

Corporal punishment of children in Côte d'Ivoire

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Child population 11,193,000 (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 schools.

There is no confirmation in law of a “right” of parents to administer punishment but legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing. The law needs to be amended to explicitly prohibit all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults exercise parental authority over children.

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 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).

Schools – The Ministerial Orders against corporal punishment in schools should be confirmed in legislation passed by Parliament, which should clearly prohibit all corporal punishment in all education settings, public and private.

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. The Minority Act 1970 regulates “paternal authority” and states that this includes the right and obligation to provide for the child’s maintenance, training, education and monitoring. It does not confirm a “right” of parents to punish or discipline children but neither does it explicitly prohibit the use of corporal punishment. Provisions against violence and abuse in the Constitution 2016, the Penal Code 1995 and Act No. 98-757 on violence against women do not include clear prohibition of corporal punishment.

Under examination by the Human Rights Committee in 2015, the Government stated that corporal punishment “is prohibited in all places and is monitored particularly in prisons, schools and homes” and is classified as physical assault in the Criminal Code.¹ But there is no clear prohibition of corporal punishment in legislation.

The Criminal Code and the Personal and Family Code are being revised² but in February 2019 the proposed amendments did not include an explicit prohibition of all corporal punishment. A draft Code of Children and Family was mentioned during the examination of Cote d’Ivoire by the African Committee of Experts on the Rights and Welfare of the Child.³ We do not have further information.

In 2018, Côte d’Ivoire 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 explicit prohibition of corporal punishment in alternative care settings, where it is lawful as for parents (see under “Home”).

The Ministry for Women, Family and Children has developed national standards for alternative care institutions which put an obligation on these institutions to protect children and their emotional and physical safety and to prevent any abuse or violence. These standards do not include an explicit prohibition of corporal punishment.

Day care

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

Schools

In 2009, the Minister of Education signed a Ministerial Order (Arrêté N° 0075 /MEN/DELIC du 28 septembre 2009 portant interdiction des punitions physiques et humiliantes à l’endroit des enfants

¹ 16 February 2015, CCPR/C/CIV/Q/1/Add.2, Reply to list of issues, para. 47

² 16 February 2015, CCPR/C/CIV/Q/1/Add.2, Reply to list of issues, paras. 20 and 22; see also 25 April 2018, CEDAW/C/CIV/4, Fourth report, para. 29

³ [July 2017], Concluding observations on initial report, para. 4

en milieu scolaire) stating that corporal punishment should not be used by teachers in public or private schools, but there is no prohibition in legislation which has been passed by Parliament. It is expected that the Ministerial Order will be confirmed in legislation but as yet law reform has not been achieved. In reporting to the Human Rights Committee in 2013, the Government stated its commitment to reforming the law in this respect.⁴

A 2014 Ministerial Order (Arrêté N° 0111 MENET/CAB du 24 décembre 2014 portant code de conduite des personnels des structures publiques et privées relevant du Ministère de l'Éducation Nationale et de l'Enseignement Technique) prohibits in its article 5.9 "any form of physical, psychological or humiliating punishment against students" (unofficial translation). A contravention to this rule entails disciplinary sanctions.

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions. Children in prison are protected from cruel, inhuman or degrading treatment or punishment under Decree No. 69-189 1969 (regulating prison establishments and laying down conditions for the enforcement of prison sentences (Décret n° 69-189 du 14 mai 1969 portant réglementation des établissements pénitentiaires et fixant les modalités d'exécution des peines privatives de libertés) (arts. 33-36), in which there is no provision for corporal punishment. However, there is no explicit prohibition of corporal punishment in Decree No. 82-334 1982 concerning people, works or institutions receiving minors as a result of a judicial decision (Décret no 82-334 du 2 avril 1982 relatif au placement et aux mesures d'assistance éducative).

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not a permitted sanction under the Penal Code 1995. The Criminal Procedure Code prohibits cruel, inhuman or degrading treatment or punishment. Article 5 of the Constitution 2016 states (unofficial translation): "Slavery, human trafficking, forced labour, physical or moral torture, inhumane, cruel, degrading and humiliating treatment, physical violence, female genital mutilation as well as all other forms of degradation of a human being are prohibited."

Universal Periodic Review of Côte d'Ivoire's human rights record

Côte d'Ivoire was examined in the first cycle of the Universal Periodic Review in 2009 (session 6). No recommendations were made concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:⁵

"Step up efforts to protect the human rights and improve the lives of children, including orphans and children with disabilities, through, inter alia, reviewing related policies and increasing in the budget allocation for specific programmes for vulnerable groups (Malaysia);

"Continue to reform its policies and programmes with a view to improving the status of women, girls and children, including those with disabilities, and protecting them against

⁴ 21 May 2013, CCPR/C/CIV/1, Initial state party report, para. 293

⁵ 4 January 2010, A/HRC/13/9, Report of the working group, paras. 99(20), 99(30), 99(51), 99(58) and 99(69)

violence and sexual abuse, as well as strengthening measures and mechanisms on administration of justice (Nigeria);

“Within the context of incorporating the values of the culture of peace in public and private education, include actions to eliminate violence in schools and to address the special needs of children affected by conflict (Ghana);

“Continue and deepen the positive ongoing actions to protect children, including from trafficking and exploitation of minors (Cuba);

“Pursue actions aimed at strengthening and harmonizing the child protection legal framework, including the establishment of child protection units within the various tribunals of the country (Italy)”

Examination in the second cycle took place in 2014. During the review, the Government was encouraged to keep working against corporal punishment in schools.⁶ No recommendation specifically on corporal punishment was made but the Government accepted a recommendation to take legal and practical measure to ensure children’s rights in relation to violence against children as well as a number of recommendations to adopt legislation on domestic violence.⁷

Recommendations by human rights treaty bodies

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

([July 2017], Concluding observations on initial report, paras. 22 and 23, in French only)

« Le Comité se félicite de la protection constitutionnelle des enfants contre la maltraitance ainsi que du Code pénal qui punit diverses formes d’abus et de torture. Le Comité loue également l’adoption de l’ordonnance n° 0075 de 2009 par le Ministère de l’Éducation interdisant le châtement physique et humiliant des élèves. En dépit de tout cet arsenal, les rapports indiquent l’existence d’un taux élevé de châtements corporels et de mauvais traitements psychologiques à la maison et dans les milieux scolaires. Il ressort que les abus physiques et sexuels prévalent surtout dans la partie nord-ouest du pays. En outre, le Comité a été informé que le viol n’est pas considéré comme un crime distinct dans le Code pénal.

« Le Comité recommande par conséquent au gouvernement de mener des campagnes de sensibilisation contre les sévices et la violence envers les enfants, notamment la violence sexuelle; de former ses forces de police, ses juges et procureurs sur la gestion des cas d’abus d’enfants; de sensibiliser la communauté sur l’importance du fait de signaler les cas d’abus au système juridique formel; de former les chefs traditionnels et religieux sur la gestion de cas et les renvois à la police; et d’apporter un soutien psychosocial aux victimes d’abus sexuels et d’abus de toutes sortes, de former les enseignants sur les conséquences de tels actes. Le Comité exhorte l’État partie à mettre en œuvre l’Arrêté qui interdit les châtements corporels dans les écoles et interdit [sic] légalement les châtements corporels à la maison. »

⁶ 7 July 2014, A/HRC/27/6, Report of the working group, para. 99

⁷ 7 July 2014, A/HRC/27/6, Report of the working group, para. 99, paras. 127(36), 127(37), 127(38), 127(39), 127(41), 127(42) and 127(43)

Prevalence/attitudinal research in the last ten years

None identified.