

Corporal punishment of children in Morocco

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Child population 11,121,000 (UNICEF, 2015)

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.

We have been unable to establish whether or not legislation confirms a parental right to punish or correct children, but corporal punishment is widely socially accepted and legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment of children. 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. All legal defences for the use of corporal punishment should be repealed and explicit prohibition of all corporal punishment should be enacted in relation to parents and all those with parental authority.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, 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 should be confirmed through the enactment of legislation which clearly prohibits all corporal punishment in all education settings, public and private, at all levels.

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. Provisions against violence and abuse in the Criminal Code and the Family Code 2004 are not interpreted as prohibiting corporal punishment of children. Article 22 of the Constitution 2011 protects every person from cruel treatment: “The physical or moral integrity of anyone may not be infringed, in whatever circumstance that may be and by any person that may be, public or private. No one may inflict on others, under whatever pretext there may be, cruel, inhuman, [or] degrading treatments or infringements of [their] dignity. The practice of torture, under any of its forms and by anyone, is a crime punishable by the law.” This is not interpreted as protecting children from all corporal punishment.

The Government had initially signalled its commitment to prohibition by clearly accepting recommendations to prohibit corporal punishment in all settings including the home made during the Universal Periodic Review of Morocco in 2012.¹ The Government again accepted recommendations to prohibit in 2017, but stated that they were “fully implemented”, referring in particular to the 2011 Constitution.² The Global Initiative no longer considers Morocco committed to prohibiting all corporal punishment of children without delay. Despite accepting those UPR recommendation in 2012 and 2017, and despite the adoption of potential legislative vehicles, the Government has not taken any clear action since then to fulfil this commitment.

The Code of Criminal Procedure and the Criminal Code are being revised.³ After over a decade of discussions, Law no. 103-13 on combating violence against women was adopted in February 2018. We are yet to examine the text but there are no indications it explicitly prohibits all corporal punishment.⁴

Alternative care settings

Corporal punishment is lawful in alternative care settings as for parents. There is no explicit prohibition of corporal punishment in the law on foster care for abandoned children 2002. In reporting to the Committee on the Rights of the Child in 2014, the Government stated that measures had been taken to implement Law No. 14.05 establishing child care quality standards in institutions but did not indicate whether these prohibit all corporal punishment.⁵

Day care

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

Schools

A Ministerial directive in 2000 stated that corporal punishment should not be used in schools, but there is no explicit prohibition in law.

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions. It is not among the permitted disciplinary penalties in the Prisons Act No. 23-98, adopted in 1999.

¹ 6 July 2012, A/HRC/21/3, Report of the working group, paras. 129(62) and 129(65)

² 5 September 2017, A/HRC/36/6/Add.1, Report of the working group: Addendum, para. 11

³ 20 February 2017, A/HRC/WG.6/27/MAR/1, National report, para. 16

⁴ See <https://www.hrw.org/news/2018/02/26/morocco-new-violence-against-women-law>, accessed 5 March 2018

⁵ 17 July 2014, CRC/C/MAR/Q/3-4/Add.1, Reply to list of issues, para. 86

Sentence for crime

Corporal punishment is unlawful as a sentence for crime under the Code of Criminal Procedure 2002.

Universal Periodic Review of Morocco's human rights record

Morocco was examined in the first cycle of the Universal Periodic Review in 2008 (session 1). No recommendation was made specifically concerning corporal punishment of children. However, the following recommendation was made and accepted by the Government:⁶

“To continue the harmonization of its domestic law with regard to its international obligations on human rights (Netherlands)”

Examination in the second cycle took place in 2012 (session 13). The following recommendations were made and were accepted by the Government:⁷

“Enact legislative provisions prohibiting corporal punishment of girls and boys in the home and schools (Mexico);

“Prohibit all forms of violence against children, including corporal punishment, in all settings (Portugal)”

Morocco's third cycle examination took place in 2017 (session 27). The following recommendations were made:⁸

“Implement recommendations 129.62 and 129.65 of the second cycle, and unequivocally ban corporal punishment in all places, including at home, in alternative care institutions, day nurseries, and schools (Haiti);

“Establish legislation that prohibits corporal punishment and illtreatment of boys and girls (Paraguay)”

The Government accepted the recommendations “as fully implemented”, referring in particular to the 2011 Constitution.⁹

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(14 October 2014, CRC/C/MAR/CO/3-4, Concluding observations on third/fourth report, paras. 36 and 37)

“The Committee is concerned that in spite of the commitment made during the 2012 universal periodic review (A/HRC/21/3, para. 129.65), the State party has still not prohibited corporal punishment in the home, alternative care settings, day care and schools. The Committee is particularly concerned that corporal punishment still constitutes a widespread phenomenon, the vast majority of children having been subjected to violent forms of discipline including, in many instances, severe forms of punishment. The Committee is further concerned that in children's homes and other governmental child-care institutions, violence is the disciplinary measure used most often.

“In the light of general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee urges the State party to:

- a) unequivocally prohibit corporal punishment in all settings;
- b) ensure that laws prohibiting corporal punishment are effectively implemented and that legal proceedings are systematically initiated against those responsible for mistreating children;

⁶ 22 May 2008, A/HRC/8/22, Report of the working group, para. 75(9)

⁷ 6 July 2012, A/HRC/21/3, Report of the working group, paras. 129(62) and 129(65)

⁸ 4 May 2017, A/HRC/WG.6/27/L.4, Draft report of the working group, unedited version, paras. 6(90) and 6(91)

⁹ 5 September 2017, A/HRC/36/6/Add.1, Report of the working group: Addendum, para. 11

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

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

Committee on the Rights of the Child

(10 July 2003, CRC/C/15/Add.211, Concluding observations on second report, paras. 42 and 43)

“The Committee notes the establishment of a committee of experts to draft a national strategy to fight child abuse and the exploitation of children and the various initiatives undertaken to raise awareness on this issue, such as the note sent in 2000 by the Ministry of Education to all education professionals directing them to refrain from administering corporal punishment. However, the Committee remains concerned at the apparently ongoing, and rather common use of corporal punishment in schools; the lack of awareness of and information on domestic violence, ill-treatment and abuse (sexual, physical and psychological) of children; and the insufficient financial and human resources allocated to programmes to combat the abuse of children. Moreover, the Committee is concerned at the age-limit set in the legislation regarding certain types of violence against children as children over 12 do not benefit from the same protection as younger children (report, para. 183).

“In light of article 19 of the Convention, the Committee recommends that the State party:

a) conduct a study to assess the root causes, nature and extent of ill-treatment and abuse of children, and design policies and programmes to prevent and combat it;

b) take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, schools and in institutions;

c) amend its legislation regarding the existing age-limit for special protection against violence;

d) carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment....”

Committee on the Rights of the Child

(30 October 1996, CRC/C/15/Add.60, Concluding observations on initial report, paras. 15 and 27)

“The Committee is concerned that appropriate measures have not yet been taken to prevent and combat ill-treatment of children within the family and at the lack of information on this matter. The problems of the exploitation of child labour, in particular the use of young girls as domestic workers, and child prostitution also require special attention.

“The Committee encourages the Government of Morocco to take all measures to prevent and combat ill-treatment of children, including child abuse within the family, corporal punishment, child labour and the sexual exploitation of children. It recommends that comprehensive studies be initiated with regard to those important issues to make possible a better understanding of those phenomena and facilitate the elaboration of policies and programmes to combat them effectively. In this perspective, the Government should pursue its efforts in close cooperation with community leaders and with non-governmental organizations, with a view to promoting change in persisting negative attitudes towards children belonging to the most vulnerable groups.”

Committee Against Torture

(21 December 2011, CAT/C/MAR/CO/4, Concluding observations on fourth report, para. 24)

“The Committee notes with concern that there is no law in Morocco that prohibits the use of corporal punishment within the home, at school or in institutions that provide child protection services (art. 16).

The State party should amend its laws in order to prohibit the use of corporal punishment in schools, in the home and in centres that provide child protection services. It should also raise public awareness of positive, participatory and nonviolent forms of discipline.”

Committee on the Rights of Persons with Disabilities

(28 August 2017, CRPD/C/MAR/CO/1 Advance unedited version, Concluding observations on initial report, paras. 16 and 17)

“The Committee is concerned about reported violence, abuse and corporal punishment against children with disabilities, including abandoned children with disabilities, in the home, alternative and day care settings, and in schools.

“The Committee recommends that the State party adopt legislation and concrete measures to ensure that children with disabilities, including abandoned children with disabilities, are adequately protected from violence, exploitation and abuse, including corporal punishment, and that perpetrators are sanctioned.”

Prevalence/attitudinal research in the last ten years

In a study by the National Human Rights Council on the rights of children in child protection centres (accommodating children in conflict with the law and children without parental care), which included visits to 17 centres and focus groups with children and staff, a large number of children said physical violence was the “pedagogical tool” used to “discipline” them. Punishments included hitting children with pipes and sticks and slapping them. Some staff members thought using violence was the only way to “correct” children.

(Conseil national des droits des homes (2013), Enfants dans les centres de sauvegarde: une enfance en danger - pour une politique de protection intégrée de l'enfant, Rabat: CNDH)

A 2012 study by Human Rights Watch documented beatings and insults used as punishments for child domestic workers by their employers. Virtually all child domestic workers in Morocco are girls; the 20 girls interviewed for the report had begun work aged 8-15.

(Human Rights Watch (2012), Lonely Servitude: Child Domestic Labor in Morocco, NY: Human Rights Watch)

According to a report by the Moroccan Ministry of Justice, widespread violence against children is reported in government run orphanages and care institutions, with physical punishment being the most practiced disciplinary measure.

(Cited in Abdul-Hamid, Y. (2011), Child Rights Situation Analysis: Middle East and North Africa, Save the Children Sweden)

At least 1,000 cases of violence in schools were recorded in 2009, according to the Centre for People’s Rights: 400 cases were physical violence, 350 psychological violence and 126 sexual violence. The physical violence mostly consisted of corporal punishment, including slapping, kicking and hitting with sticks, iron rulers and electrical cables.

(Reported in Algeria News, 8 October 2010, <http://news.marweb.com/algeria>)

According to statistics collected in 2006-2007 under round 3 of the UNICEF Multiple Indicator Cluster Survey programme (MICS3), 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. Forty-one per cent of mothers and caregivers thought physical punishment was necessary in childrearing. Nearly a quarter (24%) of children experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement), 89% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted).

(UNICEF (2008), Enquête Nationale à Indicateurs Multiples et Santé des Jeunes, ENIMSJ 2006-2007, Rabat, Maroc: UNICEF)

[End Corporal Punishment](#) is a critical initiative of the [Global Partnership to End Violence Against Children](#). Previously known as The Global Initiative to End All Corporal Punishment of Children, we act as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We track global progress, support and hold governments to account, partner with organisations at all levels, and engage with human rights treaty body systems.