

BRIEFING FROM GLOBAL INITIATIVE
TO END ALL CORPORAL PUNISHMENT OF CHILDREN

BRIEFING FOR THE HUMAN RIGHTS COMMITTEE
PRE-SESSIONAL WORKING GROUP – July 2007

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BOTSWANA – initial report (CCPR/C/BWA/1)

Corporal punishment is lawful in the **home**. Children have limited protection from violence under the Children’s Act (1981) and the Penal Code (1986, amended 2004).

Corporal punishment is lawful in **schools** and is regulated by the Education Regulations for Primary Schools (part VII, section 25-29) and the Education Regulations for Secondary Schools (part V, section 21-26) pursuant to the Education Act. Only the head teacher is authorised to use the cane, up to five strokes, but this authority can be delegated to a teacher. Male teachers cannot whip female students. The punishment is supposed to be “moderate or reasonable” in nature and must be administered on the palm of the hands or across the buttocks with a light cane. Each incident of corporal punishment should be officially recorded.

In the **penal system**, corporal punishment is lawful both as a sentence for crime and as a disciplinary measure in penal institutions. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment is enshrined in article 7 of the Constitution (1961, amended 1999). A Court of Appeal in 1984 found that to administer corporal punishment in instalments is inhuman and degrading, but that corporal punishment *per se* is constitutional (*Clover Petrus and Another vs The State*). The Penal Code (article 28) allows a maximum of 6 strokes as a sentence for boys under 18 years, its infliction regulated by the Criminal Procedure and Evidence Act. The Customary Courts Act allows corporal punishment as a sentence for crime (article 17), and was amended in 2000 to allow caning to be imposed for all offences instead of being restricted mainly to cases of assault occasioning actual bodily harm and stock theft.

There is no explicit prohibition of corporal punishment in **alternative care settings**.

In its concluding observations on the state party’s initial report in 2004, the **Committee on the Rights of the Child** expressed concern at the legality and use of corporal punishment in the home, schools, and juvenile justice system, and recommended that the state party “take legislative measures to expressly prohibit corporal punishment in the family, schools and other institutions and to conduct awareness-raising campaigns to ensure that positive, participatory, non-violent forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28, paragraph 2, as an alternative to corporal punishment at all levels of society” (CRC/C/15/Add.242, paras. 36 and 37).

