



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

ZIMBABWE

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 12th session, 2011

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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.

The Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and 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. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

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 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.

Summary

This briefing describes the legality of corporal punishment of children in Zimbabwe despite the recommendations of the Committee on the Rights of the Child and the Human Rights Committee. We hope the Review will highlight the importance of prohibiting all corporal punishment of children in all settings, including in the home and as a sentence of the courts, and urge the Government to enact legislation to achieve this as a matter of priority.

1 Legality of corporal punishment in Zimbabwe

1.1 Corporal punishment is lawful in the **home**. The Constitution (1979, as amended 1990) allows “moderate” corporal punishment “in appropriate circumstances upon a person under the age of eighteen years by his parent or guardian or by someone *in loco parentis* or in whom are vested any of the powers of his parent or guardian” (article 15). The Criminal Law (Codification and Reform) Act (2004) states in article 241 that “(2) (a) a parent or guardian shall have authority to administer moderate corporal punishment for disciplinary purposes upon his or her minor child or ward”.

1.2 Corporal punishment is lawful in **schools**, for boys, under article 241 of the Criminal Law (Codification and Reform) Act, article 15 of the Constitution, and article 66 of the Education Act (2004).

1.3 In the **penal system**, corporal punishment is lawful as a sentence for crime for males under the age of 18. The Constitution allows corporal punishment “in execution of the judgment or order of a court, upon a male person under the age of eighteen years as a penalty for breach of any law” (article 15). Article 336 of the Criminal Procedure and Evidence Act (1927) lists corporal punishment as an available sentence for boys convicted of any offence; article 353 prescribes how this is to be carried out – up to six strokes, inflicted in private, following certification by a medical practitioner that the boy is fit to receive the punishment; the parent or guardian has a right to be present. Articles 101 to 105 of the Prisons Act also prescribe how a sentence of corporal punishment should be carried out, and state that it should not be inflicted in instalments. Corporal punishment is lawful as a disciplinary measure in penal institutions under article 15 of the Constitution and article 241 of the Criminal Law (Codification and Reform) Act.

1.4 Corporal punishment is lawful in the **alternative care settings** under article 15 of the Constitution and article 241 of the Criminal Law (Codification and Reform) Act.

2 Recommendations by human rights treaty monitoring bodies

2.1 Following examination of the state party’s initial report in 1996, the **Committee on the Rights of the Child** recommended prohibition of corporal punishment in the family, schools and justice system (CRC/C/15/Add.55, paras. 31 and 33).

2.2 In 1998, the **Human Rights Committee** expressed concern that the Constitution authorises corporal punishment and reaffirmed that corporal punishment is incompatible with article 7 of the International Covenant on Civil and Political Rights (CCPR/C/79/Add.89, para. 21).

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