



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

## **ZIMBABWE – COUNTRY REPORT**

Child population: 6,001,000 (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#### ***Is there a legal defence for corporal punishment which must be repealed?***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 15 of the Constitution and article 241 of the Criminal Law (Codification and Reform) Act authorise “moderate corporal punishment” of children by parents and others with parental authority; article 7 of the Children’s Act confirms the right of parents and guardians to “administer reasonable punishment”. These provisions should be repealed and explicit prohibition of all corporal punishment enacted in relation to parents and all persons with authority over children.

#### ***Other legislative measures necessary***

*Schools* – Provisions allowing corporal punishment in schools in the Constitution, the Criminal Law (Codification and Reform) Act, the Education Act and any other law or regulation should be repealed. Explicit prohibition should be enacted in legislation applicable to all education settings, public and private.

*Penal system* – All legal provisions authorising corporal punishment as a sentence for crime and as a disciplinary measure in penal institutions should be repealed, including those in the Constitution, the Criminal Law (Codification and Reform) Act, the Criminal Procedure and Evidence Act, the Prisons Act and any other law. Explicit prohibition of corporal punishment as a disciplinary measure should be enacted in legislation applicable to all institutions accommodating children in conflict with the law.

*Alternative care settings* – All provisions authorising corporal punishment by persons *in loco parentis* should be repealed, together with any laws specifically regulating corporal punishment in alternative care settings. Explicit prohibition should be enacted in legislation applicable to all such 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. The Constitution (1979) was amended in 1990 to allow “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”. Article 7 of the Children’s Act (1972) punishes ill-treatment and neglect of children and young persons but states: “(6) Nothing in this section shall be construed as derogating from the right of any parent or guardian of any child or young person to administer reasonable punishment to such child or young person.”

### Schools

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). Article 7(6) of the Children’s Act also provides a defence for the use of corporal punishment (see above). In 2011 it was announced that a decision had been taken to abolish corporal punishment in schools (Plan International, *AlertNet*, 22 June 2011) but we have no detailed information.

### Penal system

Corporal punishment is lawful as a **sentence for crime** for males under the age of 18. There appears to be no provision for such punishment for adults. 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, amended 2004) lists the punishments which a court may impose on a convicted person, including “where the convicted person is a male person under the age of eighteen years, corporal punishment”. Article 353 states that for males under 18, “moderate corporal punishment, not exceeding six strokes” may be ordered in lieu of or in addition to other punishments: it must be “inflicted in private” in a manner and place and by a person prescribed by the court; the boy must be certified by a medical practitioner as fit to receive the punishment, and the boy’s parent or guardian has a right to be present when the punishment is inflicted. The Prisons Act (article 103) states that a sentence of “moderate correction of whipping referred to in article 353 of the Criminal Procedure and Evidence Act” should be carried out in the presence of the “officer in charge” and of the medical officer who certified the by as fit to undergo the punishment. The medical or prison officer may halt the punishment “if, in his opinion, the punishment is likely to cause more serious injury than is contemplated in the sentence” (article 104). The punishment should not be inflicted in instalments (article 105).

The Children’s Act provides for the children’s court to make orders in respect of children and young people in need of care and of those who have been convicted of an offence. Article 20 of the Act lists the orders that may be made, and does not include corporal punishment. However, a child or young person aged 12 or over who fails to comply with an order to attend an attendance centre “shall be guilty of an offence and liable to a sentence of moderate corporal punishment, not exceeding six strokes, in accordance with section 353 of the Criminal Procedure and Evidence Act” (article 20).

Corporal punishment is lawful as a **disciplinary measure** in penal institutions under article 15 of the Constitution, article 241 of the Criminal Law (Codification and Reform) Act and article 7(6) of the Children’s Act (see above).

## **Alternative care**

Corporal punishment is lawful in the alternative care settings under article 15 of the Constitution, article 241 of the Criminal Law (Codification and Reform) Act and article 7(6) of the Children's Act (see above).

## **Prevalence research**

None identified in the last ten years.

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

### *Committee on the Rights of the Child*

(7 June 1996, CRC/C/15/Add.55, Concluding observations on initial report, paras. 16, 18, 21, 31 and 33)

“The Committee further notes that insufficient attention has been paid to the principle of the best interests of the child both in legislation and practice, as well as to the respect for the views of the child in school, social and family life. In this regard, it is noted that, as recognized by the State party, the civil rights and freedoms of the child are to be exercised subject to parental consent or discipline, thus raising doubts as to the compatibility of this practice with the Convention, notably articles 5 and 12.

“The Committee expresses its concern at the acceptance in the legislation of the use of corporal punishment in school, as well as within the family. It stresses the incompatibility of corporal punishment, as well as any other form of violence, injury, neglect, abuse or degrading treatment, with the provisions of the Convention, in particular articles 19, 28 paragraph 2 and 37.

“The Committee is concerned at the present system of juvenile justice, including the lack of a clear prohibition of capital punishment, life imprisonment without possibility of release and indeterminate sentencing, as well as at the recourse to whipping as a disciplinary measure for boys.

“The Committee recommends that the State party adopt appropriate legislative measures to forbid the use of any form of corporal punishment within the family and in school.

“In the field of juvenile justice, the Committee recommends that the State party raise the minimum age of criminal responsibility and incorporate in the legislation a clear prohibition of capital punishment, life imprisonment without possibility of release and indeterminate sentencing as well as of the use of whipping as a disciplinary measure.”

### *Human Rights Committee*

(6 April 1998, CCPR/C/79/Add.89, Concluding observations on initial report, para. 21)

“The Committee is concerned about recent amendments of section 15 of the Constitution which *inter alia* authorize corporal punishment. The Committee reaffirms its position that corporal punishment is incompatible with article 7 of the Covenant.”

## **Universal Periodic Review**

Zimbabwe was examined in the first cycle of the Universal Periodic Review in 2011. The Government's response is unclear: it rejected a recommendation to “ratify the CAT, clearly criminalise torture and ban all kinds of corporal punishment” (A/HRC/19/14, Report of the Working Group, para. 95(5)) but stated that its response to the recommendation to “prohibit corporal punishment as a form of

sentence as well prohibit corporal punishment in all other settings” would be available no later than March 2012 (para. 94(22)). 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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