



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

MOZAMBIQUE – COUNTRY REPORT

Summary of necessary legal reform to achieve full prohibition

Settings where explicit prohibition is necessary

home, schools, alternative care settings

Is there a legal defence for corporal punishment which must be repealed?

No – There appears to be no specific confirmation in legislation of a “right” of parents to administer corporal punishment, but existing legal protections from ill-treatment and abuse are not interpreted as prohibiting all corporal punishment by parents. Corporal punishment in childrearing is almost universally accepted and practised, and for this reason prohibition requires that legislation states clearly no such punishment, however light, is acceptable or lawful. Explicit prohibition should be enacted of all corporal punishment and other inhuman or degrading treatment or punishment, including by parents and all adults with authority over children.

Other legislative measures necessary

Schools – Government directives state that corporal punishment should not be used but these do not amount to prohibition. Explicit prohibition should be enacted of corporal punishment in legislation applicable to all education settings, public and private.

Alternative care settings – Explicit prohibition of corporal punishment should be enacted in legislation applicable to all alternative care settings, including public and private day care, residential institutions, foster care, etc.

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment is lawful in the home. There appears to be no specific confirmation in legislation of a “right” of parents to administer corporal punishment, but provisions against violence and abuse in the Law for the Promotion and Protection of the Rights of the Child (No. 7/2008), the Law on the Jurisdictional Organization of Minors (No. 8/2008), the Constitution (2004), the Penal Code and the Family Law (2004) are not interpreted as prohibiting all corporal punishment in childrearing. As at June 2009, the Penal Code was being revised and a draft Law against Domestic Violence was under discussion, but we have no further information.

Schools

Government directives advise against the use of corporal punishment in schools, but there is no explicit prohibition in law. The Law for the Promotion and Protection of the Rights of the Child puts a duty on school management to report mistreatment of learners but does not explicitly prohibit corporal punishment in schools.

Penal system

Corporal punishment is unlawful as a **sentence for crime** under the Constitution (article 40) and the Law for the Promotion and Protection of the Rights of the Child.

Corporal punishment is explicitly prohibited as a **disciplinary measure** in penal institutions in the Law for the Promotion and Protection of the Rights of the Child (article 64).

Alternative care

Corporal punishment is lawful in alternative care settings.

Prevalence research

In 2009, more than 2,600 children aged 6-18 took part in a survey; 168 children drew pictures and talked about the last time they were punished at home and at school. The research found that one child in three had been hit with a hand at home in the past two weeks, 37% had been beaten with an object. Children aged 6-8 were more likely to have been hit than older children, and children from low income families were more likely to have been hit than children from high income families. About one child in three had been hit with a hand at school in the past two weeks, and 40% had been hit with an object at school in the past two weeks.¹

A study in 2003 of young people in conflict with the law found that 68% of those in prison had experienced physical abuse.²

¹ Clacherty, G., Donald, D. & Clacherty, A. (2009), *Children’s Experiences of Punishment in Mozambique: A Qualitative and Quantitative Survey*, Pretoria: Save the Children Sweden

² Save the Children Norway, ‘Relatório da Pesquisa sobre ‘A Criança em Conflito com a Lei’, Maputo, Setembro de 2003, cited in UNICEF (2006), *Childhood Poverty in Mozambique: A situation and trends analysis*, Maputo, Mozambique: UNICEF

According to figures from UNICEF, in 2003 54% of women aged 15 to 49 believed it would be justifiable to be beaten by their husbands for certain reasons.³

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(4 November 2009, CRC/C/MOZ/CO/2, Concluding observations on second report, paras. 8, 47, 48 and 75)

“The Committee refers the State party to its general comment No. 5 (2003) on general measures of implementation for the Convention on the Rights of the Child and recommends that it take all necessary measures to address the recommendations from the concluding observations of the initial report that have not yet been implemented or sufficiently implemented, including those related to the allocation of resources, children with disabilities, children living on the street, child labour, corporal punishment, and child abuse and neglect....

“The Committee is concerned that corporal punishment remains lawful in the home and schools and is often considered the only way to discipline children. The Committee is also concerned that the Child Rights Protection Law does not explicitly prohibit corporal punishment at home and in schools. The Committee is further concerned that in spite of internal regulations of the Ministry of Education prohibiting corporal punishment, it continues to be inflicted on children by teachers and parents throughout the State party.

“Recalling its previous recommendation (CRC/C/15/Add.172, para. 39 (b)), the Committee draws the attention of the State party to its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, according to which eliminating violent and humiliating punishment of children is an immediate and unqualified obligation of States parties. The Committee therefore urges the State party:

- a) to explicitly prohibit by law corporal punishment in the family, schools and institutions and ensure that those laws are effectively implemented and that legal proceedings are systematically initiated against those responsible for mistreating children;
- b) to conduct a comprehensive study to assess the causes, nature and extent of corporal punishment throughout the State party; and
- c) to introduce public education, awareness-raising and social mobilization campaigns on the harmful effects of corporal punishment with a view to changing the general attitude towards this practice and promoting positive, non-violent, participatory values and forms of child-rearing and education.

“The Committee notes with satisfaction the creation of the National Refugee Support Institute by Decree No. 51/2003 of 24 December 2003 with the aim, notably, of ensuring the enjoyment by refugee children of their rights to education, health care, social security and protection, as well as the establishment within the Marratane refugee centre of a primary school and a health centre. The Committee is, however, concerned at the high level of ethnic tension and violence among children in the camp and in the school, where corporal punishment is inflicted by teachers on children....”

Committee on the Rights of the Child

(7 February 2002, CRC/C/15/Add.172, Concluding observations on initial report, paras. 38 and 39)

“The Committee is concerned:

³ Reported in UNICEF (2006), *Childhood Poverty in Mozambique: A situation and trends analysis*, Maputo, Mozambique: UNICEF

- a) at acts of violence and abuse, including sexual abuse, committed against children in schools and alternative care institutions and by members of the public or the police force in the streets and that boys are not as well protected from sexual offences as girls;
- b) that corporal punishment is widely practised in the home, in schools and in other public institutions, such as prisons, and in alternative care contexts....

“The Committee recommends that the State party:

- a) take action to address acts of violence and abuse, including sexual abuse, committed against children in the family, in schools and in the streets through, inter alia, the use of training and information campaigns on the impact of violence on children, children’s rights and the prosecution of perpetrators;
- b) take action to end the practice of corporal punishment in the home, in schools and in all other contexts, including through legislative and administrative measures, as well as public education initiatives to promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment;
- c) make every effort to ensure the provision of treatment and rehabilitation to the victims of violence and abuse....”

Universal Periodic Review

Mozambique was examined under the Universal Periodic Review process in 2011. No recommendations were made concerning corporal punishment of children.

Report prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
February 2011