

# Corporal punishment of children in the United Republic of Tanzania

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Child population 27,611,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal  
Punishment of Children**

## Summary of necessary legal reform to achieve full prohibition

Prohibition of corporal punishment is still to be achieved in the home, some alternative care settings, day care, schools, some penal institutions and as a sentence for crime.

Article 13 of the Law of the Child Act 2009 in mainland Tanzania provides for “justifiable” correction; article 14 of the Children’s Act 2011 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 These provisions should be repealed/amended to ensure that no law can be construed as authorising corporal punishment in childrearing.

*Alternative care settings* – Corporal punishment is prohibited in residential institutions in Zanzibar and in foster care in mainland Tanzania. Further law reform is necessary to ensure corporal punishment is prohibited in all other alternative care settings in Zanzibar and mainland Tanzania (including 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* – Legislation should be enacted to prohibit corporal punishment in all education settings, public and private. All laws authorising or regulating corporal punishment in schools must be repealed, including the Education (Corporal Punishment) Regulations 1979 under the National Education Act 1978 in mainland Tanzania. In Zanzibar, the policy against corporal punishment in schools should be confirmed through prohibition in law, including the repeal of any provisions authorising corporal punishment in the Education Act 1982.

*Penal institutions* – Corporal punishment is prohibited in penal institutions in Zanzibar. Legislation should now be enacted to prohibit it in all institutions accommodating children in conflict with the law in mainland Tanzania and provisions for it in the Law of the Child (Retention Homes) Rules 2012 should be repealed.

*Sentence for crime* – Judicial corporal punishment of children is unlawful in Zanzibar. In mainland Tanzania, all laws and authorisations providing for the sentencing of persons under 18 at the time of the offence should be repealed, including those in the Corporal Punishment Ordinance 1930, the Minimum Sentences Act 1963, the Sexual Offences Special Provisions Act 1998, the Penal Code 1945 and the Criminal Procedure Code 1985.

## Current legality of corporal punishment

### Home

**Mainland Tanzania:** Corporal punishment is lawful in the home. The Law of the Child Act 2009 states that parents should protect children from all forms of violence (art. 9), includes beatings which cause harm in the definition of child abuse (art. 3) and prohibits “torture, or other cruel, inhuman punishment or degrading treatment” (art. 13). However, it allows for “justifiable” correction (art. 13) and does not exclude all forms of corporal punishment from such correction. The Government has confirmed that caning of children is justifiable under the Act.<sup>1</sup> Notably, the Law of Marriage Act 1971 explicitly prohibits corporal punishment of adults in the home (art. 66): “For the avoidance of doubt, it is hereby declared that, notwithstanding any custom to the contrary, no person has any right to inflict corporal punishment on his or her spouse.”

A Proposed Constitution is waiting to be subjected to a public referendum.<sup>2</sup> As at November 2014, the draft provided for the rights of children in article 50, stating that every child has the right to “be protected from abuse, cruelty, child labour and harmful traditional practices” (unofficial translation); protection from violence and harmful traditional practices is also specifically confirmed for people with disabilities (art. 52) and for women (art. 54). There is no specific prohibition of corporal punishment. In 2017, the African Committee of Experts on the Rights and Welfare of the Child encouraged the Government to expedite its adoption.<sup>3</sup>

The Government rejected recommendations to prohibit all corporal punishment made during the Universal Periodic Review of Tanzania in 2011,<sup>4</sup> and again in 2016.<sup>5</sup> Tanzania is a Pathfinder country with the Global Partnership to End Violence Against Children, which was established in 2016. This commits the Government to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals. The National Plan of Action to End Violence Against Women and Children in Tanzania 2017-2022 does not explicitly recommend a legal prohibition of corporal punishment, focusing instead on the promotion of positive discipline.

**Zanzibar:** Corporal punishment is lawful in the home. 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” (art. 14). The Act does not explicitly prohibit all corporal punishment in childrearing, and the Government has confirmed that corporal punishment is justifiable under article 14.<sup>6</sup>

### Alternative care settings

**Mainland Tanzania:** The Foster Care Placement Regulations 2012 explicitly prohibit corporal punishment by foster parents: article 11 sets out the responsibilities of foster parents, including “guiding the behaviour of the child in a human manner, promote positive discipline and not impose corporal punishment or any form of physical violence or punishment, or humiliating or degrading

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<sup>1</sup> 4 November 2013, CRC/C/TZA/3-5, Third-fifth state party report, para. 87

<sup>2</sup> 8 February 2016, CEDAW/C/TZA/Q/7-8/Add.1 Advance Unedited Version, Reply to list of issues, para. I(1)

<sup>3</sup> July 2017, Concluding observations on second/fourth report, para. 5

<sup>4</sup> 12 March 2012, A/HRC/19/4/Add.1, Report of the working group: Addendum, paras. 86(37), 86(38) and 86(47)

<sup>5</sup> 22 September 2016, A/HRC/33/12/Add.1, Report of the working group: Addendum, para. 136(21)

<sup>6</sup> 4 November 2013, CRC/C/TZA/3-5, Third-fifth state party report, para. 87

forms of discipline” (art. 11(1)(f)). In other forms of alternative care, corporal punishment is lawful under the provisions for “justifiable” correction in article 13 of the Law of the Child Act 2009.

**Zanzibar:** The Children’s Act 2011 prohibits corporal punishment in residential institutions in article 125: “(1) For the purpose of promoting the well-being and development of children in residential establishments, particularly as regards their education and health, every residential establishment approved under section 123(3) of this Act shall establish a committee of not less than four fit and proper persons to oversee the management of the establishment. (2) The committee shall: ... (e) inquire into the maintenance of discipline and behaviour management, having regard to the prohibition on corporal punishment and other humiliating forms of punishment....” However, there is no prohibition in relation to other forms of care, where corporal punishment is lawful as for parents under article 14.

## **Day care**

**Mainland Tanzania:** The Law of the Child Act 2009 does not explicitly prohibit corporal punishment in day care; it is lawful under the provisions for “justifiable” correction in article 13.

**Zanzibar:** There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children. The provision for disciplining children in the Children’s Act 2011 (art. 14) applies to all with parental authority.

## **Schools**

**Mainland Tanzania:** Corporal punishment is lawful in schools, for boys and girls, under the National Education (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”. Corporal punishment according to these Regulations means “punishment by striking a pupil on his hand or on his normally clothed buttocks with a light, flexible stick but excludes striking a child with any other instrument or on any other part of the body”.<sup>7</sup> Regulation 3 states that corporal punishment “may be administered for serious breaches of school discipline or for grave offences committed whether inside or outside the school which are deemed by the school authority to have brought or are capable of bringing the school into disrepute”; it must “be reasonable having regard to the gravity of the offence, age, sex and health of the pupils and shall not exceed four strokes on any occasion”.<sup>8</sup> The Law of the Child Act 2009 does not prohibit corporal punishment in schools nor repeal the provisions for it in the Education Act and Regulations. On the contrary, in reporting to the Committee on the Rights of the Child in 2013, the Government confirmed that the provision in the Law of the Child Act 2009 for “justifiable correction” (art. 13) justifies the use of caning in schools.<sup>9</sup> In 2019, the Deputy Permanent Secretary of the President’s Office on Regional Administration and Local Government issued a directive banning the

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<sup>7</sup> 4 November 2013, CRC/C/TZA/3-5, Third-fifth state party report, para. 87; see also Law Reform Commission of Tanzania (1994), *Final Report on Designated Legislation in the Nyalali Commission Report*, para. 2.6

<sup>8</sup> 4 November 2013, CRC/C/TZA/3-5, Third-fifth state party report, para. 88

<sup>9</sup> 4 November 2013, CRC/C/TZA/3-5, Third-fifth state party report, para. 87

use of corporal punishment in classrooms from pre-primary to third grade.<sup>10</sup> However this policy was not confirmed by the Ministry of Education and does not apply to all children in all schools.

Commenting on corporal punishment in schools in 1994, the Law Reform Commission of Tanzania defended its use and legality, stating that “the punishment under the Education Act No. 25 of 1978 was intended to match that which a parent would administer and more importantly to nip the evil in the bud”.<sup>11</sup>

In rejecting the recommendations to prohibit corporal punishment made during the UPR in 2011, the Government asserted that “corporal punishment does not apply in the education system” but that caning is administered in schools and is “a legitimate and acceptable form of punishment [not intended to] be violent, abusive or degrading”.<sup>12</sup> In April 2013, the Government reportedly confirmed that corporal punishment would continue to be used in public schools.<sup>13</sup>

In its report to the Committee on the Rights of the Child in 2013, the Government states:<sup>14</sup> “Based on the foregoing provisions [article 13 of the Law of the Child Act 2009 and article 14 of the Children’s Act 2011], the State Party deems justifiable the application of caning of unruly students in schools as falling outside the scope of corporal punishment; and it has regulated the application of the punishment in schools in order for it not to amount to degrading or inhuman treatment of misbehaving pupils in schools.” However, the Government also informed the Committee that it is committed to abolishing corporal punishment in schools and ways of achieving this were being investigated.<sup>15</sup> In 2000, Government guidelines 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: efforts since then have focused on ensuring adherence to the guidelines.<sup>16</sup> In October 2019, President Magufuli expressed support for a regional commissioner who had been filmed illegally caning students.<sup>17</sup>

**Zanzibar:** The Ministry of Education has adopted a policy against corporal punishment in schools, and in 2016 the Government reported to the Committee on the Elimination of Discrimination Against Women that the use of corporal punishment had been suspended in 10 schools.<sup>18</sup> However, this is policy not law: corporal punishment remains lawful under the Education Act 1982, and in 2013 the Government confirmed that the provisions for discipline of children in the Children’s Act 2011 justifies the use of caning in schools.<sup>19</sup>

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<sup>10</sup> Information provided to the Global Initiative, August 2019; see also <https://www.kahawatungu.com/2019/07/31/tanzania-bans-corporal-punishment-in-classrooms/>, accessed 12 August 2019

<sup>11</sup> Law Reform Commission of Tanzania (1994), *Final Report on Designated Legislation in the Nyalali Commission Report*, para. 5.6

<sup>12</sup> 12 March 2012, A/HRC/19/4/Add.1, Report of the working group: Addendum, para. 86(47)

<sup>13</sup> 9 April 2013, *Daily News*

<sup>14</sup> 4 November 2013, CRC/C/TZA/3-5, Third-fifth state party report, para. 87

<sup>15</sup> 4 November 2013, CRC/C/TZA/3-5, Third-fifth state party report, para. 308; 20 January 2015, CRC/C/SR.1944, Summary record of 1944th meeting, paras. 20 and 32

<sup>16</sup> See *Tanzania Daily News (Dar es Salaam)*, 14 June 2014, “Tanzania: Ministry sets guidelines on corporal punishment”, [www.allafrica.com/stories/201406161113.html](http://www.allafrica.com/stories/201406161113.html), accessed 16 May 2016

<sup>17</sup> See “Tanzanian president backs official who beat students with a stick”, <https://www.reuters.com/article/us-tanzania-rights/tanzanian-president-backs-official-who-beat-students-with-a-stick-idUSKBN1WJ24W>, last accessed 18 October 2019

<sup>18</sup> 9 March 2016, CEDAW/C/SR.1392, Summary record of 1392nd meeting, para. 7

<sup>19</sup> 4 November 2013, CRC/C/TZA/3-5, Third-fifth state party report, para. 87

The Education Act 1982 is being reviewed:<sup>20</sup> we do not know if prohibition has been proposed in this context. The National Plan of Action to End Violence Against Women and Children 2017-2022 mentions the enactment of legislation “addressing violence against children in schools and promoting the use of positive forms of discipline” in 2018-2020.

## **Penal institutions**

**Mainland Tanzania:** Corporal punishment is lawful as a disciplinary measure in penal institutions. The Law of the Child Act 2009 prohibits “torture, or other cruel, inhuman punishment or degrading treatment” (art. 13) but regulations under the Act permit corporal punishment.

The Law of the Child (Retention Homes) Rules 2012 confirm the child’s right to protection from “all forms of violence” (arts. 4(1) and 52) but they also authorise the use of corporal punishment “as a last resort” (art. 43): “(8) Corporal punishment is permitted but shall be used only as a last resort and in exceptional circumstances, provided that – (a) the decision to resort to corporal punishment is arrived at after careful consideration of all the facts; (b) the use of corporal punishment is justified under the Education (Corporal Punishment) Regulations; (c) the child has been given the opportunity to challenge the disciplinary measure before it is administered; (d) a maximum of four strokes are administered; (e) the punishment is administered by the Manager; and (f) the use of corporal punishment is documented in the Behaviour Management Register.” According to article 44, with the exception of corporal punishment, physical force and restraints should not be used as a punishment against the child.

The Law of the Child (Approved Schools) Rules 2011 similarly provide for corporal punishment in article 46: “(7) Corporal punishment is permitted but shall be used only as a last resort and in exceptional circumstances, provided that: (a) the decision to resort to corporal punishment is arrived at after careful consideration of the facts; (b) all other available disciplinary measures have been considered and determined to be inadequate; (c) the use of corporal punishment is justified in accordance with the Education (Corporal Punishment) Regulations G.N. 294 of 2002; (d) the child has been given the opportunity to challenge the disciplinary measure before it is administered; (e) a maximum of four strokes are administered; (f) the punishment is administered only by the Manager; and (g) the use of corporal punishment is documented in the Behaviour Management Register.” Article 47 states that physical force and restraint should not be used as a form of punishment.

**Zanzibar:** Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 122 of the Children’s Act 2011: “(1) The Minister may make rules for the proper implementation of the purposes and provisions of this Part without prejudice to the generality of the foregoing, for providing for the following purposes: (a) the management, control, discipline and interior economy of Approved Schools and remand homes; ... (d) the prohibition of all forms of corporal punishment and other cruel or degrading punishments...” Article 125 states that a management committee should be established in residential institutions – including Approved Schools – and shall “(e) inquire into the maintenance of discipline and behaviour management, having regard to the prohibition on corporal punishment and other humiliating forms of punishment”.

We have yet to establish if rules providing for prohibition of corporal punishment have been made under the Children’s Act 2011 and if provisions for the use of force “to make a trainee obey the lawful

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<sup>20</sup> *Right to Education Project Factsheet: United Republic of Tanzania, January 2015*

orders which he refused to obey or in order to preserve peace in the Centre”, introduced into the Offenders Education Act 1980 in 2007, have been repealed or amended.

## **Sentence for crime**

**Mainland Tanzania:** Corporal punishment is lawful as a sentence for crime, for males only. The Minimum Sentences Ordinance 1963 made corporal punishment mandatory for certain offences for males aged 16 and above. The Minimum Sentences Act 1972 abolished these provisions, but they were reinstated by the Written Law (Miscellaneous Amendments) Act No. 10 of 1989. A number of laws provide for judicial corporal punishment, including the Penal Code 1945, the Sexual Offences Special Provisions Act 1998, the Criminal Procedure Code 1985 and the Written Laws (Miscellaneous Amendments) (No. 2) Act 2007.

According to the Penal Code (art. 28), corporal punishment should be administered as specified in the Corporal Punishment Ordinance 1930, applicable to both adults and juveniles (arts. 5 and 6). It prohibits corporal punishment of females (art. 8). Adults may receive up to 24 strokes, juveniles up to 12. No two inflictions should be inflicted within 14 days of each other, nor shall corporal punishment be inflicted in public “unless the court finds it so desirable in case of juveniles”. Article 13 was amended in 1970 to state that the sentence must be carried out within 6 months, or within 6 months of the disposal of an appeal. The Ordinance also provides for medical examination to certify fitness to be punished and suspension if considered unfit. Subsidiary legislation under article 9 of the Ordinance sets out the rules for inflicting corporal punishment: Rules 2 and 3 specify how it should be administered on adults and juveniles and the cane that must be used, Rule 4 states the need to ensure no other part of the body is caned, Rule 5 states that cotton soaked in antiseptic solution must be kept spread over the buttocks of the person being punished.<sup>21</sup> According to the Law Reform Commission, the general policy is that corporal punishment is prescribed “for offences where offender’s act involves some force or threats to use force to the victims of the crime, or offences which are related to those offences which cause bodily harm on one hand and on the other hand cause great social harm to the community”.<sup>22</sup>

The Law of the Child Act 2009 provides for criminal charges against children to be heard by a juvenile court (art. 98); it prohibits “torture, or other cruel, inhuman punishment or degrading treatment” (art. 13) and does not explicitly provide for corporal punishment as a sentence of the court. But the Act does not prohibit judicial corporal punishment for child offenders or repeal the above mentioned laws which authorise such sentences.

In 1992, the report of the Nyalali Commission – a Presidential Commission concerned with constitutional reform – included laws authorising and regulating corporal punishment among 40 identified as “oppressive”.<sup>23</sup> It asserted that corporal punishment is cruel and degrading and therefore unconstitutional (article 13(6)(e) of the Constitution states that “no person shall be subjected to torture or to inhuman or degrading treatment”), and recommended that the Attorney

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<sup>21</sup> See Law Reform Commission of Tanzania (1994), *Final Report on Designated Legislation in the Nyalali Commission Report*, para. 1.5

<sup>22</sup> See Law Reform Commission of Tanzania (1994), *Final Report on Designated Legislation in the Nyalali Commission Report*, para. 1.14

<sup>23</sup> *The Presidential Commission on Single Party or Multi-party System in Tanzania, 1991: Report and Recommendations of the Commission on the Democratic System in Tanzania, hereafter known as the Nyalali Commission*

General or the Law Reform Commission review the laws with a view to recommending repeal or amendment as necessary.<sup>24</sup>

The review (in relation to laws in Mainland Tanzania) was undertaken by the Law Reform Commission, which disagreed with the findings of the Nyalali Commission. The Law Reform Commission concluded that legal provisions for corporal punishment in schools, prisons and as a sentence for crime are not unconstitutional because they are consistent with article 30(2)(a) “ensuring that the rights and freedoms of the others or the public interest are not prejudiced by the misuse of the individual rights and freedoms” and (c) “ensuring the execution of the judgment or order of a court given or made in any civil or criminal proceedings”. The Commission concluded that corporal punishment is proportionate to the criminal offences for which it is imposed<sup>25</sup> and recommended that the Corporal Punishment Ordinance be retained, that judicial corporal punishment be imposed on females as well as males, that the punishment be “enhanced” (minimum 24 strokes and 12 canes), that it be applicable to all ages not just those under 45, and that the offences for which it is imposed be extended to include drug trafficking and witchcraft.<sup>26</sup>

In rejecting the recommendation to prohibit corporal punishment made during the UPR in 2011, the Government defended it as a sentence for crime, stating that “the procedure for the administration of the punishment has strict controls to eliminate any likelihood of arbitrariness and to ensure the protection of the health of the concerned”.<sup>27</sup>

**Zanzibar:** Judicial corporal punishment was abolished in 2004, when the Criminal Procedure Decree was amended by the Criminal Procedure (Amendment) Act 2004 to insert a new article 291 entitled “Ban on corporal punishment”: “No court of law or judicial tribunal established by law shall inflict a corporal punishment to any person in Zanzibar.” Article 47(2) of the Children’s Act 2011 confirms prohibition: “No child shall be subject to corporal punishment as a result of being found guilty of the commission of an offence...”

## **Universal Periodic Review of Tanzania’s human rights record**

Tanzania was examined in the first cycle of the Universal Periodic Review in October 2011 (session 12). The following recommendations were made:<sup>28</sup>

“Pursue efforts in human rights related areas, in particular legal review process, female genital mutilation and corporal punishment (Egypt);

“Strengthen measures aiming to make effective the rights of the Child from an integral perspective and based on the Convention on the Rights of the Child, particularly on issue of eradication of child labour, violence and sexual abuses, corporal punishment and street children conditions (Uruguay);

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<sup>24</sup> Reported in Law Reform Commission of Tanzania (1994), *Final Report on Designated Legislation in the Nyalali Commission Report*, paras. 2.16

<sup>25</sup> Law Reform Commission of Tanzania (1994), *Final Report on Designated Legislation in the Nyalali Commission Report*, para. 6.1

<sup>26</sup> Law Reform Commission of Tanzania (1994), *Final Report on Designated Legislation in the Nyalali Commission Report*, para. 6.2

<sup>27</sup> 12 March 2012, A/HRC/19/4/Add.1, Report of the working group: Addendum, para. 86(47)

<sup>28</sup> 8 December 2011, A/HRC/19/4, Report of the working group, paras. 85(7), 86(37), 86 (38) and 86(47)

“Prohibit all violence against children, including corporal punishment (Sweden);

“Continue to promote the right to education, while prohibiting corporal punishment (Djibouti)”

The Government accepted Egypt’s recommendation to pursue its efforts with regard to corporal punishment<sup>29</sup> but rejected recommendations to prohibit corporal punishment, stating:

“Corporal punishment does not apply in the education system. It is provided for by law, as part of our penal system and is administered under the Corporal Punishment Act and Regulations made under the Act, as well as the Prisons Act for persons who have been convicted of certain offences. This punishment is not applicable to females, and males who are over fifty-five years. The procedure for the administration of the punishment has strict controls to eliminate any likelihood of arbitrariness and to ensure the protection of the health of the concerned. As a result of these procedures and controls, the sentence has not been administered for more than one decade. This punishment has already been abolished for Tanzania Zanzibar and preference is given to community services. Moreover, canning (and not corporal punishment) is administered to pupils and students for acts of gross indiscipline. The Education Act and its Regulations prescribe a strict framework within which it is to be administered in schools. Therefore caning of miscreant students in schools is viewed as a legitimate and acceptable form of punishment in Tanzania. It was not the intention of the law makers that it should be violent, abusive and or degrading as recommended or envisaged.”<sup>30</sup>

Examination in the second cycle took place in 2016 (session 25). During the dialogue, Costa Rica expressed concern about corporal punishment.<sup>31</sup> The following recommendation was made:<sup>32</sup>

“Prohibit all forms of corporal punishment (Sweden)”

The Government again rejected the recommendation to prohibit all corporal punishment, stating:

“Corporal punishment is provided by the Corporal Punishment Act, Cap 17. It is a lawful punishment handed out by Courts of law for specific offences. It is not administered indiscriminately as it is only administered on men below 55 years of age and subject to guidelines ensuring no harm is caused to the offender. Further, a study by the Law Reform Commission revealed that the majority of citizens are in favour of corporal punishment. This form of punishment plays a significant deterrent role in the society.”<sup>33</sup>

Examination in the third cycle is scheduled for 2021.

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

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

(4 February 2015, CRC/C/TZA/CO/3-5 Advance Unedited Version, Concluding observations on third-fifth report, paras. 6, 35, 36, 71 and 72)

“The Committee recommends that the State party take all necessary measures to address its previous recommendations (CRC/C/TZA/CO/2, 2006) that have not yet been sufficiently implemented

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<sup>29</sup> 8 December 2011, A/HRC/19/4, Report of the working group, para. 85(7)

<sup>30</sup> 12 March 2012, A/HRC/19/4/Add.1, Report of the working group: Addendum, paras. 86(37), 86(38) and 86(47)

<sup>31</sup> 14 July 2016, A/HRC/33/12, Report of the working group, para. 29

<sup>32</sup> 14 July 2016, A/HRC/33/12, Report of the working group, para. 136(21)

<sup>33</sup> 22 September 2016, A/HRC/33/12/Add.1, Report of the working group: Addendum, para. 136(21)



and, in particular those related to resources for children (para. 17), birth registration (para. 31), corporal punishment (para. 34), harmful practices (para. 51) and juvenile justice (para. 70).

“The Committee welcomes measures to review the Education Act (Mainland) so as to remove corporal punishment in school settings and move towards abolishment. Nevertheless, the Committee reiterates with concern that corporal punishment, including caning, remains widely practiced. In particular, the Committee notes with serious concern provisions in legislation that condone corporal punishment ‘for justifiable correction’ in schools, provided that it is carried out by the head teacher, or for parents to ‘discipline provided it does not lead to injury’.

“With reference to the Committee’s general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee reiterates its previous recommendations (CRC/C/TZA/CO/2, para. 34) and urges the State party to:

a) repeal or amend, as needed, all legislation to explicitly prohibit corporal punishment as ‘justifiable’ correction or discipline, including provisions contained in the Law of the Child Act (2009) the Children’s Act (2011), the National Education Act (Mainland, 1978), the Zanzibar Education Act (1982), the Corporal Punishment Ordinance 1930, the Minimum Sentences Act 1963, the Sexual Offences (Special Provisions) Act 1998, the Penal Code 1981, and the Criminal Procedure Code 1985 to explicitly prohibit all forms of corporal/physical punishment in all settings;

b) sensitize and educate parents, guardians and professionals working with and for children, particularly teachers, by carrying out educational campaigns and awareness raising about the harmful impact of corporal punishment; and

c) promote positive, non-violent and participatory forms of child-rearing and discipline in all settings, including through providing training to teachers and parents on alternative discipline measures.

“The Committee welcomes the State party’s commitment for the reform of the juvenile justice system, and the establishment of the Zanzibar Children’s Court and the Mainland Juvenile Court. The Committee, however, remains concerned that children and their parents/guardians are often unaware of their rights and how to engage in court proceedings. In particular, the Committee is concerned about: ...

e) the use of corporal punishment as a judicial sanction....

“In the light of its general comment No. 10 (2007) on children’s rights in juvenile justice, the Committee urges the State party to bring its juvenile justice system fully into line with the Convention and other relevant standards. The Committee encourages the State party to:...

f) abolish corporal punishment as a judicial sanction....”

### ***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).”

### ***Committee on Economic, Social and Cultural Rights***

(13 December 2012, E/C.12/TZA/CO/1-3, Concluding observations on initial-third report, paras. 4 and 14)

“The Committee is concerned that the provisions of the Covenant have not been fully incorporated into the domestic legal order. It is also concerned that the State party invokes traditional values to explain practices that are not in line with obligations flowing from international human rights law, such as polygamy, female genital mutilation (FGM), as well as corporal punishment of children in schools (art. 2, para. 1).

The Committee urges the State party to take the necessary measures to give the Covenant full effect in its domestic legal order, throughout its territory, including through the planned constitutional review prior to 2015. The Committee also calls on the State party to ensure that redress for violations of the Covenant rights can be sought, and that the curriculum of training centres for judges includes all economic, social and cultural rights, as contained in the Covenant.

“The Committee is concerned that corporal punishment of children is lawful as a sentence of the courts, as well as a form of discipline in schools, alternative-care institutions and the home (art. 10).

The Committee urges the State party to take legislative and other measures to prohibit and prevent corporal punishment of children in all settings, in particular as a sentence of the courts, as well as in schools, alternative-care institutions and the home.”

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

(July 2017, Concluding observations on second/fourth report, para. 19)

“The State Party has taken initiatives in the form of policies and guidelines to promote positive disciplining of children in schools that does not involve corporal punishment. However, the Committee notes that the Education Act allows corporal punishment and in fact the Government has adopted a National Corporal Punishment Regulations of 1979. The Committee therefore encourages the State Party to revise the Education Act and proscribe the prohibition of corporal punishment in school setting. The Committee also recommends that corporal punishment is banned at home as well as in foster care centers and detention centers. Moreover, the Committee recommends for the State Party to intensify sensitization campaigns that create awareness among teachers, parents, and the police about the negative effects of corporal punishment on the wellbeing of the child. The State Party also needs to promote positive parenting and disciplining mechanisms that are in line with the customs of the community.”

## **Prevalence/attitudinal research in the last ten years**

A 2017 Human Rights Watch report indicates routine, widespread and sometimes brutal use of corporal punishment in Tanzanian schools. Almost all adolescents and students interviewed were subjected to corporal punishment at some point of their school experience. Senior school officials or teachers reported caning students and not following government regulations (one senior official reported: "To be honest, we don't have a book record on corporal punishment"). Secondary school students and teachers said that in their schools, children are routinely beaten with sticks – bamboo or wooden sticks, which are often visible in class – or by teachers using their hands or other objects. Female and male teachers reportedly hit students irrespective of their gender or disability. Students reported being hit on the buttocks in front of the class, while female students reported being hit on the buttocks and breasts, and reported further humiliation during menstruation.

(Human Rights Watch (2017), *"I Had a Dream to Finish School" Barriers to Secondary Education in Tanzania*)

A survey involving 254 teachers and 194 students from government or private secondary schools in the Iringa Region of Tanzania found that corporal punishment is the most common form of punishment in secondary schools. The majority of students and teachers are unaware of national laws to restrict corporal punishment; the majority of teachers support its continued use, but believe in moderation; students and teachers said corporal punishment is used for major and minor student offences such as misbehaviour and tardiness. Students reported disliking corporal punishment; they believe it is ineffective and results in emotional, as well as physical, distress.

(Feinstein, S. & Mwachombela, L. (2010), "Corporal punishment in Tanzania's schools", *International Review of Education*, 56, 399-410)

Research conducted in July 2013, involving interviews with 730 children and 135 adults, found almost 60% of all interviewees identified corporal punishment as a child protection issue facing children in Ruvu; 16% of children interviewed linked corporal punishment with physical harm and psychological effects.

(Childreach Tanzania (2015), *Child Abuse in Tanzania*, Arusha, Tanzania: Childreach Tanzania)

A study involving 409 children (average age 10.5 years) at a private school in Tanzania found that 95% had been physically punished at least once in their lifetime by a teacher. The same percentage reported experiencing physical punishment by parents or caregivers. Eighty-two per cent had been beaten with sticks, belts or other objects, 66% had been punched, slapped or pinched. Nearly a quarter had experienced punishment so severe that they were injured. The children's experience of corporal punishment was associated with increased aggressive and hyperactive behaviour and decreased empathetic behaviour.

(Hecker, T. et al (2013), "Corporal punishment and children's externalizing problems: A cross-sectional study of Tanzanian primary school aged children", *Child Abuse & Neglect*, available online 17 December 2013)

A report carried out at the end of the Transforming Education for Girls in Nigeria and Tanzania (TEGINT) project, a 2007-2012 initiative to transform the education of girls in Northern Tanzania and Northern Nigeria, found that in Tanzania 70% of community members and 87% of girls agreed "it is not okay for teachers to whip a girl who comes late to school because she was caring for a sick relative". The study involved surveys with 295 girls and young women aged 11-22 and 91 community members.

(Institute of Education & ActionAid (2013), *Transforming Education for Girls in Tanzania: Endline research summary report*, Das es Salaam: ActionAid Tanzania)

In a study on the wellbeing and vulnerability of child domestic workers, 30% of the child domestic workers involved in Tanzania said their employers physically punished them. The study was

conducted in 2009 in Peru, Costa Rica, Togo, Tanzania, India and Philippines with around 3,000 children, mostly aged 10-17, half of whom worked as paid or unpaid domestic workers.

(Anti-Slavery International (2013), *Home Truths: Wellbeing and vulnerabilities of child domestic workers*, London: Anti-Slavery International)

A report by the Commission for Human Rights and Good Governance based on interviews with 179 children in 65 detention centres found that children were subject to violence, including from prison officers and adult prisoners.

(Reported in *The Citizen*, 29 January 2012, [www.thecitizen.co.tz](http://www.thecitizen.co.tz))

A study involving over 3,700 13-24 year olds found that 73.5% of females and 71.7% of males had been slapped, pushed, punched, kicked, beaten up or attacked or threatened with a weapon such as a gun or knife by a relative, authority figure (including teachers), or intimate partner during their childhood. Over half (51%) of 13-17 year olds had experienced this in the past year. The report is not explicit about how much of the violence was inflicted in the name of “discipline”; however, 58.4% of females and 57.2% of males experienced physical violence by relatives (the majority by fathers and mothers), and 52.6% of females and 50.8% of males experienced physical violence by teachers. Nearly eight in ten girls (78%) and nearly seven in ten boys (67%) aged 13-17 who had been punched, kicked or whipped by a teacher had experienced this more than five times, and nearly half of 13-17 year olds (46.3% girls, 45.9% boys) who had been punched, kicked or whipped by a relative had experienced this more than five times. Experiencing physical violence in childhood was associated for females with poor to fair general health, feelings of anxiety in the past 30 days, having suicidal thoughts, and having a STI diagnosis or symptoms in the past 12 months; and for males with feelings of depression in the past 30 days.

(UNICEF Tanzania, Division of Violence Prevention, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention & Muhimbili University of Health and Allied Sciences (2011), *Violence against Children in Tanzania: Findings from a National Survey (2009)*, Dar es Salaam: United Republic of Tanzania)

A 2010 consultation on the Zanzibar Children’s Bill found that, of over 500 children aged 8 and over, 77% thought all school corporal punishment should be banned.

(Save the Children (2010), *Capturing Children’s Views on the Children’s Bill 2010: The National Child Consultation Programme in Zanzibar*)