



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

UNITED REPUBLIC OF TANZANIA – COUNTRY REPORT

Child population: 22,416,000 (UNICEF, 2009)

Summary of necessary legal reform to achieve full prohibition

Settings where explicit prohibition is necessary

home, schools, penal system, alternative care settings

Is there a legal defence for corporal punishment which must be repealed?

Yes – Article 13 of the Law of the Child Act in mainland Tanzania provides for “justifiable” correction; article 14 of the Children’s Act in Zanzibar confirms that parents may discipline their children providing it does not lead to injury. These provisions should be repealed/amended to ensure that no law can be construed as authorising corporal punishment in childrearing.

Other legislative measures necessary

Schools – All laws authorising corporal punishment in schools in mainland Tanzania and in Zanzibar should be repealed and explicit prohibition enacted in relation to all education settings, public and private.

Penal system – All legal provisions authorising corporal punishment as a sentence for crime in mainland Tanzania should be repealed, including those in the Corporal Punishment Ordinance, the Minimum Sentences Act, the Sexual Offences (Special Provisions) Act, the Penal Code and the Criminal Procedure Code. Laws allowing corporal punishment in penal institutions should also be repealed, and explicit prohibition enacted in relation to disciplinary measures in all institutions accommodating children in conflict with the law.

Alternative care settings – Explicit prohibition 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 in mainland Tanzania and in Zanzibar. Provisions against violence and abuse in the Penal Codes and other laws are not interpreted as prohibiting corporal punishment in childrearing. In mainland Tanzania, the Law of the Child Act (2009) states that parents should protect children from all forms of violence (article 9), includes beatings which cause harm in the definition of child abuse (article 3) and prohibits “torture, or other cruel, inhuman punishment or degrading treatment” (article 13). However, it allows for “justifiable” correction (article 13) and does not exclude all forms of corporal punishment from such correction. In Zanzibar, article 14 of the Children’s Act (2011) states that “no child shall be subjected to violence, torture, or other cruel, inhuman or degrading punishment or treatment or any cultural or traditional practice which dehumanizes or is injurious to his physical and mental wellbeing” but it also states that “parents may discipline their children in such a manner which shall not amount to injury to the child’s physical and mental wellbeing”: this is not interpreted as prohibiting all corporal punishment in childrearing.

Schools

Corporal punishment is lawful in schools in mainland Tanzania under the National Corporal Punishment Regulations (1979) pursuant to article 60 of the National Education Act (1978), which authorises the minister to make regulations “to provide for and control the administration of corporal punishment in schools”. The Law of the Child Act does not does not repeal this provision or prohibit corporal punishment in schools. Government guidelines in 2000 reduced the number of strokes from six to four and stated that only the heads of schools are allowed to administer the punishment, with penalties for teachers who flout these regulations. In Zanzibar, the Ministry of Education has adopted a policy against corporal punishment in schools, but it remains lawful under the 1982 Education Act. The Zanzibar Children’s Act does not explicitly prohibit corporal punishment in schools.

Penal system

Corporal punishment is prohibited as a **sentence for crime** in Zanzibar under article 47(2) of the Children’s Act, but it is lawful in mainland Tanzania under a number of laws, including the Corporal Punishment Ordinance (1930), the Minimum Sentences Act (1963), the Sexual Offences (Special Provisions) Act (1998), the Penal Code and the Criminal Procedure Code (1985). The Minimum Sentences Act amends the Corporal Punishment Ordinance (article 12) to allow for administering corporal punishment in instalments. Under article 8 of the Ordinance, juveniles may be given up to 12 strokes (up to 20 for adults) and the punishment may be inflicted in the open courtroom. The Minimum Sentences Act does not apply to females or to juveniles under the age of 16 years (articles 2 and 3). The Law of the Child Act provides for criminal charges against children to be heard by a juvenile court (article 98); it prohibits “torture, or other cruel, inhuman punishment or degrading treatment” (article 13) and does not explicitly provide for corporal punishment as a sentence of the court. However, the Act does not prohibit judicial corporal punishment for child offenders or repeal the above mentioned laws which authorise such sentences.

Corporal punishment is prohibited as a **disciplinary measure** in penal institutions in Zanzibar under article 122(1)(d) of the Children’s Act, but it is lawful in mainland Tanzania where the Law of the Child Act prohibits “torture, or other cruel, inhuman punishment or degrading treatment” (article 13) but does not explicitly prohibit corporal punishment.

Alternative care

In Zanzibar, article 125(2)(e) of the Children's Act prohibits corporal punishment in residential institutions but there is no prohibition in relation to other forms of care. In mainland Tanzania, the Law of the Child Act does not explicitly prohibit corporal punishment in care settings; it is lawful under the provisions for "justifiable" correction in article 13 (see above).

Prevalence research

None identified in the last ten years.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(21 June 2006, CRC/C/TZA/CO/2, Concluding observations on second report, paras. 6, 33, 34 and 70)

"The Committee notes with satisfaction that some concerns and recommendations (CRC/C/15/Add.156) made upon the consideration of the State party's initial report (CRC/C/8/Add.14/Rev.1) have been addressed through legislative measures and policies. However, recommendations regarding, inter alia, legislation, coordination, corporal punishment, child labour and juvenile justice have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.

"While noting various initiatives undertaken by the State party in campaigning against corporal punishment, including the establishment of two non-corporal punishment pilot schools in Zanzibar, the Committee deeply regrets that corporal punishment is still lawful in schools and in the penal system where. The Committee is further concerned that corporal punishment is lawful in the family and alternative-care institutions.

"Taking into account its general comment No. 1 on the aims of education (CRC/GC/2001/1) and general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/2006/8), the Committee urges the State party:

- a) to explicitly prohibit all forms of corporal punishment in the family, schools, the penal system and other institutional settings and alternative-care systems as a matter of priority;
- b) to sensitize and educate parents, guardians and professionals working with and for children by carrying out public educational campaigns about the harmful impact of corporal punishment; and
- c) to promote positive, non-violent forms of discipline as an alternative to corporal punishment.

"The Committee urges the State party ensure the full implementation of juvenile justice standards, in particular articles 37, paragraph (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's day of general discussion on the administration of juvenile justice. In this regards, the Committee recommends that the State party:...

- c) prohibit all forms of corporal punishment for persons under the age of 18 years in penal institutions; ..."

Committee on the Rights of the Child

(9 July 2001, CRC/C/15/Add.156, Concluding observations on initial report, paras. 38, 39 and 67)

“The Committee notes with regret that the law does not prohibit the use of corporal punishment as a sentence for children and youth in the juvenile justice system. Concern is also expressed that this type of punishment continues to be practised in schools, families and care institutions.

“The Committee recommends that the State party take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment within the juvenile justice system, schools and care institutions as well as in families. The Committee encourages the State party to intensify its public awareness campaigns to promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society.

“The Committee recommends that the State party:

e) abolish corporal punishment as a sentence within the juvenile justice system....”

Human Rights Committee

(6 August 2009, CCPR/C/TZA/CO/4, Concluding observations on fourth report, para. 16)

“While noting the pilot studies on best practice, which are carried out in conjunction with the United Nations Children’s Fund in schools in which caning is not applied, the Committee reiterates its concern that corporal punishment is still available as part of judicial sentences and is permitted within the education system, and that it continues to be applied in practice. (arts. 7 and 24).

The State party should take measures towards the abolition of corporal punishment as a lawful sanction. It should also promote non-violent forms of discipline as alternatives to corporal punishment within the educational system and carry out public information campaigns about its harmful impact.”

Human Rights Committee

(18 August 1998, CCPR/C/79/Add.97, Concluding observations on third report, para. 16)

“The Committee notes with approval the Nyalali Commission’s recommendation to abolish corporal punishment as a judicial sentence; such penalty should also be precluded for offences against prison regulations and children should no longer be subjected to corporal punishment in schools (art.7).”

Universal Periodic Review

Tanzania was examined in the first cycle of the Universal Periodic Review in October 2011. The Government accepted a recommendation to pursue its efforts with regard to corporal punishment (A/HRC/19/4, Report of the Working Group, para. 85(7)); its response to recommendations to prohibit all corporal punishment is expected no later than March 2012 (A/HRC/19/4, Report of the Working Group, paras. 86(37), 86 (38) and 86(47)). Examination in the second cycle is scheduled for 2016.

Report prepared by the Global Initiative to End All Corporal Punishment of Children

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January 2012