

**BRIEFING ON ALGERIA FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 121st session (October-November 2017)**

*From the Global Initiative to End All Corporal Punishment of Children, July 2017*

**This briefing describes the legality of corporal punishment of children in Algeria. In light of the obligation under international human rights treaties to prohibit all corporal punishment of children, the global commitment to ending violence against children – including corporal punishment – in the context of the 2030 Agenda for Sustainable Development, the recommendations of the UN Secretary General’s Study on Violence against Children, the recommendations made to Algeria by the Committee on the Rights of the Child (in 2005 and 2012), the Committee Against Torture in 2008, the Committee on Economic, Social and Cultural Rights in 2010, and during the UPR in 2012 (which the Government accepted) and 2017, we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues for Algeria, in particular asking what progress has been made to prohibit corporal punishment of children in all settings, including the home, and**
* **in its concluding observations on Algeria’s fourth report, recommend that legislation prohibiting corporal punishment of children in all settings is drafted and enacted as a matter of priority.**

**1 The report of Algeria to the Human Rights Committee**

* 1. Algeria’s fourth state party report to the Human Rights Committee (CCPR/C/DZA/4) does not address the issue of corporal punishment, despite the Government’s commitment to prohibiting it in legislation.

**1.2 In light of the state’s obligation to prohibit corporal punishment in all settings, we hope the Committee will raise the issue of corporal punishment of children in its review of Algeria and recommend that prohibition of corporal punishment in all settings is enacted as a matter of priority.**

**2 The legality of corporal punishment of children in Algeria**

2.1 ***Summary:*** In Algeria, corporal punishment is lawful in the home, in alternative and day care settings, and in penal institutions. It is unlawful in schools and as a sentence for a crime.

2.2 ***Home (lawful):***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.

2.3 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”.[[1]](#footnote-1) 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”.[[2]](#footnote-2) 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 punishment.

2.4 The National Plan of Action for Children 2008-2015 identified physical punishment of children as a problem, citing research on child discipline and confirming the need for legal and other measures to address it in the home and schools, but it did not clearly state an intention to prohibit all corporal punishment by parents. However, the Government signalled its commitment to prohibition by clearly accepting the recommendation to prohibit in all settings made during the Universal Periodic Review of Algeria in 2012.[[3]](#footnote-3)

2.5 The Child Protection Act no. 15-12 was passed in July 2015. Its article 2 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.

2.6 As at March 2017 the Code of Criminal Procedure was under review but it does not appear prohibition is included in the draft amendments.[[4]](#footnote-4)

2.7 ***Alternative care and day care settings (lawful):***There is no explicit prohibition of corporal punishment in alternative and day care settings, where it is lawful as for parents.

2.8 ***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.[[5]](#footnote-5)

2.9 ***Penal institutions (lawful):***There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

2.10 ***Sentence for crime (unlawful):*** 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 and during the UPR**

3.1 ***CRC:*** The Committee on the Rights of the Child has twice recommended to Algeria that legislation be enacted to explicitly prohibit corporal punishment in all settings, in 2005 and 2012.[[6]](#footnote-6)

3.2 ***CAT:*** In its 2008 concluding observations on Algeria’s third report, the Committee Against Torture recommended that the Government expressly prohibit corporal punishment of children in the home in law.[[7]](#footnote-7)

3.3 ***CESCR:*** In 2010, the Committee on Economic, Social and Cultural Rights recommended that the legislation be amended to prohibit corporal punishment within the family and in alternative care settings.[[8]](#footnote-8)

3.4 ***UPR:*** At the second cycle Universal Periodic Review of Algeria in 2012, a recommendation to adopt legislation explicitly prohibiting corporal punishment in all settings was accepted by the Government.[[9]](#footnote-9)

*Briefing* *prepared by the Global Initiative to End All Corporal Punishment of Children*

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1. 18 July 2011, CRC/C/DZA/3-4, Third/fourth report to the Committee on the Rights of the Child, para. 82 [↑](#footnote-ref-1)
2. 14 June 2012, CRC/C/SR.1714, Summary record of 1714th meeting, para. 9 [↑](#footnote-ref-2)
3. 5 July 2012, A/HRC/21/13, Report of the working group, para. 129 (100) [↑](#footnote-ref-3)
4. <http://www.aps.dz/algerie/54114-le-conseil-de-la-nation-adopte-le-projet-du-code-de-proc%C3%A9dure-p%C3%A9nale>, accessed on 14 March 2017 [↑](#footnote-ref-4)
5. [2015], Initial state party report to the African Committee of Experts on the Rights and Welfare of the Child, para. 185 [↑](#footnote-ref-5)
6. 12 October 2005, Concluding observations on second report, CRC/C/15/Add.269, paras. 41 and 42; 18 July 2012, CRC/C/DZA/CO/3-4, Concluding observations on third/fourth report, paras. 7, 8, 43 and 44 [↑](#footnote-ref-6)
7. 26 May 2008, CAT/C/DZA/CO/3, Concluding observations on third report, para. 19 [↑](#footnote-ref-7)
8. 7 June 2010, E/C.12/DZA/CO/4, Concluding observations on third/fourth report, para. 15 [↑](#footnote-ref-8)
9. 5 July 2012, A/HRC/21/13, Report of the working group, para. 129 (100); 20 September 2012, A/HRC/21/13/Add.1, Report of the working group: Addendum, para. 4 [↑](#footnote-ref-9)