations on initial report, para. 25)

“The Committee is concerned about the use of corporal punishment in families, schools and other institutions. It is concerned about existing legislation that allows the use of corporal punishment in families and correctional facilities, and particularly concerned about its continued use in some religious schools in spite of legislation banning corporal punishment in schools. The Committee encourages the State party to review its policies and legislation in order to eliminate corporal punishment as a method of discipline, and to improve enforcement of the legislation banning corporal punishment in schools. It recommends that the State party conduct awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention. Finally, the Committee encourages the State party to seek international assistance and advice to overcome traditional social and religious attitudes regarding corporal punishment.”

Committee Against Torture

(4 June 2009, CAT/C/TCD/CO/1, Concluding observations on initial report, para. 32)

“While noting that corporal punishment in schools is prohibited in the State party’s legislation, the Committee remains concerned at the absence of legislation prohibiting it within the family, in alternative care institutions and as a disciplinary measure in penal institutions. The Committee is also concerned at the frequent resort to this practice in education, in particular in Koranic schools (art. 16).

The State party should extend legislation prohibiting corporal punishment to apply also to families, educational and religious establishments, alternative care institutions and places of juvenile detention. The State party should ensure that the legislation prohibiting corporal punishment is strictly enforced, and should conduct awareness-raising and educational campaigns to that end.”

Human Rights Committee

([April 2014], CCPR/C/CO/TCD/2 Advance Unedited Version, Concluding observations on second report, para. 14, as at 9 April 2014 in French only)

“Le Comité constate avec préoccupation que les châtiments corporels sont encore pratiqués dans certaines écoles coraniques malgré les dispositions de l’article 113 de la Loi No. 16/2006 du 13 mars 2006, qui proscrivent les sévices corporels ou toute autre forme de violence et d’humiliation à l’égard des élèves et étudiants, et sont tolérés au sein de la famille, où ils sont traditionnellement pratiqués. (art. 7 et 24).

L’État partie devrait veiller à l’application effective de la Loi No. 16/2006 du 13 mars 2006 et prendre d’autres mesures concrètes pour mettre fin à la pratique des châtiments corporels en toutes circonstances. Il devrait encourager l’utilisation des méthodes disciplinaires non violentes pour remplacer les châtiments corporels et mener des campagnes d’information afin de sensibiliser le public aux conséquences préjudiciables de ce type de violence.”

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

([July 2017], Concluding observations on first/fourth report, para. 24, in French only)

“Le Comité note avec satisfaction que la pratique des châtiments corporels est interdite par les lois tchadiennes. Toutefois, le Comité note avec préoccupation que des châtiments corporels sont toujours infligés aux enfants dans certaines écoles coraniques malgré l’existence de la loi N° 16/2006 du 13 mars 2006 qui interdit les châtiments corporels. Il note également, avec préoccupation que les châtiments corporels sont largement pratiqués dans les familles. Le Comité constate également avec une grande préoccupation qu’au Tchad, le droit de donner une fessée est reconnu au père dans le cadre de l’exercice de son autorité paternelle en vertu du Code civil tchadien. Le Comité souhaite préciser que la CADBE ne tolère aucune forme de châtiment corporel. Par conséquent, le Comité encourage vivement l’État partie à :

- a. Interdire les châtiments corporels dans tous les milieux, notamment en famille, à l’école et dans d’autres établissements de soins alternatifs ;
- b. Amender la disposition du Code civil qui autorise le père à donner une fessée à son enfant et de proscrire la fessée du système judiciaire tchadien ;
- c. Proscrire explicitement toutes les formes de châtiments corporels du Code pénal et infliger des sanctions aux personnes qui les pratiquent ; et
- d. Sensibiliser la société à la parentalité positive et à la discipline des enfants.”

Prevalence/attitudinal research in the last ten years

According to statistics collected in 2009 under round 4 of the UNICEF Multiple Indicator Cluster Survey programme (MICS4), 84.3% 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 three quarters (76.6%) experienced physical punishment, 41.1% severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement); 70.9% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted).

(République du Tchad Ministère du Plan, de l’Economie et de la Coopération Internationale et al (2013), *Enquête par grappes à indicateurs multiples: Tchad 2010*)