

Corporal punishment of children in the Republic of Congo

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Child population 2,259,000 (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 prohibited in the home. Article 53 of Law No. 4-2010 on the Protection of the Child 2010 states: “It is forbidden to use corporal punishment to discipline or correct the child.”

Article 107 states that persons who inflict cruel inhuman or degrading punishment on children are liable to the penalties in the penal code. Article 130 states that international conventions ratified by the Republic of Congo on the rights of the child are an integral part of this law; article 131 repeals all previous laws in conflict with the new law.

Alternative care settings

Corporal punishment is prohibited in alternative care settings under article 53 of Law No. 4-2010 on the Protection of the Child (see under “Home”).

Day care

Corporal punishment is prohibited in early childhood care and in day care for older children under article 53 of Law No. 4-2010 on the Protection of the Child (see under “Home”).

Schools

Corporal punishment is prohibited in schools under article 53 of Law No. 4-2010 on the Protection of the Child (see under “Home”). Until law reform in 2010, corporal punishment had been prohibited in primary schools.

Penal institutions

Corporal punishment is prohibited as a disciplinary measure in penal institutions in article 53 of Law No. 4-2010 on the Protection of the Child (see under “Home”).

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. Children convicted of an offence are addressed in Title IX (arts. 685-738) of the Code of Criminal Procedure 1963. Persons under 18 should be dealt with by juvenile courts where they may be subject to measures of care, protection and education (art. 685); persons over 13 may also be subject to penal sanctions including fines and imprisonment. There is no provision for judicial corporal punishment. Article 16 of the Constitution prohibits torture and any cruel, inhuman or degrading treatment.

Universal Periodic Review of the Republic of Congo's human rights record

The Republic of Congo was reviewed 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:¹

“Continue efforts undertaken for the protection and realization of the rights of the child, particularly regarding access to education (Algeria);

“Consider reviewing strategies aimed at the protection of children with a view to developing a comprehensive plan for the care of children and aligning them with the provisions of the CRC and all applicable international human rights instruments to which the Congo is a party (South Africa);

“Make further efforts to combat violence and sexual abuses against children for the effective realization of their rights (Burkina Faso);

“Adopt measures immediately and in line with international human rights standards to protect the rights of children and in particular to prohibit child labour and prevent, criminalize and punish sexual exploitation and child trafficking (France);

“Fulfil its obligations in the field of human rights and step up its efforts with respect to the rights of people from vulnerable groups, including persons in detention, women and children (Belgium)”

Examination in the second cycle took place in 2013 (session 17). In its national report, the Government confirmed the prohibition of corporal punishment in disciplining or punishing children.² No specific recommendations on corporal punishment were made.

Third cycle examination took place in 2018 (session 31). The following recommendations were made:³

“Adopt a national strategy to prevent and combat all forms of violence and exploitation against children, including campaigns to raise awareness of children's rights at all levels of society (Chile);

¹ 5 June 2009, A/HRC/12/6, Report of the working group, paras. 79(26), 79(27), 79(29), 79(30) and 79(47)

² 25 July 2013, A/HRC/WG.6/17/COG/1, National report to the UPR, para. 89

³ 28 December 2018, A/HRC/40/16, Report of the Working Group, paras. 130(172), 130(173) and 130(178)

“Prevent and address violence against children, including ensure protection of children from corporal punishment in all settings, including in the home (Estonia)”

“Develop outreach campaigns, carry out monitoring actions and ensure access to justice so that the law relating to the Protection of Children, which prohibits corporal punishment, is effective in putting an end to all forms of physical, verbal or psychological violence exercised against girls and boys (Uruguay)”

The Government supported the recommendations.⁴

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(31 January 2014, CRC/C/COG/CO/2-4 Advance Unedited Version, Concluding observations on second to fourth state party report, paras. 40 and 41)

“While welcoming the prohibition of corporal punishment to discipline a child, as provided in Law 4-2010 on the protection of the child, the Committee remains concerned that children still suffer violent corporal punishment at home and at school.

“The Committee reiterates its recommendation (CRC/C/COG/CO/1, para. 38) and calls on the State party to:

- a) ensure the full implementation of Law 4-2010 prohibiting corporal punishment and ensure that all cases of corporal punishment are effectively investigated and prosecuted;
- b) continue to raise awareness among the general public, including children, about the unlawfulness and the negative consequences of corporal punishment and other forms of violence on the development and well-being of the child;
- c) promote positive, non-violent and participatory forms of child-rearing and discipline as an alternative to corporal punishment; and
- d) provide children with child-sensitive mechanisms to lodge complaints in case they are victims of violence, including corporal punishment.”

Committee on the Rights of the Child

(20 October 2006, CRC/C/COG/CO/1, Concluding observations on initial report, paras. 37, 38 and 39)

“The Committee is concerned at the absence of an explicit prohibition of corporal punishment in the home, alternative care settings and penal institutions.

“The Committee urges the State party to:

- a) explicitly prohibit all forms of corporal punishment in the family, penal system and other institutional settings and alternative care systems as a matter of priority;
- b) sensitize and educate parents, guardians and professionals working with and for children by carrying out public educational campaigns about the harmful impact of corporal punishment;
- c) promote positive, non-violent forms of discipline as an alternative to corporal punishment;

⁴ 22 February 2019, A/HRC/40/16/Add.1, Advance version, Report of the Working Group: Addendum

d) implement appropriate policies and programmes for the prevention, recovery and reintegration of child victims; and

e) provide children with child sensitive mechanisms to lodge complaints in case they are victims of violence, including corporal punishment.

“In this respect, the Committee draws the attention of the State party on 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.”

Prevalence/attitudinal research in the last ten years

Research conducted in 2014-15 as part of UNICEF’s Multiple Indicator Cluster Surveys (MICS) programme, found on average 83% of 1-14 year-old children experienced some form of violent discipline (psychological aggression and/or physical punishment) in the month prior to the survey. On average 77% of children experienced psychological aggression, 38% physical punishment and 28% severe physical punishment (hit or slapped on the face, head or ears, or hit repeatedly). Only 7% of children experienced only non-violent forms of discipline.

(Institut National de la Statistique (INS) & UNICEF (2015), *Enquête par grappes à indicateurs multiples, MICS5 CONGO 2014-2015, Rapport de résultats clés*, Brazzaville, Congo: INS & UNICEF)

According to UNICEF statistics collected between 2005 and 2013, 87% 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 two thirds (69%) experienced physical punishment and 80% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted). A smaller percentage (22%) 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)

A 2011 study found that 25.9% of 5-11 year olds and 20.4% of 12-14 year olds had experienced “very violent” corporal punishment.

(Reported in Government responses to list of issues adopted by the Committee on the Rights of the Child, 2 December 2013, CRC/C/COG/Q/2-4/Add.1)

A 2008 study of school violence in the Republic of Congo found the most common acts of violence to be those perpetrated against students under the guise of “education” or “discipline”: hair pulling (83%); hitting with an object (72%); forcing students to kneel (70%); slapping (53%); and forced labour (51%). The level of acceptability of these acts of violence was higher among parents than teachers: forcing a student to kneel or stand in a position that hurts (51% parents, 38% teachers); forced labour (45% parents, 38% teachers); hitting with an object (40% parents, 26% teachers); slapping (31% parents, 18% of teachers); pinching, twisting or pulling ears (25% parents, 17% teachers). The study found the children most at risk of experiencing violence at school to be children with disabilities, children who were new to the school, children perceived as unruly or lazy, and girls. Primary school children were found to be exposed to violence (97%) more often than high school/college students (91%).

(UNICEF Congo (2008), *Étude sur la Violence à l’École – Rapport Final*, Brazzaville: UNICEF Congo)