

**BRIEFING FROM THE GLOBAL INITIATIVE  
TO END ALL CORPORAL PUNISHMENT OF CHILDREN**

**BRIEFING ON ZIMBABWE FOR THE COMMITTEE ON THE ELIMINATION OF  
DISCRIMINATION AGAINST WOMEN  
PRESESSIONAL WORKING GROUP – February/March 2012**

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**The human rights obligation to prohibit corporal punishment of girls and boys**

The legality and practice of corporal punishment of girls breaches their fundamental rights to respect for their human dignity and physical integrity, to equality under the law and to protection from all forms of violence – rights guaranteed in the Convention on the Elimination of All Forms of Discrimination Against Women and other international human rights instruments. There are strong links between corporal punishment of children – girls and boys – and all other forms of violence, including gender-based violence: as the Committee on the Rights of the Child emphasised in its General Comment No. 8 (2006),<sup>1</sup> addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”. This briefing describes the legality of corporal punishment of children in Zimbabwe and urges the Committee on the Elimination of Discrimination Against Women to include the issue in its examination of the state party’s implementation of the Convention.

**Corporal punishment of children in Zimbabwe**

In Zimbabwe, corporal punishment of girls and boys is lawful in the home, penal institutions and in care settings; boys (but not girls) may also be subject to corporal punishment in schools and in the penal system, including as a sentence of the courts. The state party report to the Committee on the Elimination of Discrimination Against Women (CEDAW/C/ZWE/2-5) describes legislative and other measures taken to address violence against women in Zimbabwe but makes no mention of the violence that can lawfully be inflicted on girls in the name of discipline.

There are numerous provisions in legislation authorising the infliction of corporal punishment on children. In 1990, the protection from inhuman treatment in article 15 of the Constitution (1979) was amended so as to allow corporal punishment of girls and boys through the insertion of subsection (3):

*No moderate corporal punishment inflicted –*

*(a) 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; or*

*(b) 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;*

*Shall be held to be in contravention of subsection (1) [protection from inhuman treatment] on the ground that it is inhuman or degrading.*

Article 241 of the Criminal Law (Codification and Reform) Act (2004), entitled “Discipline of children”, states:

*... (2) Subject to this section*

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<sup>1</sup> General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” is available at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm).

*(a) a parent or guardian shall have authority to administer moderate corporal punishment for disciplinary purposes upon his or her minor child or ward;*

*(b) a school-teacher shall have authority to administer moderate corporal punishment for disciplinary purposes upon any minor male pupil or student;*

*and, where moderate corporal punishment is administered upon a minor person by a parent, guardian or school-teacher within the scope of that authority, the authority shall be a complete defence to a criminal charge alleging the commission of a crime of which the administration of the punishment is an essential element.*

*(3) Subject to this section, any person who administers moderate corporal punishment upon a minor person under authority delegated to him or her by a parent, guardian or school-teacher shall have a complete defence to a criminal charge alleging the commission of a crime of which the administration of such punishment is an essential element, if it would have been lawful for the parent, guardian or school-teacher to have administered such punishment himself or herself.*

*... (6) In deciding whether or not any corporal punishment administered upon a minor person is moderate for the purposes of this section, a court shall take into account the following factors, in addition to any others that are relevant in the particular case:*

*(a) the nature of the punishment and any instrument used to administer it; and*

*(b) the degree of force with which the punishment was administered; and*

*(c) the reason for the administration of the punishment; and*

*(d) the age, physical condition and sex of the minor person upon whom it was administered; and*

*(e) any social attitudes towards the discipline of children which are prevalent in the community among whom the minor person was living when the punishment was administered upon the minor person.*

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.*

For boys only, corporal punishment is authorised in schools in article 66 of the Education Act (2004) and in the penal system in articles 336 and 353 of the Criminal Procedure and Evidence Act (1927) and articles 103, 104 and 105 of the Prisons Act (1955).

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

With the exception of the report currently being examined by the Committee on the Elimination of Discrimination Against Women, Zimbabwe has not submitted a periodic state report for examination by a UN treaty monitoring body since the 1990s. The Government's examination under the Universal Periodic Review process is scheduled for the 12th session (2011).

Following examination of the state party's initial report in 1996, the Committee on the Rights of the Child expressed concern at the legality of corporal punishment and recommended prohibition, including in the family (CRC/C/15/Add.55, paras. 16, 18, 21, 31 and 33).

In 1998, the Human Rights Committee expressed concern about the amendments to section 15 of the Constitution (see above) and reaffirmed that corporal punishment is incompatible with article 7 of the International Covenant on Civil and Political Rights (CCPR/C/79/Add.89, Concluding observations on initial report, para. 21).

**We hope the Committee on the Elimination of Discrimination Against Women will raise the issue of corporal punishment of girls *and* boys in its List of Issues for Zimbabwe, in particular asking what legislative and other measures have been taken by the state party to prohibit and eliminate corporal punishment, to ensure children, including girls, enjoy their rights as human beings to respect for their human dignity and physical integrity and to equal protection under the law.**

**In light of General Recommendation No. 19 on Violence against women adopted by the Committee on the Elimination of Discrimination Against Women in 1992, of the links between corporal punishment of children and all other forms of violence including gender-based violence, and of the Committee on the Rights of the Child's General Comment No. 8 (2006), we hope the Committee will subsequently recommend to the state party that explicit prohibition of all corporal punishment of children be enacted in relation to all settings, including the home, as a matter of urgency.**

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