

# Corporal punishment of children in Togo

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Child population 3,553,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal  
Punishment of Children**

**Law reform has been achieved. Corporal punishment is unlawful in all settings, including the home.**

## Prohibition of corporal punishment

### Home

Corporal punishment is prohibited in the home under article 353 of the Children's Code 2007 together with article 357. Article 353 protects children from all forms of violence perpetrated by parents or any other person having control or custody of the child: "The state protects the child from all forms of violence including sexual abuse, physical or mental injury or abuse, abandonment or neglect, and ill treatment by parents or by any other person having control or custody over him" (unofficial translation). Article 357 explicitly includes corporal punishment among the forms of violence that are punishable: "Physical and psychological abuse, corporal punishment, deprivation of care or withholding of food are punished by the penalties provided [above]" (unofficial translation).

### Alternative care settings

Corporal punishment is prohibited in all forms of alternative care under articles 353, 357 and 376 of the Children's Code 2007 (see under "Home" and "School").

### Day care

Corporal punishment is prohibited in all forms of early childhood care and all day care for older children under articles 353, 357 and 376 of the Children's Code 2007 (see under "Home" and "School").

### School

Corporal punishment is prohibited in schools, vocational training centres and institutions in article 376 of the Children's Code 2007 (unofficial translation): "Corporal punishment and other forms of violence or abuse are prohibited in schools, vocational training, and institutions. This includes any institution or orphanage, rehabilitation centre for disabled children, reception and rehabilitation centre, hospital, re-education centre or other place of childcare, temporary or permanent."

## **Penal institutions**

Corporal punishment is unlawful as a disciplinary measure in penal institutions. The Children's Code 2007 states that children in conflict with the law should be treated with humanity and with respect for their human dignity and prohibits inhuman, cruel and degrading treatment (art. 347), and explicitly prohibits corporal punishment in institutions (art. 376) (see under "School").

## **Sentence for crime**

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in the Criminal Code and the Code of Criminal Procedure.

## **Universal Periodic Review of Togo's human rights record**

Togo was examined in the first cycle of the Universal Periodic Review in 2011 (session 12). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:<sup>1</sup>

"Strengthen efforts to fulfil its obligations under the Convention on the Rights of the Child (Australia);

"Develop a national plan of action for the implementation of children's rights and to adopt a holistic child rights approach (Islamic Republic of Iran);

"Develop policies and actions aimed at modifying or eliminating customs and practices that promote violence and/or discrimination against women, covering family, marital, social and working areas (Mexico);

"Take necessary measures to effectively combat violence against women and girls and enact legislation on domestic violence. (Republic of Moldova);

"Adopt all necessary measures to eradicate child abuse, labour and sexual exploitation of children, as well as violence against children, paying particular attention to cases of children who are killed because they were born with disabilities, malformation, without pigmentation or because their mother died during childbirth (Uruguay);

"Take adequate measures to counter the worrying increase of violence against, abuse and sexual exploitation of children, by ensuring the implementation of applicable laws including through awareness and education programmes targeting more particularly parents, teachers, correctional officers and other relevant professionals (Canada)"

Examination in the second cycle took place in 2016 (session 26). No recommendation was issued specifically on corporal punishment of children.

Togo will be examined in the third cycle in 2021.

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<sup>1</sup> 14 December 2011, A/HRC/19/10, Report of the working group, paras. 100(10), 100(29), 100(42), 100(59), 100(66) and 101(13)

## **Recommendations by human rights treaty bodies**

### ***Committee on the Rights of the Child***

(8 March 2012, CRC/C/TGO/CO/3-4, Concluding observations on third/fourth report, paras. 43 and 44)

“While welcoming the prohibition of corporal punishment in all settings, as provided for in the Children’s Code, the Committee expresses concern that corporal punishment remains socially accepted and widely practiced in schools and in the home.

“The Committee urges the State party to take more active measures to raise awareness on the negative impact of all forms of corporal punishment, as recommended by the Committee since 1997 (CRC/C/15/Add.83, para. 40 and CRC/C/15/Add.255, para. 39). The Committee in particular urges the State party to:

- a) ensure that laws prohibiting corporal punishment are effectively implemented and that legal proceedings are systematically initiated against persons subjecting children to corporal punishment;
- b) 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 this practice, and promote positive, non-violent and participatory forms of child-rearing and alternative forms of discipline as an alternative to corporal punishment;
- c) ensure the involvement and participation of the whole society, including children, in the design and implementation of preventive strategies against violence and other forms of abuse; and
- d) take guidance from the Committee’s general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.”

### ***Committee on the Rights of the Child***

(31 March 2005, CRC/C/15/Add.255, Concluding observations on second report, paras. 6, 38 and 39)

“The Committee regrets that many of the concerns and recommendations (CRC/C/15/Add.83) it made upon consideration of the State party’s initial report (CRC/C/3/Add.42) have been insufficiently addressed, especially those regarding ... corporal punishment (para. 40)....

“The Committee is deeply concerned that corporal punishment of children remains legally and socially accepted, and consequently is common in families and schools and other institutions for children, despite the Committee’s previous recommendations (CRC/C/15/Add.83) and the Order of the Ministry of Education issued in 1980.

“The Committee recommends that the State party:

- a) adopt a law effectively prohibiting all forms of corporal punishment of children in the family, in schools, in detention centres, in other forms of childcare institutions and in the community;
- b) take effective measures to prohibit the use of violence against children, including corporal punishment, by parents, teachers and other caregivers;
- c) undertake well-targeted public awareness campaigns on the negative impact of corporal punishment on children, and provide teachers and parents with training on non-violent forms of discipline as an alternative to corporal punishment.”

### ***Committee on the Rights of the Child***

(10 October 1997, CRC/C/15/Add.83, Concluding observations on initial report, paras. 17 and 40)

“The Committee is concerned at the fact that corporal punishment is a common practice in the family, in schools and in other institutions. In this regard, the Committee is worried by the absence of a comprehensive law that clearly prohibits corporal punishment of children.

“In the light of articles 3, 19 and 28 (2), the Committee strongly recommends that corporal punishment be explicitly prohibited by law and that information campaigns be launched to appropriately sensitize adults on the dangers and harms of the practice. The Committee further recommends that the legislation protecting children from violence be amended in accordance with the provisions and principles of the Convention.”

### ***Committee Against Torture***

(27 August 2019, CAT/C/TGO/CO/3, Concluding observations on third report, paras. 32 and 33)

“With reference to its previous concluding observations, the Committee is concerned that, in spite of articles 353–356 and 376 of the Children’s Code, which criminalize the corporal punishment of children in all settings and contexts, many children continue to be victims of multiple forms of abuse on a daily basis and are exposed to various harmful practices, such as forced and early marriage, or face accusations of witchcraft. Taking note of the recent findings of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, on her visit to Togo from 27 to 31 May 2019, the Committee is deeply concerned about the exploitation of children, with many children working as domestic servants, porters or market vendors, performing the worst forms of labour in agriculture or being subjected to sexual exploitation and prostitution, despite the provisions of the new Criminal Code, which, in article 317, defines and sanctions the various forms of trafficking in persons and, in article 338, criminalizes and sanctions forced labour (arts. 2, 11–14 and 16).

“The State party should:

- (a) Introduce legislation that expressly and comprehensively prohibits all forms of violence against children in all settings;
- (b) Implement existing relevant legislation and systematically launch investigations and proceedings whenever cases of suspected child abuse, including sexual violence, are uncovered, so that the perpetrators are punished and the victims receive reparation, including rehabilitation and health care services that encompass psychological support;
- (c) End the phenomenon of domestic servitude by establishing effective monitoring mechanisms and ensure the effective and systematic registering of complaints, investigations and convictions;
- (d) Continue awareness-raising and training campaigns on child protection for teachers as well as traditional and religious leaders.”

### ***Committee Against Torture***

(11 December 2012, CAT/C/TGO/CO/2, Concluding observations on second report, para. 19)

“The Committee is concerned that corporal punishment of children is prohibited in schools but not in social or family situations, where it is reported to be “common and socially acceptable provided that it remains proportionate” (art. 16).

The State party should amend its criminal legislation, particularly Act No. 2007-017 of 6 July 2007 on the Children's Code, so as to prohibit and criminalize all forms of corporal punishment of children in all environments and contexts, in accordance with international standards."

### ***Committee Against Torture***

(28 July 2006, CAT/C/TGO/CO/1, Concluding observations on initial report, para. 19)

"The Committee has noted the worrying detention conditions prevailing in Togo, in particular in Lomé and Kara prisons. The most widespread problems are overcrowding and a shortage of food, poor hygiene and a lack of material, human and financial resources. The treatment of prisoners remains a matter of concern to the Committee. Cases of corporal punishment for disciplinary offences have been reported. Often women and children are not held separately from men and adults, and persons awaiting trial are not separated from those serving sentence (art. 11).

The State party should put an end to practices that run counter to the Standard Minimum Rules for the Treatment of Prisoners. It should also take immediate steps to reduce overcrowding in prisons and the number of people held in pretrial detention, and to ensure that women and children are held separately from men and adults and that persons awaiting trial are separated from those serving sentence."

### **Prevalence/attitudinal research in the last ten years**

In 2016, a national study on corporal punishment in Togo was conducted as part of the project "Advocacy for the Elimination of Corporal Punishment in Togo" which found that, despite legal prohibition, corporal punishment persists in all areas of children's lives (homes, schools and institutions). According to testimonials provided by parents, teachers and other carers, children are "disciplined" by hitting, violent beatings with a stick, slapping, spanking, pinching, whipping, chores, and other methods. These practices exist in all regions, and in both urban and rural settings. At school, the study finds both violent and non-violent methods of discipline are used, but despite the use of non-violent methods by some teachers, the concept of positive discipline is not fully engrained in school environments, and leaders and supervisors of institutions often disregard non-violent methods of disciplining children.

(Plan International & CNT-EPT (2016), *Étude sur l'Élimination du Châtiment Corporel au Togo*, Lomé: Plan International & CNT-EPT)

In a study on the wellbeing and vulnerability of child domestic workers, 56% of the child domestic workers involved in Togo said their employers physically punished them. The study was conducted in 2009 in Peru, Costa Rica, Togo, Tanzania, India and Philippines with around 3,000 children, mostly aged 10-17, half of whom worked as paid or unpaid domestic workers.

(Anti-Slavery International (2013), *Home Truths: Wellbeing and vulnerabilities of child domestic workers*, London: Anti-Slavery International)

According to a study carried out in 2012 on "perceptions, attitudes, behaviours and recourse actions relating to violence against children and young people in their educational and learning environments in Togo", more than 89% of surveyed schools still use violence for "educating" pupils.

(BØRNEfonden (2012) cited in Plan International & CNT-EPT (2016), *Étude sur l'Élimination du Châtiment Corporel au Togo*, Lomé: Plan International & CNT-EPT)

According to statistics collected in 2010 under round 4 of the UNICEF Multiple Indicator Cluster Survey programme (MICS4), 93.2% of children aged 2-14 experienced violent "discipline" (physical

punishment and/or psychological aggression) in the home in the month prior to the survey. More than three quarters (77.4%) experienced physical punishment, while a smaller percentage (34.6%) of mothers and caregivers thought physical punishment was necessary in childrearing. Seventeen per cent of children were severely physically punished (hit or slapped on the face, head or ears or hit over and over with an implement), 85.6% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted).

(Direction Générale de la Statistique et de la Comptabilité Nationale (2012), *Enquête par grappes à indicateurs multiples MICS Togo (2010), Rapport final*, Direction Générale de la Statistique et de la Comptabilité Nationale & UNICEF)