

## **GHANA**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 14<sup>th</sup> session, 2012**

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Global Initiative to  
**End All Corporal Punishment  
of Children**

*Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General’s Study on Violence against Children, as a highly significant issue, both for asserting children’s status as rights holders and for the prevention of all forms of violence.*

*In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies and also regional human rights mechanisms have condemned all corporal punishment. In October 2006, the report of the UN Secretary General’s Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment as a matter of priority.*

*The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities. There is growing progress across all regions in challenging this common form of violence against children. But many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope the Working Group of the UPR will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies on this issue, as well as to the recommendations made during the first cycle of the UPR.*

**Corporal punishment of children is lawful in Ghana, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, the Committee Against Torture and during Ghana’s initial UPR in 2008.**

**We hope the Human Rights Council will note with concern the repeated and unfulfilled treaty body recommendations on corporal punishment and Ghana’s failure to enact prohibition. We hope states will raise the issue during the review in 2012 and recommend to Ghana that legislation be enacted to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of priority.**

## **1 The initial review of Ghana by the Human Rights Council (2008)**

1.1 Ghana was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 2). The issue of prohibiting corporal punishment of children was included in the summary of stakeholders' information<sup>1</sup> and was raised during the review by Finland and Turkey.<sup>2</sup> Finland recommended that Ghana "abolish by law the use of corporal punishment in all settings": this recommendation was clearly documented in the body of the Working Group report<sup>3</sup> but unfortunately was not included in the summary of recommendations at the end of the report and there is no record of formal acceptance or rejection of it by the Government. We note, however, that the Government formally accepted the following recommendations:

"To strengthen its efforts to fully implement the recommendations adopted by the CRC and to prohibit all forms of violence against children (Finland); to take further measures to implement the overarching and setting-specific recommendations of the UN Study on violence against children (Finland); to take the necessary measures to prevent child abuse and neglect and investigate cases of domestic violence, ensuring that sanctions be applied to perpetrators (Italy); and to enhance its efforts in protecting children rights (Switzerland)."<sup>4</sup>

1.2 Prohibiting corporal punishment is a key obligation under the Convention on the Rights of the Child and other international human rights instruments, though it is an obligation frequently ignored or evaded by governments. Specifically challenging Ghana in this respect during its second UPR would reflect the seriousness with which the Human Rights Council views violations of the rights of all persons, including children.

1.3 There has been no change in the legality of corporal punishment of children in Ghana since the state's initial UPR in 2008. Today, as then, corporal punishment is unlawful as a sentence for crime and in prisons, but it is lawful in the home, schools, alternative care settings and penal institutions such as borstal institutions and industrial institutions.

## **2 Legality of corporal punishment in Ghana**

2.1 Corporal punishment is lawful in the **home**. The Children's Act (1998) prohibits "cruel, inhuman or degrading treatment or punishment including any cultural practice which dehumanises or is injurious to the physical and mental well-being of a child" (article 13(1)) but allows for a degree of "reasonable" and "justifiable" punishment of children, stating that "no correction of a child is justifiable which is unreasonable in kind or in degree according to the age, physical and mental condition of the child and no correction is justifiable if the child by reason of tender age or otherwise is incapable of understanding the purpose of the correction" (article 13(2)). Provisions against violence and abuse in the Criminal Code (1960), the Constitution (1992), the Domestic Violence Act (2007) and the Children's Act are not interpreted as prohibiting all corporal punishment in childrearing.

2.2 Corporal punishment is lawful in **schools**. Pursuant to the Education Act (1961), the Ghana Education Code of Discipline for second cycle school provides for caning up to six strokes by

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<sup>1</sup> 2 April 2008, A/HRC/WG.6/2/GHA/3, Summary of stakeholders' information, para. 18

<sup>2</sup> 29 May 2008, A/HRC/8/36, Report of the Working Group on the Universal Periodic Review: Ghana, paras. 20 and 44

<sup>3</sup> 29 May 2008, A/HRC/8/36, Report of the Working Group on the Universal Periodic Review: Ghana, para. 20: "Finland also recommended that Ghana abolish by law the use of corporal punishment in all settings."

<sup>4</sup> 29 May 2008, A/HRC/8/36, Report of the Working Group on the Universal Periodic Review: Ghana, paras. 68 and 69

a head teacher or person authorised by the head. Article 13(2) of the Children’s Act (see above) also applies. Ministerial directives advise against the use of corporal punishment in schools but this has not been confirmed in legislation.

2.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime under the Juvenile Justice Act (2003), the Children’s Act and the Constitution. It is prohibited in prisons under the Prisons Service Decree (1972) and article 13 of the Children’s Act prohibits cruel, inhuman and degrading punishment, but there is no explicit prohibition of corporal punishment as a disciplinary measure in borstal institutions and industrial institutions established under the Juvenile Justice Act.

2.4 Corporal punishment is lawful in **alternative care settings** under provisions allowing “reasonable” and “justifiable” correction in article 13(2) of the Children’s Act.

2.5 Numerous research studies have revealed the high prevalence of, and support for, corporal punishment of children. A major UNICEF analysis in 2010 found that 90% 2-14 year-olds experienced violent discipline (physical punishment and/or psychological aggression) in the home in 2005-2006, with one in ten experiencing severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement).<sup>5</sup> A government study involving 4,164 children reportedly found that 81% of children experienced corporal punishment in the home, 71% had been caned at school.<sup>6</sup> In a survey of 2,314 parents, students and graduates carried out by the Campaign for Female Education, 94% of parents, 92% of students and 89% of female graduates were in favour of corporal punishment in schools, and 64% of teachers said it must be tolerated.<sup>7</sup> Another study found caning to be commonly used in private schools as well as at home.<sup>8</sup>

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

3.1 The **Committee on the Rights of the Child** first expressed concern at the legality and use of corporal punishment, particularly in schools, in 1997.<sup>9</sup> In 2006, the Committee again expressed concern and recommended explicit prohibition in all settings, including the home and schools, as a matter of priority.<sup>10</sup>

3.2 In 2011, the **Committee Against Torture** recommended prohibition of corporal punishment of children in all settings, including the home, schools and alternative care settings.<sup>11</sup>

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<sup>5</sup> UNICEF, (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

<sup>6</sup> Reported in “Eighty-nine per cent of children believe in correction when at fault – IRAD Report”, *Business Ghana*, 1 February 2011

<sup>7</sup> Reported in *GhanaWeb*, 18 August 2011

<sup>8</sup> Twum-Danso, A. (2010), *Children’s Perceptions of Physical Punishment in Ghana*, Nuffield Foundation

<sup>9</sup> 18 June 1997, CRC/C/15/Add.73, Concluding observations on initial report, paras. 16 and 36

<sup>10</sup> 17 March 2006, CRC/C/GHA/CO/2, Concluding observations on second report, paras. 7, 36 and 37

<sup>11</sup> 15 June 2011, CAT/C/GHA/CO/1, Concluding observations on initial report, para. 24