

Corporal punishment of children in Morocco: Briefing for the Universal Periodic Review, 41st 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 Morocco 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 schools.

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 Morocco, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child and during the 2nd and 3rd cycle UPR of Morocco, respectively in 2012 and 2017.

We hope the Working Group will note with concern the legality of corporal punishment of children in Morocco. We hope states will raise the issue during the review this year and make a specific recommendation that Morocco 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 Morocco in the 3rd cycle UPR (2017) and progress since

1.1 Morocco was reviewed in the third cycle of the Universal Periodic Review in 2017 (session 27). Recommendations to prohibit corporal punishment in all settings. The Government accepted the recommendations “as fully implemented”, referring in particular to the 2011 Constitution.¹

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

1.2 Since the review, no progress was made to enact a legislation to explicitly prohibit corporal punishment of children in all settings. The Code of Criminal Procedure and the Criminal Code are being revised.² 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.³

1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Morocco. We hope states will raise the issue during the review in 2022 and make a specific recommendation that Morocco 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 Morocco

Summary of current law and opportunities for achieving prohibition

Corporal punishment of children in Morocco is lawful 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.

2.1 **Home (lawful):** 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.

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

³ See <https://www.hrw.org/news/2018/02/26/morocco-new-violence-against-women-law>, accessed 5 March 2018

2.2 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 2012⁴ and 2017.⁵ Despite accepting those UPR recommendations, and despite the adoption of potential legislative vehicles, the Government has not taken any clear action since then to fulfil this commitment.

2.3 **Alternative care settings (lawful):** 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.⁶

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

2.5 **Schools (lawful):** A Ministerial directive in 2000 stated that corporal punishment should not be used in schools, but there is no explicit prohibition in law.

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

2.7 **Sentence for crime (unlawful):** Corporal punishment is unlawful as a sentence for crime under the Code of Criminal Procedure 2002.

3 Recommendations by human rights treaty bodies

3.1 **CRC:** The Committee on the Rights of the Child has expressed concern at corporal punishment of children in Morocco and recommended it be explicitly prohibited in all settings – in its concluding observations on the state party's initial report in 1996,⁷ in the state party's second report in 2003⁸ and in the state party's third-fourth report in 2014.⁹

3.2 **CAT:** In its 2011 concluding observations on the state party's fourth report, the Committee Against Torture expressed concern at corporal punishment of children and recommended the Government enact legislation to explicitly prohibit corporal punishment in schools, in the home and in centres that provide child protection services.¹⁰

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

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

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

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

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

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

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

3.3 **CRPD:** The Committee on the Rights of Persons with Disabilities expressed concern at corporal punishment of children with disabilities and recommended that the Government introduce legislation to prohibit corporal of children with disabilities.¹¹

Briefing prepared by End Corporal Punishment on behalf of the Global Partnership to End Violence Against Children
www.endcorporalpunishment.org; secretariat@end-violence.org

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