

Corporal punishment of children in Egypt

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Child population 35,095,000 (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 possibly schools; prohibition in penal institutions requires confirmation.

Article 7bis of the Child Law confirms the “right to discipline” of parents and carers, and legal provisions against violence and abuse are not interpreted as prohibiting corporal punishment. This article should be repealed and prohibition enacted of all corporal punishment of children by parents and others with parental authority.

Alternative care settings – Prohibition needs to be enacted in legislation that is 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).

Schools – The ministerial directive against corporal punishment in schools must be confirmed in legislation, which should clearly prohibit all corporal punishment in all education settings, public and private.

Penal institutions – Corporal punishment is prohibited in prisons; prohibition is required that it is also prohibited in social welfare institutions.

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. Act No. 126 2008 amended the Children's Act 1996 to strengthen legal protection for children's rights, including protection from harm. Article 1 of the amended Act states that the State shall guarantee as a minimum requirement the same rights provided for in the Convention on the Rights of the Child and other relevant international instruments applicable in Egypt. However, efforts to introduce full prohibition of corporal punishment of children into the law were unsuccessful. Article 3 states that the law shall ensure "the right of the child to life survival, and development in a supportive family environment, to enjoy various preventive measures, and to be protected from all forms of violence, or injury, or physical, mental or sexual abuse, or negligence, or negligent treatment, or any other forms of maltreatment or exploitation". But article 7bis confirms parents/carers' "right to discipline", stating: "With due consideration to the duties and rights of the person who is responsible for the care of the child, and his right to discipline him through legitimate means, it is prohibited to intentionally expose the child to any illegitimate physical abuse or harmful practice." Provisions against violence and abuse in the Children's Act, the Criminal Code 1937 and the Constitution 2012 are not interpreted as prohibiting all corporal punishment of children.

Alternative care settings

Corporal punishment is lawful in alternative care settings under the "right to discipline" in article 7bis of the Children's Act (see under "Home").

Day care

Corporal punishment is lawful in early childhood care and in day care for older children under the "right to discipline" in article 7bis of the Children's Act (see under "Home").

Schools

A ministerial directive of 17 November 1998 states that corporal punishment should not be used in schools but there appears to be no explicit prohibition of corporal punishment in law. The National Council for Childhood and Motherhood has called for the ministerial directive to be confirmed in law, but to our knowledge this has not yet been achieved. We have been unable to examine the text of Decree 287/2016 on school discipline.

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in prisons. The provision for flogging prisoners in Law No. 396 1956 was repealed by Law No. 152 2002. Under article 42 of the Children's Act any person arrested or detained "shall be treated in the manner concomitant with the preservation of his dignity" and "no physical or moral harm is to be inflicted upon him". Article 40 of the Code of Criminal Procedure states that any person detained "shall be treated in a manner that preserves his human dignity, he should not be harmed physically or mentally". Article 36 of the Constitution 2012 states: "Anyone who has been arrested, jailed, or restricted in his freedom in any form is entitled to being treated in a way that respects his dignity. He must not be tortured, threatened, or degraded. He must not be harmed physically or mentally." However, we have been

unable to ascertain the legality of corporal punishment in social welfare institutions, in which children below 16 years convicted of crime may be detained. The Human Rights Association for the Assistance of Prisoners has documented flogging of juveniles in social care institutions.¹

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not a permitted sentence for children between the ages of 7 and 15 years under the Children's Act 1996 (art. 101). Children between 15 and 18 receive reduced penal sentences, and these do not include corporal punishment.

Universal Periodic Review of Egypt's human rights record

Egypt was examined in the first cycle of the Universal Periodic Review in 2010 (session 7). No recommendations were made concerning corporal punishment of children. However, the Government accepted the following recommendations:²

“Continue harmonizing its legislation with international human rights treaties by taking into consideration specificities of its society and requirement of modernization (Algeria);

“Continue its ongoing review of national laws to ensure that they are in line with its international human rights law obligations (Bangladesh)”

Examination in the second cycle took place in 2014 (session 20). The report of the working group of the review states that “Tunisia encouraged efforts on violence against women and to prohibit corporal punishment of children”.³ However, this recommendation was not included in the list of recommendations at the end of the report and was not formally responded to by the Egyptian Government.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(15 July 2011, CRC/C/EGY/CO/3-4, Concluding observations on third/fourth report, paras. 57 and 59)

“The Committee is alarmed at the high levels of corporal punishment of children in schools and in the home, and at reports of an unacceptably high number of children aged 2-14 who experience physical or mental violence (92 per cent in 2006). While noting as positive the right of the child to be protected against all forms of violence in article 3 (a) of the Child Law (2008) and that, as indicated by the delegation, the Penal Code criminalizes domestic violence and provides double punishment if a parent causes bodily harm, the Committee is gravely concerned that all forms of violence against children are still not prohibited in domestic legislation. It remains seriously concerned that corporal punishment remains lawful in the home and that, despite a ministerial decision of 1999 prohibiting the use of violence and beating in all schools, corporal punishment remains common practice in educational institutions. It further notes with particular concern information in the State party's report (CRC/C/EGY/3-4, para. 147) that domestic law allows fathers to use “reasonable corporal punishment” without being held responsible. The Committee is further deeply concerned at reports

¹ *Detention and Detainees in Egypt 2003: Sixth Annual Report on the Condition of Prisons and Detention Centres*

² 26 March 2010, A/HRC/14/17, Report of the working group, paras. 95(4) and 95(5)

³ 24 December 2014, A/HRC/28/16, Report of the working group, para. 55

of the use of corporal punishment, including flogging, and of verbal abuse to “discipline” children, in childcare institutions.

“The Committee, drawing the State party’s attention to its general comment no. 13 (2011) on the right of the child to freedom from all forms of violence, reiterates its previous recommendation (CRC/C/15/Add.145, para. 38) and urges the State party to:

- a) ensure that domestic legislation explicitly prohibits all forms of physical and mental violence against children in all settings;
- b) undertake a national awareness-raising campaign on the prohibition and unacceptability of all forms of violence against children as well as to make available complaints mechanisms widely accessible to children;
- c) create a child protection system which is publicly supported and which has social workers at the municipal level who are specifically trained to receive reports on violence, abuse and neglect against children and to deal with and follow-up such cases by providing the child with the necessary support, treatment and protection. This should include providing the family with supportive measures to prevent ill-treatment from reoccurring as well as by referring complaints to Specialized Child Prosecution Offices for prompt and impartial investigations.”

Committee on the Rights of the Child

(21 February 2001, CRC/C/15/Add.145, Concluding observations on second report, paras. 37 and 38)

“In light of articles 19 and 39 of the Convention, the Committee is concerned at the incidence of ill-treatment of children in schools despite its prohibition, and within the family. It is further concerned that domestic violence is a problem in Egypt and that this has harmful consequences on children.

“The Committee recommends that the State party take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse, against children in the family, the schools, and in care institutions. The Committee recommends that these measures be accompanied by public education campaigns about the negative consequences of ill-treatment of children, and the promotion of positive, non-violent forms of discipline as an alternative to corporal punishment....”

Committee Against Torture

(23 December 2002, CAT/C/SR/29/4, Concluding observations on fourth report, para. 3)

“The Committee welcomes the following:

- a) the enactment of legislation banning flogging as a disciplinary penalty for prisoners....”

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

(November 2009, Concluding observations on initial report, recommendation 10)

“Corporal punishment. The Committee notes that there is some resistance to put[ting] an end [to] this practice and recommend[s] the State party to take the necessary measures to abolish the practice”

Prevalence/attitudinal research in the last ten years

The 2014 Egypt DHS household questionnaire revealed that 93% of children had experienced some form of violent “discipline” (psychological aggression and/or physical punishment) in the month prior to the survey. Over 91% of children experienced psychological aggression (being shouted, yelled or screamed at); 78% experienced physical punishment and 43% were subjected to severe physical punishment (being hit or slapped on the face, head or ears, or being hit over and over as hard as the adult can). The most commonly reported forms of physical punishment involved hitting the child on the hand, arm or leg (55%), shaking the child (46%) and hitting the child on the face, head or ears (41%). The use of physical punishment did not vary with the sex of the child, but severe physical punishment was more common in rural areas (47%) than urban (37%), and in households in the lowest wealth quintile (49%) than the highest (30%).

(Ministry of Health and Population, El-Zanaty and Associates & ICF International (2015), *Egypt Demographic and Health Survey 2014*, Cairo, Egypt and Rockville, Maryland, USA: Ministry of Health and Population & ICF International)

Research conducted in 2011 as part of a degree of Master of Public Policy and Administration found widespread use of corporal punishment in schools as reported by parents, teachers and recent students (aged 18-20 years old) and found it is more commonly used in public schools than private schools. Of parents surveyed, 96% said their child had received corporal punishment in public/experimental schools, in contrast to 58% in private/language schools. Teachers stating that they apply corporal punishment in school was at 96% for public/experimental schools and 54% for private/language schools. Ninety-seven per cent of students confirmed the use of corporal punishment in public/experimental schools. Fifty per cent of parents in public/experimental and 33% in private/language schools reported that the school administration never penalises teachers in response to their complaints about corporal punishment applied to their children.

(Wasef, N. H. (2011), *Corporal Punishment in Schools*, Cairo: The American University in Cairo, School of Global Affairs and Public Policy)

A study which involved 400 9-14 year olds and their mothers found that 76% were sometimes physically punished by their mother – 39% once or twice a week, 3.5% once a day and 2.8% more than once a day. Children who were physically punished by their mother were more likely to say they had a poor relationship with their parents, siblings, peers and teachers than those who were not physically punished by their mothers.

(Abolfotouh, M. A. et al (2009), “Corporal punishment: Mother’s disciplinary behavior and child’s psychological profile in Alexandria, Egypt”, *Journal of Forensic Nursing* 5, 5-17)

According to UNICEF statistics collected between 2005 and 2013, 91% of children aged 2-14 experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in the month prior to the survey. Eighty-two per cent experienced physical punishment and 83% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted). A smaller percentage (42%) 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)