

# **Corporal punishment of children in Algeria: Briefing for the Universal Periodic Review, 41<sup>st</sup> session, Oct./Nov. 2022**



*From the Global Partnership to End Violence Against Children, March 2022*

This submission provides an update on the legality of corporal punishment of children in Algeria since its review in the third cycle UPR in 2017. Corporal punishment prohibition is still to be fully achieved in the home, alternative care settings, day care and penal institutions.

**The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.**

**In Algeria, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child and during the 2<sup>nd</sup> and 3<sup>rd</sup> cycle UPR of Algeria, respectively in 2012 and 2017.**

**We hope the Working Group will note with concern the legality of corporal punishment of children in Algeria. We hope states will raise the issue during the review in this year and make a specific recommendation that Algeria enact a legislation to clearly prohibit all corporal punishment of children in every setting of their lives and repeal any legal defence allowing its use, as a matter of priority.**

## **1 Review of Algeria in the 3<sup>rd</sup> cycle UPR (2017) and progress since**

1.1 Algeria was reviewed in the third cycle of the Universal Periodic Review in 2017 (session 27). Recommendations to prohibit corporal punishment in all settings were made and partially accepted by the Government. The Government noted the part of the recommendation that referred to prohibition “in all settings”.<sup>1</sup>

<sup>1</sup> 19 September 2017, A/HRC/36/13/Add.1, Report of the working group: Addendum, paras. 48 and 49

- 1.2 Since the review, we could not access any information suggesting that progress was made to enact a legislation to explicitly prohibit corporal punishment of children in all settings.
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Algeria. We hope states will raise the issue during the review in 2022 and make a specific recommendation that Algeria intensify its efforts to enact a law to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, as a matter of urgency.**

## 2 Legality of corporal punishment in Algeria

### ***Summary of current law and opportunities for achieving prohibition***

Corporal punishment of children in Algeria is lawful in the home, alternative care settings, day care and penal institutions.

There appears to be no confirmation in legislation of a right of parents and others with parental authority to administer physical punishment, but legal provisions against violence are not interpreted as prohibiting all corporal punishment in childrearing. The near universal acceptance of corporal punishment in “disciplining” children necessitates a clear statement in law that all corporal punishment, however “light”, is prohibited.

- 2.1 **Home (lawful):** Corporal punishment is lawful in the home. Provisions against violence and abuse in the Criminal Code, the Family Code 1984, Law No. 72-03 on the protection of childhood and adolescence 1972 and the Constitution 1996 (amended 2016) are not interpreted as prohibiting corporal punishment in childrearing. Article 62 of the Family Code states that “the rights of custody consist of maintenance, schooling and education of the child in the religion of his father and in the safeguarding of his physical and moral health” (unofficial translation). There is no indication that this is intended to prohibit physical punishment in childrearing.
- 2.2 In its report to the Committee on the Rights of the Child in 2011, the Government stated that corporal punishment “is strictly prohibited in schools, within the family and within all other contexts and institutions”.<sup>2</sup> Under examination by the Committee in 2012, the Government again asserted that “the Criminal Code expressly prohibited corporal punishment in the home, in schools and in other institutions”.<sup>3</sup> However, with the exception of schools there is no explicit prohibition of corporal punishment in law. Article 269 of the Criminal Code punishes violence against children with the exception of light violence (“*a l’exclusion des violences legeres*”); article 442 addresses offences against the person and article 442bis punishes light violence, but there is nothing to suggest this prohibits all corporal punishment in childrearing. Amendments to the Criminal Code in 2006 and in 2015 did not include prohibition of corporal

<sup>2</sup> 18 July 2011, CRC/C/DZA/3-4, Third/fourth report to the Committee on the Rights of the Child, para. 82

<sup>3</sup> 14 June 2012, CRC/C/SR.1714, Summary record of 1714<sup>th</sup> meeting, para. 9

punishment.

2.3 Article 2 of the Child Protection Act no. 15-12, passed in July 2015, defines a “child in danger” (a child who can benefit from child protection mechanisms) as a child exposed to “... mistreatment, including torture, attacks on his/her physical integrity, confinement, withholdment of food or any acts of violence that may influence the child’s emotional or psychological health” (unofficial translation). The Act also states that children can enjoy all the rights awarded to them by the UN Convention of the Child (art. 3), and that the state has the duty to protect them from all forms of violence (art. 6). These provisions are not however interpreted as prohibiting all forms of corporal punishment.

2.4 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in alternative care settings, where it is lawful as for parents (see under “Home”).

2.5 **Day care (lawful):** There is no explicit prohibition of corporal punishment in early childhood care or in day care for older children.

2.6 **Schools (unlawful):** Corporal punishment is prohibited in schools in article 21 of the Education Act 2008 (unofficial translation): “Corporal punishment, abuse and all forms of moral harassment is prohibited in schools. Violators of the provisions of this section are liable to administrative sanctions, without prejudice to prosecution.” The Government has reported that ministerial circulars are regularly issued to remind schools of the prohibition, and administrative sanctions are taken against those who use corporal punishment.<sup>4</sup>

2.7 **Penal institutions (lawful):** There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions. The Code on the organisation of penal institutions is currently being reviewed.<sup>5</sup>

2.8 **Sentence for crime (unlawful):** Corporal punishment is unlawful as a sentence for crime. It is not among the permitted measures available to the courts in articles 444 and 445 of the Code of Criminal Procedure.

### 3 Recommendations by human rights treaty bodies

3.1 **CAT:** In its 2008 concluding observations on the state party’s third report, the Committee Against Torture recommended that the Government enact legislation to explicitly and prohibit corporal punishment within the family.<sup>6</sup>

3.2 **CESCR:** The Committee on Economic, Social and Cultural Rights expressed concern at the fact that corporal punishment is not prohibited within the family and alternative care settings and recommended that the Government introduce legislation to explicitly prohibit corporal in these settings, in its concluding observations on the state party’s third-fourth report in 2010.<sup>7</sup>

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<sup>4</sup> [2015], Initial state party report to the African Committee of Experts on the Rights and Welfare of the Child, para. 185

<sup>5</sup> See <http://www.maghrebemergent.info/actualite/breves/fil-maghreb/79903-algerie-le-projet-de-code-sur-l-organisation-penitentiaire-prochainement-a-l-apn.html>, accessed 19 October 2017

<sup>6</sup> 26 May 2008, CAT/C/DZA/CO/3, Concluding observations on third report, para. 19

<sup>7</sup> 7 June 2010, E/C.12/DZA/CO/4, Concluding observations on third/fourth report, para. 15

3.3 **CRC**: The Committee on the Rights of the Child has expressed concern at corporal punishment of children in Algeria and recommended it be explicitly prohibited in all settings – in its concluding observations on the state party’s initial report in 1997,<sup>8</sup> on the state party’s second report in 2005<sup>9</sup> and on the state party’s third-fourth report in 2012.<sup>10</sup>

*Briefing prepared by End Corporal Punishment on behalf of the Global Partnership to End Violence Against Children*

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<sup>8</sup> 18 June 1997, CRC/C/15/Add.76, Concluding observations on initial report, paras. 21 and 35

<sup>9</sup> 12 October 2005, Concluding observations on second report, CRC/C/15/Add.269, paras. 41 and 42

<sup>10</sup> 18 July 2012, CRC/C/DZA/CO/3-4, Concluding observations on third/fourth report, paras. 7, 8, 43 and 44