

Corporal punishment of children in Jordan

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Child population 3,160,000 (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, some alternative care settings and day care.

The legal defence for the use of types of discipline by parents “within what is permitted by general custom” in article 62 of the Criminal Code and article 33 of the Juveniles Act 2014 should be repealed. The near universal acceptance of corporal punishment in childrearing necessitates clarity in law that no degree or type of corporal punishment is acceptable or lawful. All corporal punishment, however light and whoever the perpetrator, should be prohibited.

Alternative care settings – Corporal punishment is prohibited in institutions. Prohibition should now be enacted in relation to all non-institutional alternative care settings (foster care, 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).

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. In reporting to the Universal Periodic Review in 2009, the Government stated that physical assault “in all its forms” is prohibited under the Criminal Code and that “laws do not prescribe any form of corporal punishment”.¹ The Government went on to accept the recommendation to consider prohibiting all corporal punishment, including in the home, made during the review.² However, recent reform of the Criminal Code prohibited some but not all corporal punishment in childrearing.

Prior to reform, article 62 of the Criminal Code 1960 stated that the law permits “disciplinary beating of children by their parents in a manner allowed by public customs”. This defence for the use of corporal punishment was amended to state that the law permits “types of discipline inflicted by parents on their children in a way that does not cause harm or damage to children within what is permitted by general custom”. The same phrasing is used in the Juveniles Act 2014 which states that a child is in need of protection if “they are exposed to intentional harm from their parents, or to any cruel discipline exceeding that permitted by law or custom” (art. 33(h), unofficial translation). This effectively means that some level of violent punishment is still legally tolerated.

Provisions against violence and abuse in the Juveniles Act 2014 and the Protection from Family Violence Law 2009 are not interpreted as prohibiting all corporal punishment in childrearing. The National Plan of Action for Children 2004-2013 makes no reference to law reform to prohibit corporal punishment.

In 2013, a number of bills were under discussion which provided opportunities for enacting prohibition, including the Juveniles Bill, the Children’s Rights Bill and the Protection from Domestic Violence Bill.³ The Government reported to the Universal Periodic Review in October 2013 that the process of amending the draft law for protection against domestic violence had begun and that the law on juveniles had been finalised and complied with international standards.⁴ The Juveniles Act 2014 has now entered into force (see under “Penal institutions”). The Domestic Violence Protection Act 2017 was also enacted: we have been unable to examine the text but there are no indications corporal punishment of children was addressed.⁵ The Government reported to the Committee on the Elimination of Discrimination Against Women in January 2017 that a Bill amending the Criminal Code “to ensure the elimination of all forms of violence” and a Bill on the Rights of Persons with Disabilities strengthening protection against violence and discrimination were currently being discussed in the House of Representatives.⁶ They have now been enacted: it does not appear prohibition of corporal punishment was included in the texts.⁷

The Children’s Rights Bill is still under discussions. The Government reported to the Universal Periodic Review in October 2013 that the draft law on the rights of the child was “in the legislative process”

¹ 9 February 2009, A/HRC/WG.6/4/JOR/1, National report to the UPR, page 4

² 29 May 2009, A/HRC/11/29, Report of the working group, para. 92(24)

³ 29 July 2013, A/HRC/WG.6/17/JOR/1, National report to the UPR, para. 10

⁴ 6 January 2014, A/HRC/25/9, Report of the working group, para. 112

⁵ 21 August 2017, CCPR /C/JOR/Q/5/Add.1, Reply to list of issues, para. 54

⁶ 11 January 2017, CEDAW/C/JOR/Q/6/Add.1, Replies to the list of issues, paras. 9.2 and 20.2

⁷ See <http://www.jordantimes.com/news/local/senate-approves-changes-penal-code> and <http://www.jordantimes.com/news/local/new-law-disability-opens-new-era%E2%80%99-country-%E2%80%94official>, accessed 1 September 2017

but that at the request of civil society the Government had agreed to withdraw the draft and undertake a more rights-based dialogue before adopting the Bill.⁸ It reported at the next Universal Periodic Review in 2018 that the National Council for Family Affairs had been working on the Bill, which would be “submitted before the end of this year”.⁹

Alternative care settings

Corporal punishment is possibly prohibited in institutions but there is no explicit prohibition in relation to other forms of care and article 62 of the Criminal Code 1960 allowing discipline “within what is permitted by general custom” presumably applies to all persons with parental authority (see under “Home”).

The Government reported to the Universal Periodic Review in 2013 that article 68 of the Civil Service Regulation (no. 134 of 2009) was amended in order to prevent child abuse, with disciplinary sanctions increased for causing bodily harm to children in educational, rehabilitation and training establishments, welfare homes, refuges and other institutions.¹⁰ In 2014, the Government reported to the Committee Against Torture that corporal punishment is prohibited in educational, rehabilitation or training institutions, welfare homes and shelters under articles 67 and 86 of the Civil Service Code 2008 and that directives regulating welfare institutions prohibit corporal punishment; regulations governing private and voluntary institutions supervised by the Ministry of Social Development have been amended to prohibit all forms of violence.¹¹ We have yet to confirm the information on prohibition and to ascertain its force in relation to the defence in the Criminal Code.

Day care

There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children, and article 62 of the Criminal Code 1960 allowing discipline “within what is permitted by general custom” presumably applies to all persons with parental authority (see under “Home”).

Directive No. 1 of 2008, on the licensing of kindergartens, was amended in 2012, and standards for protecting children in kindergartens were incorporated into the text.¹² We have yet to establish whether or not this included prohibition of all forms of corporal punishment.

Schools

Corporal punishment is prohibited in schools under the School Discipline Regulation, Instruction No. 4 on School Discipline 1981, issued in accordance with Law No. 16 1964. We have yet to examine the text of the Education Law 1994.

⁸ 6 January 2014, A/HRC/25/9, Report of the working group, para. 112

⁹ 23 August 2018, A/HRC/WG.6/31/JOR/1, National report to the UPR, para. 45; see also <http://www.jordantimes.com/news/local/experts-debate-merging-children%E2%80%99s-rights-upcoming-law-juneville-law>, accessed 28 November 2018

¹⁰ 29 July 2013, A/HRC/WG.6/17/JOR/1, National report to the UPR, para. 56

¹¹ 20 August 2014, CAT/C/JOR/3, Third state party report, paras. 67 and 113

¹² 29 July 2013, A/HRC/WG.6/17/JOR/1, National report to the UPR, para. 55

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under the Prisons Act 2004, which makes no provision for corporal punishment among permitted disciplinary measures (arts. 38, 39 and 40). But the Act states that force may be used against a detainee, “proportionately and if all other means have been exhausted” (art. 6). The Juveniles Act 2014, which entered into force on 1 January 2015,¹³ states in its article 4(d) that “It is prohibited to ‘restrict’ the child or the use of force against them except for instances of ‘rebellion’ or violence [on the part of the child] and then only to the extent of what is necessary” (unofficial translation).

Other applicable law includes Acts Nos. 11 and 52 (interim Juveniles Acts) 2002, but we have been unable to examine these texts. Corporal punishment in institutions run by the Ministry of Social Development for the care, education and rehabilitation of juveniles in conflict with the law is considered unlawful under the Criminal Code 1960 and under regulations governing these institutions: we have yet to confirm that prohibition is explicit.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not a permitted penalty under article 18 of the Juveniles Law 1968.

Universal Periodic Review of Jordan’s human rights record

Jordan was examined in the first cycle of the Universal Periodic Review in 2009 (session 4). The following recommendation was made and was accepted by the Government:¹⁴

“Consider changing legislation to prohibit all forms of corporal punishment also at home and effectively enforce the ban of corporal punishment in all settings (Slovenia)”

Examination in the second cycle took place in 2013 (session 17). During the review, concern was expressed that despite the previous recommendation, Jordan had not criminalised corporal punishment of children at home and in alternative care.¹⁵ No specific recommendations on corporal punishment were recorded. However, the following recommendations relevant to prohibition of corporal punishment were made and were accepted by the Government:¹⁶

“Continue its efforts to integrate into domestic legislation the provisions of the human rights treaties which it has ratified (Bolivarian Republic of Venezuela);

“Continue its efforts on alignment of national legislations and international standards and good practices of human rights, especially those on civil, political, economic, social and cultural rights (Viet Nam);

“Fast-track the issuance of newly proposed laws such as the child rights law, and the laws regulating centres and institutions for disabled persons (Tunisia);

“Review all executive laws relevant to juveniles (State of Palestine);

¹³ 25 November 2015, CAT/C/SR.1374, Summary record of the 1374th meeting, para. 62

¹⁴ 29 May 2009, A/HRC/11/29, Report of the working group, para. 92(24)

¹⁵ 6 January 2014, A/HRC/25/9, Report of the working group, para. 40

¹⁶ 6 January 2014, A/HRC/25/9, Report of the working group, paras. 118(1), 118(6), 118(7), 118(8), 118(22), 118(24), 118(25) and 118(45)

“Continue to devote special attention to the promotion and protection of the human rights of vulnerable groups, such as women, children and the elderly (Russian Federation);

“Guarantee the protection of child rights and provide adequate juvenile justice facilities (United Arab Emirates);

“Ensure proper implementation of and execution of legal provisions relevant to the protection of women’s rights, and child rights specifically and the family in general (Algeria);

“Reduce all forms of violence against women and children (Estonia)”

Third cycle examination took place in 2018 (session 31). No recommendations specifically on corporal punishment were extended, but the Government supported the following recommendations:¹⁷

“Ensure effective protection of the rights of the child through developing a state strategy and national legislation (Ukraine)”

“Develop legal mechanism to protect children and continue efforts to combat child labour (Malaysia)”

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(8 July 2014, CRC/C/JOR/CO/4-5, Concluding observations on fourth/fifth report, paras. 27 and 28)

“The Committee welcomes the initiatives of the State party, such as the “Together for a safe school environment” campaign aimed at informing teachers of positive educational techniques. The Committee is, however, concerned that the amended version of article 62 of the Criminal Code still allows parents and guardians to discipline their children within ‘culturally acceptable norms’ as long as it does not lead to physical injury, and that the 2012 Jordan Population and Family Health Survey revealed that 89 per cent of children were subjected to violent forms of discipline.

“The Committee draws the attention of the State party to 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, in which the Committee underlined that all forms of violence against children, however light, are unacceptable and that the prerogatives of the parents should in no way undermine the right of children to be protected from corporal punishment. The Committee urges the State party to:

a) repeal without delay article 62 of the Criminal Code and unequivocally prohibit corporal punishment in all settings;

b) ensure that laws prohibiting corporal punishment are implemented effectively and that legal proceedings are systematically initiated against those who inflict corporal punishment;

c) introduce sustained public education, awareness-raising and social mobilization programmes, involving children, families, communities and religious leaders, on the harmful physical and psychological effects of corporal punishment with a view to changing the general attitude towards that practice, and promote positive, non-violent and participatory forms of child-rearing and discipline as an alternative to corporal punishment;

d) ensure the involvement and participation of the whole society, including children, in the design and implementation of preventive strategies with regard to corporal punishment of children.”

¹⁷ 13 November 2018, A/HRC/WG.6/31/L.7 Unedited version, Draft report of the Working Group, paras. 6(36) and 6(112)

Committee on the Rights of the Child

(29 September 2006, CRC/C/JOR/CO/3, Concluding observations on third report, paras 46, 47 and 48)

“The Committee notes that corporal punishment is prohibited in schools and institutions and that it is unlawful as a disciplinary measure in penal institutions. However, the Committee expresses its concern that physical punishment in the home is culturally accepted and that article 62 of the Penal Code permits parents to discipline their children within the limits established by ‘general custom’. The Committee regrets that an all-inclusive ban of corporal punishment is not included in the draft Child Rights Act.

“The Committee reiterates that corporal punishment is not compatible with the provisions of the Convention and inconsistent with the requirement of respect for the child’s dignity, as specifically required by article 28, paragraph 2, of the Convention. Therefore, the Committee recommends that the State party prohibit by law all forms of corporal punishment in the home as well as in all other settings, including private and public institutions, and effectively enforce this ban. The Committee also recommends that the State party review the draft Child Rights Act with a view to introducing an all inclusive ban on corporal punishment.

“The Committee recommends that the State party conduct a comprehensive study to assess the nature and extent of corporal punishment in different settings, including the home environment. The Committee also recommends that the State party sensitize and educate parents, guardians and professionals working with and for children by carrying out public education campaigns about the harmful impact of violent forms of ‘discipline’ and promote positive, non-violent, participatory methods of child-rearing. Finally, the Committee draws the attention of the State party to its newly adopted general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and to the recommendations adopted by the Committee on its day of general discussion on violence against children within the family and in schools held on 28 September 2001 (see CRC/C/111).”

Committee on the Rights of the Child

(2 June 2000, CRC/C/15/Add.125, Concluding observations on second report, paras. 41 and 42)

“Noting the establishment of the Family Protection Unit and efforts to address domestic violence, the Committee remains concerned, in light of articles 19 and 39 of the Convention, at the incidence of ill-treatment of children in schools and within the family. The Committee is concerned that apart from Penal Code provisions with respect to abandonment, abduction and indecent assault with violence, existing legislation is inadequate, and there is no comprehensive plan with effective measures to prevent and treat cases of abuse. Concurring with CEDAW, the Committee is concerned that the serious problem of violence against women in Jordan has harmful consequences on children.

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

Committee Against Torture

(20 July 1995, A/50/44, paras. 159-182, Concluding observations on initial report, paras. 169 and 177)

“The Committee expresses concern about the continuing application of the death penalty, as well as corporal punishment, which could constitute in itself a violation in terms of the Convention.

“The Committee expects Jordan to review its policy relating to corporal punishment.”

Committee on the Rights of Persons with Disabilities

(15 May 2017, CRPD/C/JOR/CO/1, Concluding observations on initial report, paras. 33 and 34)

“The Committee is concerned that articles 8 and 62 of the Criminal Code (Law No. 16 of 1960), which refers to “discipline and what is permitted by law and allowed by customs”, may in practice be used to justify acts of violence against women, girls and boys with disabilities.

“The Committee recommends that the State party:

- (a) Repeal articles 8 and 62 of the Criminal Code to fully prohibit corporal punishment;
- (b) Mainstream a disability-rights perspective in the work of the National Taskforce on Protection against Family Violence of 2016 and in the new draft law on protection against family violence.”

Prevalence/attitudinal research in the last ten years

Research conducted in 2012 as part of the worldwide Demographic and Health Surveys Programme found 89% of Jordanian children aged 2-14 experienced some form of violent “discipline” (psychological aggression and/or physical punishment) at home in the month prior to the survey. Children in the poorest households were more likely to experience violent discipline (90%) than those in the wealthiest households (81%). On average 66% of children experienced physical punishment, which was more common for young children aged 2-4 (76%) than older children aged 10-14 (52%). On average 20% experienced severe physical punishment (hit or slapped on the face, head or ears, or hit repeatedly) which was slightly more common for boys (22%) than girls (18%). In contrast to its actual prevalence, only 23% of parents believe physical punishment is necessary to raise a child. Only 8% of children experienced only non-violent forms of discipline.

(Department of Statistics [Jordan] & ICF International (2013), *Jordan Population and Family Health Survey 2012*, Calverton, Maryland: Department of Statistics & ICF International)

According to UNICEF statistics collected between 2005 and 2013, 90% of children aged 2-14 experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in the month prior to the survey. Two thirds (67%) experienced physical punishment and 88% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted). A smaller percentage (23%) 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 study of the relationship between gender and physical punishment in China, Colombia, Italy, Jordan, Kenya, Philippines, Sweden, Thailand and the US, which used interviews with around 4,000 mothers, fathers and children aged 7-10, found that in Jordan 66% of girls and 80% of boys had experienced “mild” corporal punishment (spanking, hitting, or slapping with a bare hand; hitting or slapping on the hand, arm, or leg; shaking, or hitting with an object); 21% of girls and 31% of boys had experienced severe corporal punishment (hitting or slapping the child on the face, head, or ears,

or beating the child repeatedly with an implement) by someone in their household in the past month. Smaller percentages of parents believed it was necessary to use corporal punishment to bring up their child (for girls, 8% of mothers and fathers believed it was necessary, for boys 7% of mothers and 10% of fathers).

(Lansford, J. et al (2010), "Corporal Punishment of Children in Nine Countries as a Function of Child Gender and Parent Gender", *International Journal of Pediatrics*)

A 2007 study into violence against children in Jordan found that in schools children are subjected to "mild, moderate and severe" violence. "Severe violence" – defined by the study to include hitting a child with an object such as a rod, rope or cane and biting and burning the child – was the most common kind of violence, suffered by 57% of the 3,130 children who took part in the study. 50% of the children suffered "mild" violence from teachers and other staff at school – "mild" violence was defined to include slapping, pinching, pulling hair, pushing or shoving and twisting arms or legs. The study noted that violence against children in the home often took place in the context of "discipline": 53% of children had experienced "mild" violence from their parents, 34% severe violence.

(Elayyan, K. (2007), *Violence against children in Jordan study: Summary*, UNICEF)