

Corporal punishment of children in Ghana

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Child population 12,330,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Ghana's commitment to prohibiting corporal punishment

Ghana expressed its commitment to legally prohibit all corporal punishment of children, including in the home, by clearly accepting recommendations to do so extended during the Universal Periodic Review of Ghana in 2017.

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings, day care, schools and some penal institutions.

Article 13(2) of the Children's Act 1998 confirms the concept of "justifiable" and "reasonable" correction of a child, and article 41 of the Criminal Offences Act 1960 provides for "justified correction". The near universal acceptance of a certain degree of violence in childrearing necessitates clarity in law that no degree of corporal punishment is acceptable or lawful. These provisions should be explicitly repealed to ensure clarity in law that no degree or kind of corporal punishment is ever "justified" or "reasonable". Prohibition of all corporal punishment of children should be enacted in relation to parents and all those with parental authority.

Alternative care settings – Prohibition should be enacted in legislation applicable to all alternative care settings (foster care, institutions, places of safety, emergency care, etc).

Day care – Corporal punishment should be prohibited in all early childhood care (nurseries, crèches, kindergartens, preschools, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Schools – The Ministerial Directives against corporal punishment in schools and the discouragement not to use corporal punishment under the National Child Friendly School Standards should be confirmed through law reform which repeals the provisions for corporal punishment in the Education Code of Discipline and clearly prohibits all corporal punishment in education settings, public and private, at all levels.

Penal institutions – Corporal punishment is considered unlawful in prisons but it is not prohibited in borstal institutions and industrial institutions. Legislation should be enacted which clearly prohibits corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law.

Current legality of corporal punishment

Home

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" (art. 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" (art. 13(2)). Article 41 of the Criminal Offences Act 1960 states: "(1) A blow or other force may be justified for the purpose of correction, where (a) a father or mother may correct his or her child, who is under sixteen years of age, or a guardian, or a person acting as a guardian, the ward, who is under sixteen years of age, for misconduct or disobedience to a lawful command; (...) (d) a father or mother or guardian, or a person acting as a guardian of a child may delegate to any other person whom any of them entrusts, permanently or temporarily, with the governance or custody of the child or ward the authority of any of them for correction, including the power to determine in what cases correction ought to be inflicted; and the delegation shall be presumed, except where it is expressly withheld, in the case of a schoolmaster, or a person acting as a schoolmaster, in respect of a child or ward; (e) a person who is authorised to inflict correction as in this section mentioned may, in a particular case delegate to a fit person the infliction of the correction. (2) A correction cannot be justified which is unreasonable in kind or in degree considering the age and physical and mental condition of the person on whom it is inflicted. (3) A correction cannot be justified in the case of a person who, by reason of tender years or otherwise, is incapable of understanding the purpose for which it is inflicted."

The Constitution 1992 states in article 28(3): "A child shall not be subjected to torture or other cruel, inhuman or degrading treatment or punishment." Neither this provision nor the provisions against violence and abuse in the Criminal Offences Act 1960, the Domestic Violence Act 2007 and the Children's Act 1998 are interpreted as prohibiting all corporal punishment in childrearing. During the Universal Periodic Review (UPR) of Ghana in 2008 the Government defended the legality of "reasonable" corporal punishment.¹

The Constitution is under review. In its final report, published in 2011, the Constitution Review Commission acknowledged receipt of submissions concerning the need for clarity regarding discipline of children but did not recommend that prohibition be included in the new Constitution.² It made a general recommendation that the Children's Act be "substantially revised". The Government went on to reject the majority of recommendations that the Commission made concerning children's rights, stating that "there are enough laws which address the concerns of children and the challenge has to do with enforcing them".³ Nevertheless, the Government accepted recommendations to prohibit corporal punishment made during the Universal Periodic Review in 2012.⁴ The outcome document of 2014 consultation with religious leaders led to the leaders' commitment to "advocate for the prohibition of physical and humiliating punishment in all settings". In 2015, the Government

¹ 1 September 2008, A/HRC/8/52, Report of the Human Rights Council on its eighth session, para. 660

² CRC (2011), *Report of the Constitution Review Commission: From a political to a developmental Constitution*, paras. 365 and 383

³ *White Paper on the Report of the Constitution Review Commission of Inquiry*, June 2012, p. 46

⁴ 13 December 2012, A/HRC/22/6, Report of the working group, paras. 123(20) and 125(50)

reportedly made a commitment to the Committee on the Rights of the Child to enact prohibition in all settings by 2019.⁵ Reporting to the African Committee of Experts on the Rights and Welfare of the Child in October 2016, the Government stated that the Children’s Act and the Juvenile Justice Act were being amended. In November 2017, the Minister of Gender, Children and Social Protection launched a programme to stop all abuses against children and announced that several laws would be reviewed, including the Children’s Act 1998 and the Juvenile Justice Act 2003.⁶ During an international conference on children’s rights that same month, Government representatives declared their intention to repeal the “reasonable” and “justifiable” punishment defence in the Children’s Act 1998. As at November 2017, the review of the Children’s Act was being consulted upon throughout the country, with the aim to enact the revised Act in 2019-2020.⁷

The national report to the Universal Periodic Review of Ghana in 2017 refers to the Child and Family Welfare Policy which would be “aimed at eliminating corporal punishment and other forms of abuse against children in both home and school settings”.⁸ But although corporal punishment is referred to in the 2014 Policy, there is no explicit aim to prohibit and eliminate it. During the review, the Government accepted recommendations to prohibit all corporal punishment of children in all settings,⁹ making a clear commitment to enacting law reform.

Alternative care settings

Corporal punishment is lawful in alternative care settings under provisions allowing “reasonable” and “justifiable” correction in article 13(2) of the Children’s Act 1998 and article 41 of the Criminal Offences Act 1960.

Day care

Corporal punishment is lawful in day care under provisions allowing “reasonable” and “justifiable” correction in article 13(2) of the Children’s Act 1998 and article 41 of the Criminal Offences Act 1960.

Schools

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 a head teacher or person authorised by the head. Article 13(2) of the Children’s Act 1998 and article 41 of the Criminal Offences Act 1960 (see under “Home”) also apply, allowing for “justifiable correction”. Ministerial directives advise against the use of corporal punishment in schools but this has not been confirmed in legislation.

In reporting to the Committee on the Rights of the Child for examination in 2014, the Government confirmed that corporal punishment is widely and lawfully used in schools and other institutions;

⁵ Information provided to the Global Initiative, June 2018

⁶ See <https://www.myjoyonline.com/news/2017/November-20th/gender-ministry-to-launch-new-programme-against-children-abuse.php>, accessed 1 December 2017

⁷ Information provided by the Department of Children of the Ministry of Gender and Social Protection of Ghana, November 2017

⁸ 25 August 2017, A/HRC/WG.6/28/GHA/1, National report, para. 90

⁹ 26 December 2017, A/HRC/37/7, Report of the working group, paras. 146(172) and 146(174)

caning is the most common “corrective measure” but other punishments include “weeding of the school compound, physical drills such as pulling of ears, kneeling down and carrying of weights”.¹⁰

National Child Friendly School Standards for basic schools have been drafted by the Ghana Education Service which state that “school is a safe environment for teaching and learning for all children and staff (free from any form of intimidation, violence and abuse including corporal punishment and sexual abuse) regardless of race, sex, background and abilities” and that national standards were expected to be rolled out in 2012.¹¹ A Code of Conduct for Teachers was also developed by the Ghana Education Service which allegedly defined physical violence as including corporal punishment; this policy was under consideration in August 2017.¹² The 2015 Justice for Children Policy put an obligation on the Ministry of Education to ban corporal punishment “as a means of correcting children in schools”.

Penal institutions

Corporal punishment is unlawful in prisons under the Prisons Service Decree 1972, which states that no person shall be subjected to torture or degrading punishment or any other condition that will or is likely to detract from his human dignity (art. 1). Article 13 of the Children’s Act 1998 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 2003. Article 59 of the Juvenile Justice Act 2003 provides for the Minister responsible for Social Welfare or Interior to make regulations the discipline, treatment and punishment of persons detained in centres and in remand homes but it does not specify that the regulations should prohibit corporal punishment.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not an available sanction under the Juvenile Justice Act 2003 and the Children’s Act 1998. Article 15(2) of the Constitution 1992 prohibits torture and other cruel, inhuman or degrading treatment or punishment.

Universal Periodic Review of Ghana’s human rights record

Ghana was examined in the first cycle of the Universal Periodic Review in 2008 (session 2). 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 report¹³ but 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. However, the Government formally accepted the following recommendations:¹⁴

“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

¹⁰ 6 August 2014, CRC/C/GHA/3-5, Third to fifth state party report, paras. 98, 99 and 236

¹¹ 6 August 2014, CRC/C/GHA/3-5, Third to fifth state party report, paras. 98 and 99

¹² 25 August 2017, A/HRC/WG.6/28/GHA/1, National report, para. 87

¹³ 29 May 2008, A/HRC/8/36, Report of the working group, para. 20

¹⁴ 29 May 2008, A/HRC/8/36, Report of the working group, paras. 68(6) and 69

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).”

In a later comment on its initial UPR, the Government defended the legality of corporal punishment: “Regarding the abolition by law of the use of corporal punishment in all situations, all punishment in Ghana must be reasonable. Corporal punishment in its classical sense had been abolished. Caning could only be exercised by the principal of the school and only in specific circumstances and under specific guidelines; any breach of these guidelines was sanctioned by law. Unreasonable punishment in the home was also sanctioned by existing laws, including the Domestic Violence Act, the Children’s Act and the Criminal Code of Ghana.”¹⁵

Examination in the second cycle took place in 2012 (session 14). In its national report, the Government reported on measures to address “child abuse” but did not refer specifically to corporal punishment.¹⁶ During the review, the following recommendations were made and were accepted by the Government:¹⁷

“Explicitly prohibit corporal punishment of children in all settings, including the home (Austria);

“Prohibit all forms of corporal punishment of children and ratify the three Optional Protocols to the Convention on the Rights of the Child (Portugal).”

Third cycle review took place in 2017 (session 28). The following recommendations were made:

“Continue its efforts to expand educational programmes and awareness-raising campaigns for preventing and combating corporal punishment of children in schools and childcare institutions (Bulgaria);

“Prohibit absolutely the corporal punishment inflicted on children in all the environments as well as the use, acquisition or the offering to children on the production of pornography and pornographic spectacles (Ecuador)”

“Continue with the legal and administrative steps to finally prohibit fully corporal punishment of children (Kenya)”

The Government accepted the recommendations.¹⁸

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(9 June 2015, CRC/C/GHA/CO/3-5 Advance Unedited Version, Concluding observations on third-fifth report, paras. 7, 8, 35 and 36)

“The Committee recommends that the State party take all necessary measures to address its previous recommendations of 2006 (CRC/C/GHA/CO/2) that have not been implemented or not sufficiently implemented in particular those related to data collection, dissemination, corporal punishment, HIV/AIDS, harmful practices, child labour and juvenile justice.

¹⁵ 1 September 2008, A/HRC/8/52, Report of the Human Rights Council on its eighth session, para. 660

¹⁶ 10 August 2012, A/HRC/WG.6/14/GHA/1, National report to the UPR, para. 75

¹⁷ 13 December 2012, A/HRC/22/6, Report of the working group, paras. 123(20) and 125(50)

¹⁸ 26 December 2017, A/HRC/37/7, Report of the working group, paras. 146(171), 146(172) and 146(174)

“The Committee welcomes the adoption of various child-related legislative measures. Nevertheless, the Committee reiterates its concern about their insufficient implementation and, in some instances, the evident gap between law and practice.

“The Committee welcomes the number of measures undertaken by the State party to address domestic violence and eliminate corporal punishment against children, particularly through the Child and Family Welfare Policy and the setting up of complaints procedures. However, the Committee expresses its deep concern about:

- a) the high incidence of domestic violence, gender-based violence, and child abuse and neglect, including sexual abuse and incest, mainly in the family, schools and care institutions, mostly affecting girls;
- b) corporal punishment being still widely practised in society, its acceptance as a form of discipline and the Children’s Act still allowing for a degree of ‘reasonable’ and ‘justifiable’ punishment.

“Recalling the recommendations of the United Nations study on violence against children of 2006 (A/61/299), the Committee recommends that the State party prioritize the elimination of all forms of violence against children. While recommending that the State party take into account general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and general comment No. 8 (2006) on corporal punishment and other cruel or degrading forms of punishment, the Committee reiterates its previous recommendation (para. 37) and in particular requests the State party to:

- a) amend all legislation in order to explicitly prohibit corporal punishment as ‘reasonable’ and ‘justifiable’ correction or discipline, particularly in the Children’s Act (1998) and the Juvenile Justice Act (2003);
- b) pay particular attention to and address the gender dimension of violence;
- c) further strengthen awareness-raising and education programmes — including campaigns — with the involvement of children, in order to formulate a comprehensive strategy for preventing and combating child abuse and corporal punishment;
- d) establish a national database on all cases of domestic violence against children and child abuse, and undertake a comprehensive assessment of the extent, causes and nature of such violence;
- e) ensure the allocation of adequate human, technical and financial resources to all domestic violence and child abuse related entities to enable them to implement long-term programmes for addressing the root causes of violence and abuse;
- f) encourage community-based programmes aimed at preventing and tackling domestic violence, child abuse and neglect and corporal punishment, including by involving former victims, volunteers and community members, and providing training support to them.
- g) ensure the availability and quality of prevention, protection, access to justice, rehabilitation and reintegration programmes, including health services and psychosocial support, free helplines and adequate shelters for victims;
- h) ensure children’s access to justice, including by providing legal support and making available child-friendly and confidential complaint mechanisms in institutions, schools, detention centres, hospitals and any other relevant setting.”

Committee on the Rights of the Child

(17 March 2006, CRC/C/GHA/CO/2, Concluding observations on second report, paras. 7, 36 and 37)

“The Committee notes with satisfaction that some concerns and recommendations (CRC/C/15/Add.73) made upon consideration of the State party’s initial report (CRC/C/15/Add.39) have been addressed through legislative measures and policies. However, recommendations regarding, inter alia, data collection, corporal punishment and child labour, have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.

“While noting the State party’s steps to prohibit the use of corporal punishment in educational settings and in particular through prohibitions outlined in the Teacher’s Hand Book, corporal punishment is still widely practised in society and its acceptance as a form of discipline gives cause for serious concern. The Committee is concerned that the Children’s Act allows for a degree of ‘reasonable’ and ‘justifiable’ punishment.

“The Committee recommends that the State party should, taking into account its General Comment No. 1 on the aims of education (CRC/GC/2001/1) and its recommendations, adopted on the day of general discussion on violence against children within the family and in schools (see CRC/C/111):

- a) explicitly prohibit all forms of corporal punishment in the family, schools, and other institutional settings and alternative care systems as a matter of priority;
- b) sensitize and educate parents, guardians and professionals working with and for children by carrying out public educational campaigns with the involvement of children about the harmful impact of violent forms of ‘discipline’ and by promoting positive, non-violent forms of discipline and respect of child rights.”

Committee on the Rights of the Child

(18 June 1997, CRC/C/15/Add.73, Concluding observations on initial report, paras. 16 and 36)

“The Committee is deeply concerned by the institutionalized use of corporal punishment as a means of discipline, particularly in schools, as well as at the absence of a comprehensive law that clearly prohibits the use of both mental and physical torture or other cruel, inhuman or degrading treatment or punishment against children.

“In light of articles 3, 19 and 28.2, the Committee strongly recommends that corporal punishment be prohibited by law and that references to disciplinary measures using physical force, such as caning, be withdrawn from the Teachers Handbook. It further recommends that authorities develop and implement appropriate creative and socio-educational measures of discipline which respect all the rights of the child.”

Committee Against Torture

(15 June 2011, CAT/C/GHA/CO/1, Concluding observations on initial report, para. 24)

“While noting that the Juvenile Justice Act (2003) and the Children’s Act (1988) explicitly prohibit corporal punishment as a disciplinary measure in prisons, the Committee expresses its concern at the still widespread use of corporal punishment, in particular within the family, schools and alternative care settings (arts. 11 and 16).

The State party should:

- a) explicitly prohibit corporal punishment of children in all settings, including through the repeal of all legal defences for ‘reasonable’ and ‘justifiable’ corporal punishment;

- b) engage in the promotion of alternative forms of discipline to be administered in a manner consistent with the child’s dignity, and in conformity with the Convention;
- c) develop measures to raise awareness on the harmful effects of corporal punishment.”

Human Rights Committee

(9 August 2016, CCPR/C/GHA/CO/1, Concluding observations on initial report, paras. 35 and 36)

“While noting the efforts taken by the State party, the Committee notes that corporal punishment is still widely practised in society and accepted as a form of discipline, in particular within the family, schools and alternative care settings (arts. 7 and 24).

“The State party should step up its efforts to put an end to corporal punishment in all settings. It should encourage the use of non-violent forms of discipline instead of corporal punishment and should conduct public information campaigns to raise awareness about its harmful effects.”

African Committee of Experts on the Rights and Welfare of the Child

([December 2016], Concluding observations on initial report, paras. 16 and 26)

“The Committee commends the State Party for its efforts to protect children from abuse and torture by including child protection measures in the Constitution, The Children’s Act, Domestic Violence Act and Human Trafficking Act along with efforts made to tackle abuse of children through the internet. However the Committee observes with concern that children continue to suffer from the worst forms of abuse... The Committee is further concerned that such children rarely report instances of abuse and the State Party currently has insufficient measures to address this. The Committee therefore recommends that the State Party: ...

- Laws prohibiting corporal punishment are applied strictly and positive alternatives of punishment should be developed together with campaigns on them for parents and teachers.”

“The Committee therefore calls on the State Party: ...

- To ensure the completion and implementation of the manual on positive forms of discipline for teachers with a view to eventually enacting a legislation prohibiting the use of corporal punishment in school.”

Prevalence/attitudinal research in the last ten years

A study involving more than 1,000 girls in Ghana, Kenya and Mozambique analysed the impact of ActionAid’s 2008-2013 project “Stop Violence Against Girls in School”. The project included awareness raising and lobbying for the adoption and implementation of legal and policy measures that ensure education is free from corporal punishment in the three countries. The study found that in 2013 the use of some forms of corporal punishment had reduced since the baseline survey carried out in 2009. In Ghana in 2013 there had been slight reductions in the proportions of girls experiencing most forms of corporal punishment since 2009 – e.g. 56% of girls had been beaten in the year prior to the survey in 2009, compared to 47% in 2013. Girls’ most recent experiences of corporal punishment usually took place in school. The study recommends prohibition of corporal punishment in schools and measures to implement the prohibition.

(ActionAid International (2013), *Stop Violence Against Girls in School: A cross-country analysis of change in Ghana, Kenya and Mozambique*, Johannesburg: ActionAid)

Three quarters (75%) of children involved in a 2012 study by Plan International said teachers were the main perpetrators of violence in schools.

(Plan International West Africa (2012), *Because I am a Girl 2012 Research: Overall Report – Girls’ Retention and Performance in Primary and Secondary Education: Makers and Breakers*, Dakar: Plan International West Africa, cited in Greene, M. et al (2012), *A Girl’s Right to Learn Without Fear: Working to End Gender-Based Violence at School*, Toronto: Plan Canada)

According to statistics collected in 2010-2011 under round 4 of the UNICEF Multiple Indicator Cluster Survey programme (MICS4), 94% of children aged 2-14 had experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in the month prior to the survey. Nearly three quarters (73%) experienced physical punishment, while a smaller percentage (50%) of mothers and caregivers thought physical punishment was necessary in childrearing. Fourteen per cent of children were severely physically punished (hit or slapped on the face, head or ears or hit over and over with an implement), 89% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted).

(Ghana Statistical Service (2011), *Ghana Multiple Indicator Cluster Survey with an Enhanced Malaria Module and Biomarker*, Accra: Ghana Statistical Service)

A 2012 report by Human Rights Watch documented violations of the rights of children and adults with mental disabilities – including prolonged seclusion, being permanently chained in one position, being denied food and being beaten – in psychiatric hospitals and prayer camps (privately owned Christian religious institutions which seek to heal persons with mental disabilities with prayer and traditional methods).

(Human Rights Watch (2012), *“Like a Death Sentence”: Abuses against Persons with Mental Disabilities in Ghana*, NY: Human Rights Watch)

A survey carried out by ActionAid in collaboration with Songtaba in 2009 found that seven boys in eight thought corporal punishment – such as being caned, having their ears pulled or forced to kneel, weed or dig pits – was necessary, while more than a quarter of the girls interviewed said they would absent themselves from school because of the fear of punishment.

(Reported in *Modern Ghana*, 6 September 2011, www.modernghana.com)

A survey of 2,314 parents, students and graduates carried out by the Campaign for Female Education found that 94% of parents, 92% of students and 89% of female graduates supported corporal punishment in schools; 64% of teachers said it must be tolerated.

(Reported in *GhanaWeb*, 18 August 2011)

A study involving 4,164 children, conducted in 2008 by CURIOUS MINDS and the Department of Children with UNICEF support, found that 81% of children are subjected to a form of corrective measure at home, while 71% of children experience same at school; 94% of surveyed school children either experienced or witnessed corporal punishment in school. Caning and whipping were found to be the most common corrective method applied to children in Ghana.

(CURIOUS MINDS (2009), *The Use of Corporal Punishment in Ghana: The voices of Ghanaian Children*, Accra, Ghana: UNICEF and Ministry of Women and Children’s Affairs)

Investigations into care institutions and schools in Ghana revealed that corporal punishment of children was widely used by caregivers and teachers. Types of corporal punishment included caning, kicking and slapping. As a result of corporal punishment, some children had developed fear and dislike of their caregivers, with many others playing truant to escape corporal punishment at school.

(Reported in “Scarred With Whips: The agony of Osu Children’s Home inmates”, *MyJoyOnline*, 10 Sept 2010, www.myjoyonline.com)

A study on children's perceptions of physical punishment using interviews, diaries and a questionnaire found a high prevalence of physical punishment. Of the 158 children in private schools who completed a questionnaire, 61.4% experienced some physical punishment at the hands of parents or primary caregivers, with 30.4% experiencing only physical methods of punishment at home. Seven in ten (70.9%) of survey respondents said school was the place in which they were most likely to be physically punished. Caning was the most common method of physical punishment at home and at school.

(Twum-Danso, A. (2010), *Children's Perceptions of Physical Punishment in Ghana*, Nuffield Foundation)