

Corporal punishment of children in Mali

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Child population 9,526,000 (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 penal institutions.

The “right of correction” that was in the Family Relations Code 1973 was not included in the new Family Code enacted in 2011 – but this is a silent repeal and there is no explicit prohibition of all corporal punishment in childrearing. The near universal acceptance of a certain degree of violence in childrearing necessitates clarity in law that no degree of corporal punishment is acceptable or lawful. Prohibition should be enacted of all corporal punishment by persons 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 (including nurseries, crèches, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Penal institutions – Prohibition should be enacted of corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law.

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. The Family Relations Code 1973 stated that “the authority of the father comprises a right to custody, of management, surveillance and correction” (art. 84). The Code was replaced by the new Family Code 2009 (amended 2011) which does not include the right of correction, stating only that parents must ensure the “maintenance and education” of the child (art. 565). However, this is a silent repeal and does not send a clear message that all corporal punishment in childrearing is unlawful. The Code on the Protection of the Child 2002 does not include prohibition of all corporal punishment and in any case was not reviewed or adopted and is now obsolete.¹ The Code on Persons and the Family 2011 states that the child must obey, honour and respect his father and mother (art. 562) and that parental authority carries the obligation to protect the child’s safety, health, full development and morality and to respect the rights and duties of custody, supervision and education (art. 563).

The Government accepted the recommendation to “combat” all corporal punishment of children made during the Universal Periodic Review (UPR) of Mali in 2008,² and at the second UPR in 2013 reported that this had been achieved.³ But as already noted, law reform to date does not explicitly prohibit all corporal punishment in childrearing.

In November 2017, the Government reported that the Child Protection Code and the Criminal Code were under review, and that a Bill against Gender Based Violence was under discussion.⁴

Alternative care settings

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

Day care

Corporal punishment is prohibited in preschools and kindergartens under internal regulation No. 94-5000 of 15 April 1994 (kindergartens), but there is no explicit prohibition in relation to other early childhood care and to day care for older children.

Schools

Corporal punishment is prohibited in schools, under internal regulations No. 94-4856/MEB-CAB of 8 April 1994 (fundamental schools) and No. 94-4999/MEB/CAB (special education institutions).

Penal institutions

Corporal punishment is considered unlawful as a disciplinary measure in penal institutions, but there is no explicit prohibition. The penitentiary system is governed by Decree No. 88-002 1988, article 105 of which forbids staff from using acts of violence, and punishments for disciplinary offences (art. 112) do not include corporal punishment. Article 14 of the Code on the Protection of the Child 2002 states

¹ UNICEF (2013), *Annual report – Mali*

² 13 June 2008, A/HRC/8/50, Report of the working group, para. 56(12)

³ 4 December 2012, A/HRC/WG.6/15/MLI/1, National report to the UPR, para. 56(12)

⁴ 6 November 2017, A/HRC/WG.6/29/MLI/1, National report, paras. 50 and 54

that a child placed in a protective educational or rehabilitative institution, or in a place of detention, has the right to physical and moral protection but does not explicitly prohibit corporal punishment.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not a permitted sanction for crime under the Code on the Protection of the Child 2002 (art. 169) or the Criminal Code.

Universal Periodic Review of Mali's human rights record

Mali was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 2). The following recommendation was made and was accepted by Mali:⁵

“To adopt effective measures to combat all forms of ill-treatment of children, including corporal punishment (Italy)”

The second cycle review took place in 2013 (session 15). In its national report, the Government referred to the recommendation made by Italy in 2008 and stated that corporal punishment is prohibited by regulations in schools, formally in the action plan, and under the Penal Code which prohibits all forms of violence.⁶ But despite there being no explicit prohibition in legislation relating to all settings, as described above, no recommendation was made during the review specifically concerning corporal punishment. The following relevant recommendation was made and was accepted by the Government:⁷

“Undertake the necessary measures to bring its national legislation in conformity with international human rights conventions (Netherlands).”

Third cycle examination took place in 2018 (session 29). No recommendations specifically on corporal punishment were extended but the Government supported the following recommendations:⁸

“Continue to enhance further its efforts to promote and protect the rights of children and women (Mauritius)”

“Redouble efforts to significantly reduce and eventually eliminate all forms of discrimination and violence against women and children (Cabo Verde)”

“Take steps to better protect the rights of the child and establish, resource and monitor specialised agencies to promote and protect the rights of vulnerable children (Australia)”

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(3 May 2007, CRC/C/MLI/CO/2, Concluding observations on second report, paras. 6, 39 and 40)

“While the Committee notes that some of its previous recommendations (CRC/C/15/Add.113) have been implemented, it regrets that many have not been sufficiently addressed, including those recommendations regarding ... corporal punishment.... These concerns and recommendations are

⁵ 13 June 2008, A/HRC/8/50, Report of the working group, para. 56(12)

⁶ 4 December 2012, A/HRC/WG.6/15/MLI/1, National report to the UPR, para. 56(12)

⁷ 12 March 2013, A/HRC/23/6, Report of the working group, para. 111(8)

⁸ 17 April 2018, A/HRC/38/7, Report of the working group, paras. 114(83), 114(96), and 114.117

reiterated in the present document.

“The Committee appreciates the efforts undertaken by the State party to combat corporal punishment by implementing legislative, administrative, social and educational measures. However, it remains concerned that corporal punishment is lawful in the home and that it is used within families, Koranic schools and alternative care settings, and not explicitly prohibited in penal institutions.

“The Committee urges the State party, while taking into account its general comment No. 1 on the aims of education (CRC/GC/2001/1) and general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/2006/8), to:

- a) explicitly prohibit corporal punishment within the home, in all alternative care settings, and in penal institutions;
- b) continue to sensitize and educate parents, guardians and professionals working with and for children by carrying out public educational campaigns on the harmful effects of corporal punishment;
- c) continue to promote positive, non-violent forms of discipline as an alternative to corporal punishment; and
- d) seek assistance from, among others, UNICEF and the World Health Organization (WHO).”

Committee on the Rights of the Child

(2 November 1999, CRC/C/15/Add.113, Concluding observations on initial report, para. 25)

“While the Committee is aware that corporal punishment is prohibited in schools and in care and other institutions, including the Bollé Observation and Rehabilitation Centre, it remains concerned that traditional societal attitudes continue to encourage the use of such punishment within families and generally within society. The Committee recommends that the State party take appropriate measures to prohibit by law corporal punishment in care institutions. The Committee further recommends that the State party reinforce measures to raise awareness of the negative effects of corporal punishment and change cultural attitudes to ensure that discipline is administered in a manner consistent with the child’s dignity and in conformity with the Convention.”

Prevalence/attitudinal research in the last ten years

Research conducted in 2015 as part of UNICEF’s Multiple Indicator Cluster Surveys (MICS) programme, found on average 73% 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 65% of children experienced psychological aggression, 38% physical punishment and 14% severe physical punishment (hit or slapped on the face, head or ears, or hit repeatedly). Only 13% of children experienced only non-violent forms of discipline.

(Institut National de la Statistique (2016), *Enquête par Grappes à Indicateurs Multiples au Mali (MICS-Mali), 2015, Résultats clés*, Bamako, Mali: INSTAT)

In a 2009 study which involved interviews with 1,200 adults and 600 children aged 10-15, 83.3% of adults and 82.5% of children said corporal punishment happens in schools, despite it being prohibited. A large majority (89.1%) of respondents said corporal punishment has a negative impact on children. Over half the girls (55.7%) did not feel able to speak about their rights to an adult who had inflicted corporal punishment on them at school, and 53% of women did not feel able to speak

about their child's rights to an adult who had inflicted corporal punishment on their child. Half the respondents (50.6%) said they would not tell the authorities if they or their child experienced corporal punishment. Sixty-four per cent of respondents said violence in schools was partly due to a lack of teacher training. The report recommends prohibition of all corporal punishment, in line with the recommendations of the Committee on the Rights of the Child.

(Antonowicz, L. (2010), *La violence faite aux enfants en milieu scolaire au Mali*, Plan & Save the Children)