

Corporal punishment of children in Mali: Briefing for the Universal Periodic Review, 43rd session, April/May 2023



*From the Global Partnership to End Violence Against Children,
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This submission provides an update on the legality of corporal punishment of children in Mali since its review in the third cycle UPR in 2018. 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 Mali, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child and during the 1st cycle UPR of Mali in 2008- which the Government accepted.

We hope the Working Group will note with concern the legality of corporal punishment of children in Mali. We hope states will raise the issue during the review next year and make a specific recommendation that Mali 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 Mali in the 3rd cycle UPR (2018) and progress since

- 1.1 Mali was reviewed in the third cycle of the Universal Periodic Review in 2018 (session 29). No recommendations specifically on corporal punishment were extended but the Government supported recommendations promote and protect the rights of children.¹
- 1.2 Following the review, no legislation to explicitly prohibit corporal punishment of children in all settings seems to have been adopted.

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

- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Mali. We hope states will raise the issue during the review in 2023 and make a specific recommendation that Mali 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 Mali

Summary of current law and opportunities for achieving prohibition

Corporal punishment of children in Mali is lawful 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.

- 2.1 **Home (lawful):** 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.² 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).
- 2.2 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.³
- 2.3 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in alternative care settings.
- 2.4 **Day care (lawful):** 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.

² UNICEF (2013), *Annual report – Mali*

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

2.5 **Schools (unlawful):** 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).

2.6 **Penal institutions (lawful):** 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 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.

2.7 **Sentence for crime (unlawful):** 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.

3 Recommendations by human rights treaty bodies

3.1 **CRC:** On two occasions, the Committee on the Rights of the Child has recommended to Mali that legislation be enacted to explicitly prohibit corporal punishment in all settings: in its concluding observations on the state party's initial report in 1999,⁴ and on the second report in 2007.⁵

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

www.endcorporalpunishment.org; secretariat@end-violence.org

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

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