

Corporal punishment of children in Gabon

LAST UPDATED October 2019

Also available online at

www.endcorporalpunishment.org

Child population 748,000 (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 and day care.

We have been unable to find out if legislation confirms a right of parents and others with parental authority to administer corporal punishment in the guise of “reasonable chastisement” or similar. The near universal acceptance of a certain degree of violence in childrearing necessitates clarity in law that all degrees and kinds of corporal punishment are unacceptable and unlawful. Prohibition should be enacted of all corporal punishment, however light, by parents and other adults with parental authority.

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

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. There appears to be no defence for the use of corporal punishment in childrearing in the Penal Code 1963 or the Civil Code 1972, but provisions against violence and abuse in these and other laws are not interpreted as prohibiting corporal punishment of children. Article 83 of the Children's Code 2019 prohibits "any form of physical or psychological violence against the child" (unofficial translation) but does not explicitly prohibit all corporal punishment of children.

In reporting in 2012 on the UPR recommendation to prohibit corporal punishment made in 2008, the Government stated that the Ministry of Social Affairs is developing a code of social action but went on to suggest that corporal punishment is punishable under existing law.¹ Law no. 2016/28 on the Code of Social Protection was enacted in 2017 to replace the Code of Social Security 1975 and does not address corporal punishment. In reporting to the Committee on the Rights of Persons with Disabilities in 2013, the Government referred to the preparation of a new Family Code.² In 2015, the Government reported that the drafting of the Family Code had been initiated.³ As at March 2017, the draft Family Code had not been finalised.

In reporting to the African Committee of Experts on the Rights and Welfare of the Child in 2015, the Government stated that customary practices regarding corporal punishment still exist and that challenging this "is seen as an interference in the private life of the family".⁴ The Government went on to report measures to prohibit corporal punishment only in relation to schools. The report confirmed, too, that there is no legislation on domestic violence. The Government reported in 2017 that a Bill on domestic violence had been drafted.⁵ The Civil Code is under review.⁶

Alternative care settings

There is no explicit prohibition of corporal punishment in alternative care settings.

Day care

Corporal punishment is unlawful in preschool provision under article 108 of the Law on Orientation of Education, Training and Research 2011 (see under "Schools"), but it is not explicitly prohibited in other early childhood care and in day care for older children.

¹ 6 August 2012, A/HRC/WG.6/14/GAB/1, National report to the UPR, para. 48

² 14 July 2014, CRPD/C/GAB/1, Initial state party report, para. 121

³ Gabon government delegation reporting to the Committee on the Rights of Persons with Disabilities, http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/03CCC7A42C292BC7C1257EA800462478?OpenDocument, accessed 1 September 2015

⁴ [2015], Initial state party report

⁵ 29 December 2017, A/HRC/37/6, Report of the working group, para. 114

⁶ 14 March 2018, A/HRC/37/6/Add.1 Advance unedited version, Report of the working group: Addendum

Schools

Corporal punishment is unlawful in schools under article 108 of the Law on Orientation of Education, Training and Research 2011,⁷ which came into force in February 2012 (unofficial translation): “Prohibited in schools and universities: Punishment or abuse and other forms of violence or humiliation....” In reporting to the African Committee of Experts on the Rights and Welfare of the Child, the Government noted the “adoption of an order of the Ministry of Education prohibiting corporal punishment in schools”.⁸

Penal institutions

Corporal punishment is explicitly prohibited as a disciplinary measure in penal institutions in article 214 of the Children’s Code 2019 (unofficial translation): “Any action or disciplinary proceedings against a child must be compatible with respect for their dignity. It is forbidden, even for disciplinary reasons, to inflict on a juvenile detainee cruel, inhuman or degrading treatment, including corporal punishment, confinement in a dark cell, in a dungeon or in isolation, or any other punishment that may prejudice his physical or mental health.” This prohibition was previously included in the Law on the Judicial Regime of Protection of Children 2010 which was repealed by the Children’s Code 2019.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in criminal law.

Universal Periodic Review of Gabon’s human rights record

Gabon was examined in the first cycle of the Universal Periodic Review in 2008 (session 2). The following recommendation was made:⁹

“To prohibit by law the worst forms of corporal punishment of children in all places (Mexico)”

The Government neither accepted nor rejected the recommendation.

Examination in the second cycle took place in 2012 (session 14). In its national report, the Government stated that the Ministry of Social Affairs is developing a code of social action, that research on violence against children in Gabon has been conducted, that corporal punishment is unlawful under the Penal Code, and that in 2010-2011 awareness raising campaigns were carried out aiming to address the worst form of corporal punishment in schools.¹⁰ During the review the following recommendations were made and were accepted by the Government:¹¹

“Continue public awareness programmes against corporal punishment of children in schools (Angola);

⁷ Law No. 21/2011

⁸ [2015], Initial state party report

⁹ 28 May 2008, A/HRC/8/35, Report of the working group, para. 60(15)

¹⁰ 6 August 2012, A/HRC/WG.6/14/GAB/1, National report to the UPR, para. 48

¹¹ 13 December 2012, A/HRC/22/5, Report of the working group, paras. 101(31) and 101(69)

“Develop and implement a comprehensive national strategy to fight the worst forms of corporal punishment of children (Belarus)”

Third cycle examination took place in 2017 (session 28). The following recommendations were made and supported by the Government:¹²

“Clearly prohibit all forms of corporal, cruel or degrading punishment in all contexts and promote non-violent forms of education and discipline (Belgium);

“Expressly prohibit all corporal punishment of children in all settings, including at school and at home (Luxembourg);

“Reform the law authorizing the punishment of children in conformity with international standards (Madagascar);

“Enact legislation with a view to prohibit corporal punishment of children in all settings (Montenegro);

“Continue its awareness-raising programmes with a view to putting an end to the use of corporal punishment in schools (Turkey)”

Giving general comments on supported recommendations relating to children’s rights, the Government did not mention corporal punishment, instead only addressing violence against children in schools.¹³

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(3 June 2016, CRC/C/GAB/CO/2, Concluding observations on second report, paras. 30 and 31)

“The Committee is seriously concerned that corporal punishment of children is not prohibited in all settings, namely in the home and in alternative and day care settings, and that the practice of corporal punishment to discipline children is still accepted and widespread.

“In the light of its general comment No. 8 (2006) on corporal punishment, the Committee urges the State Party to prohibit all corporal punishment of children in all settings, including the home, alternative and day care settings, and to promote positive, non-violent and participatory forms of child-rearing and discipline among parents as well as alternative and day care personnel.”

Committee on the Rights of the Child

(1 February 2002, CRC/C/15/Add.171, Concluding observations on initial report, paras. 40 and 54)

“The Committee recommends the State party to ... undertake a study on violence, including sexual violence, against children within the family, at schools and in other institutions to assess the scope, nature and causes of these practices in order to adopt and implement a comprehensive plan of action, effective measures and policies in conformity with article 19 of the Convention, and to contribute to changing attitudes; ... take all necessary steps to introduce the legal prohibition of the use of corporal punishment in schools and other institutions and at home;...

¹² 29 December 2017, A/HRC/37/6, Report of the working group, paras. 118(89), 118(90), 118(91), 118(92) and 118(93)

¹³ 14 March 2018, A/HRC/37/6/Add.1 Advance unedited version, Report of the working group: Addendum

“The Committee recommends that the State party ... implement the ban of corporal punishment at schools and train teachers with alternative measures of discipline....”

Committee Against Torture

(17 January 2013, CAT/C/GAB/CO/1, Concluding observations on initial report, paras. 25 and 26)

“While taking note of the information provided by the State party’s delegation which indicates that children are safeguarded by the Minors Protection Code, by the law on domestic, school-related and institutional violence and by the awareness campaigns conducted in Libreville, Owendo, Makokou and Oyem on the worst forms of corporal punishment inflicted upon schoolchildren, the Committee is concerned by reports indicating that corporal punishment continues to be practised in homes and schools. (art. 16)

The State party should take steps to ensure the effective enforcement of its legislation in order to make certain that corporal punishment is not practised under any circumstances. It should also step up its campaigns aimed at raising public awareness about the harmful effects of corporal punishment and about the fact that it is prohibited.

“The Committee regrets ... the fact that it does not have full, reliable information on ... corporal punishment

The State party should compile statistics that can be used to assess the application of the Convention at the national level. ... Statistics should also be provided on ... corporal punishment....”

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

([November 2015], Concluding observations on initial report, para. 26)

“The Committee welcomes the enactment of the 2008 Law on Sexual Violence and Female Genital [sic] Mutilation. However, it is noted that violence and abuse against children is predominant within the family. Therefore, the Committee recommends the State Party to ban corporeal punishment in all settings. Moreover, the Committee recommends the State Party to put in place a child friendly and accessible reporting and rehabilitation mechanism for child victims.”

Prevalence/attitudinal research in the last ten years

None identified.