1 The human rights obligation to prohibit corporal punishment

1.1 The legality and practice of corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity and to equal protection under the law, and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment – rights guaranteed in the International Covenant on Civil and Political Rights and other international human rights instruments.

This briefing describes the legality of corporal punishment of children in Mozambique. In light of the obligation under international human rights law to prohibit all corporal punishment of children, the recommendations of the UN Secretary General’s Study on Violence against Children, and the repeated recommendations to Mozambique by the Committee on the Rights of the Child, we hope the Human Rights Committee will:

- raise the issue of corporal punishment of children in its List of Issues for Mozambique, in particular asking what measures have been taken to ensure the law explicitly prohibits corporal punishment in all settings, including the home, and

- recommend to Mozambique, following its examination of the state party’s initial report, that legislation is enacted and enforced which explicitly prohibits corporal punishment in all settings, including the home, as a matter of priority, together with appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.
2 Legality of corporal punishment of children in Mozambique

2.1 Corporal punishment of children in Mozambique is unlawful in the penal system but it is not prohibited in the home, school and alternative care settings.

2.2 In the home, there appears to be no specific confirmation in legislation of a “right” of parents to administer corporal punishment but provisions against violence and abuse in the Law for the Promotion and Protection of the Rights of the Child (No. 7/2008), the Law on the Jurisdictional Organisation of Minors (No. 8/2008), the Constitution (2004), the Penal Code, the Family Law (2004) and the Law on Domestic Violence Practised against Women (No. 29/2009) are not interpreted as prohibiting all corporal punishment in childrearing.

2.3 Government directives advise against the use of corporal punishment in schools, but there is no explicit prohibition in law. The Law for the Promotion and Protection of the Rights of the Child states that the child has the right to be respected by teachers so as to ensure the child’s human dignity (article 34(1)) and puts a duty on school management to report maltreatment of students (article 37(1)) but it does not explicitly prohibit corporal punishment in schools. The Law on the National Education System (1983) appears to be silent on the issue of corporal punishment (information unconfirmed). Law No. 2001-054 on Primary Education provides for compulsory education for children aged 6-14: it does not prohibit corporal punishment.

2.4 In the penal system, corporal punishment is unlawful as a sentence for crime under the Constitution (article 40) and the Law for the Promotion and Protection of the Rights of the Child. It is explicitly prohibited as a disciplinary measure in penal institutions in article 64(4) of the Law for the Promotion and Protection of the Rights of the Child (unofficial translation): “It is strictly forbidden to use disciplinary methods that constitute cruel, inhuman or degrading treatment, including corporal punishment, placement in a dark cell, imprisonment or solitary confinement, reduction in diet.…”

2.5 Corporal punishment is lawful in alternative care settings.

3 Prevalence of corporal punishment in Mozambique

3.1 A survey of 6-18 year olds in 2009 found that in the previous two weeks, one in three had been hit with a hand at home and one in three at school; 37% had been beaten with an object at home, 40% at school.  

4 Recommendations by human rights treaty monitoring bodies

4.1 The Committee on the Rights of the Child has twice expressed concern about corporal punishment of children in Mozambique and recommended that it be explicitly prohibited in the family and other settings – in its concluding observations on the state party’s initial report in 2002 and on the second report in 2009.  

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children  
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1 Clacherty, G., Donald, D. & Clacherty, A. (2009), Children’s Experiences of Punishment in Mozambique: A Qualitative and Quantitative Survey, Pretoria: Save the Children Sweden  
2 7 February 2002, CRC/C/15/Add.172, Concluding observations on initial report, paras. 38 and 39  
3 4 November 2009, CRC/C/MOZ/CO/2, Concluding observations on second report, paras. 8, 47, 48 and 75