

**BRIEFING ON GHANA FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 115th session (Oct/Nov 2015)**

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**This briefing describes the legality of corporal punishment of children in Ghana. In light of the obligation under international human rights law to prohibit all corporal punishment of children, and the recommendations to Ghana by the Committee on the Rights of the Child, the Committee Against Torture and during the Universal Periodic Review (accepted by the Government), we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues for Ghana, in particular asking what steps are being taken to ensure that all corporal punishment, without exception, is explicitly prohibited in the home and all other settings, and**
* **recommend, in the concluding observations on the initial report, that clear prohibition of all forms of corporal punishment, without exception, be enacted in all settings including the home and all legal defences for “justifiable”/“reasonable” correction be repealed, together with appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

**1 Ghana’s report to the Human Rights Committee**

1.1 Ghana’s initial state party report to the Human Rights Committee (CCPR/C/GHA/1) notes that child rights are provided for in article 28 of the Constitution. However, the report does not acknowledge that this legal protection does not extend to protection from all corporal punishment in childrearing and education, which continues to be lawful in the state party.

**1.2 We hope the Committee will raise the issue of corporal punishment of children in its review of Ghana and recommend that clear prohibition of all forms of corporal punishment, without exception, be enacted in all settings including the home and all legal defences for “justifiable”/“reasonable” correction, together with appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

**2 The legality and practice of corporal punishment of children in Ghana**

2.1 ***Summary:*** Corporal punishment of children in Ghana is unlawful as a sentence for crime, but it is not fully prohibited in the home, alternative care settings, day care, schools or penal institutions. The law allows so-called “reasonable” and “justifiable” correction.

2.2 ***Home (lawful):*** 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)). 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 nor the provisions against violence and abuse in the Criminal Code 1960, the Domestic Violence Act 2007 and the Children’s Act 1998 are interpreted as prohibiting all corporal punishment in childrearing. UNICEF’s major 2010 analysis of data on child discipline in the home in 2005-2006 found that 90% of 2-14 year olds in Ghana had been violently “disciplined” (by physical punishment and/or psychological aggression) in the month prior to the survey.[[1]](#footnote-1) Information gathered in 2010-2011 under round 4 of the UNICEF Multiple Indicator Cluster Survey programme (MICS4), documented 94% of 2-14 year olds experiencing this at home in the past month.[[2]](#footnote-2)

2.3 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.[[3]](#footnote-3) 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 “[t]here are enough laws which address the concerns of children and the challenge has to do with enforcing them”.[[4]](#footnote-4) Nevertheless, the Government accepted recommendations to prohibit corporal punishment made during the Universal Periodic Review in 2012.[[5]](#footnote-5)

2.4 ***Alternative care settings (lawful):***Corporal punishment is lawful under provisions allowing “reasonable” and “justifiable” correction in article 13(2) of the Children’s Act 1998.

2.5 ***Day care (lawful):*** Corporal punishment is lawful under provisions allowing “reasonable” and “justifiable” correction in article 13(2) of the Children’s Act 1998.

2.6 ***Schools (lawful):*** 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. Ministerial directives advise against the use of corporal punishment in schools but this has not been confirmed through prohibition in legislation.

2.7 ***Penal institutions (partially prohibited):***Corporal punishment is prohibited in prisons under the Prisons Service Decree 1972. 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.

2.8 ***Sentence for crime (unlawful):***There is no provision for judicial corporal punishment in criminal law.

**3 Recommendations by human rights treaty bodies and during the UPR**

3.1 ***CRC:*** In 1997, the Committee on the Rights of the Child expressed concern at corporal punishment of children in Ghana, particularly in schools, and recommended its prohibition.[[6]](#footnote-6) In 2006, the Committee recommended prohibition of corporal punishment in the family, schools and other educational settings and in alternative care systems in Ghana as a matter of priority.[[7]](#footnote-7) In 2015, the Committee against recommended prohibition in all settings, together with repeal of legal provisions for “reasonable” and “justifiable” punishment.[[8]](#footnote-8)

3.2 ***CAT:*** In 2011, The Committee Against Torture recommended that corporal punishment be prohibited in all settings in Ghana, including through repealing all legal defences for its use.[[9]](#footnote-9)

3.3 ***UPR:*** Ghana was examined in the first cycle of the UPR in 2008. The Government accepted recommendations to fully implement the recommendations of the CRC and of the UN Study on violence against children but later defended the legality of corporal punishment.[[10]](#footnote-10) However, at its UPR in 2012, the Government accepted recommendations to explicitly prohibit all corporal punishment of children in all settings.[[11]](#footnote-11)

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

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*August 2015*

1. UNICEF, (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF [↑](#footnote-ref-1)
2. Ghana Statistical Service (2011), *Ghana Multiple Indicator Cluster Survey with an Enhanced Malaria Module and Biomarker*, Accra: Ghana Statistical Service [↑](#footnote-ref-2)
3. CRC (2011), *Report of the Constitution Review Commission: From a political to a developmental Constitution*, paras. 365 and 383 [↑](#footnote-ref-3)
4. *White Paper on the Report of the Constitution Review Commission of Inquiry*, June 2012, p. 46 [↑](#footnote-ref-4)
5. 13 December 2012, A/HRC/22/6, Report of the working group, paras. 123(20) and 125(50) [↑](#footnote-ref-5)
6. 18 June 1997, CRC/C/15/Add.73, Concluding observations on initial report, paras. 16 and 36 [↑](#footnote-ref-6)
7. 17 March 2006, CRC/C/GHA/CO/2, Concluding observations on second report, paras. 7, 36 and 37 [↑](#footnote-ref-7)
8. 9 June 2015, CRC/C/GHA/C0/3-5 Advance Unedited Version, Concluding observations on third-fifth report, paras. 7, 8, 35 and 36 [↑](#footnote-ref-8)
9. 15 June 2011, CAT/C/GHA/CO/1, Concluding observations on initial report, para. 24 [↑](#footnote-ref-9)
10. 29 May 2008, A/HRC/8/36, Report of the working group, paras. 68(6) and 69; 1 September 2008, A/HRC/8/52, Report of the Human Rights Council on its eighth session, para. 660 [↑](#footnote-ref-10)
11. 13 December 2012, A/HRC/22/6, Report of the working group, paras. 123(20) and 125(50) [↑](#footnote-ref-11)