



Global Initiative to  
**End All Corporal Punishment  
of Children**

## **ZAMBIA**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 2<sup>nd</sup> session, 2008**

*From Peter Newell, Coordinator, Global Initiative*

[\*info@endcorporalpunishment.org\*](mailto:info@endcorporalpunishment.org)

**Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General’s Study on Violence against Children, as a highly significant issue, both for asserting children’s status as rights holders and for the prevention of all forms of violence.**

**The Global Initiative to End All Corporal Punishment of Children has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.**

**In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies and also regional human rights mechanisms have condemned all corporal punishment. In October 2006, the report of the UN Secretary General’s Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment, setting a goal of 2009.**

**This briefing describes the gaps in prohibition in Zambia, despite repeated recommendations by the treaty monitoring bodies.**

**We hope the Review will highlight with concern Zambia’s record of ignoring treaty body recommendations and strongly recommend that the government introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.**

## **I: Legality of corporal punishment in Zambia**

### **The home**

Corporal punishment is lawful in the **home**. Article 46 of the Juveniles Act (1956, amended 1994) punishes cruelty to juveniles under 19 years of age, but states: “Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer lawful punishment to him.”

A large scale survey conducted by Save the Children in 2005, looked at the experiences of over 2,500 children from across Zambia during a two week period. A quarter (25%) reported experiencing corporal punishment in the home, including being beaten with hands, sticks and belts; around a third reported corporal punishment in school, despite the prohibition, with 32% reporting being hit with a hand and 38% with an object, most commonly a stick or hosepipe.<sup>1</sup>

### **Schools and other settings**

Corporal punishment is unlawful in **schools**.

In the **penal system**, corporal punishment is unlawful as a sentence for crime by virtue of a Supreme Court ruling in 1999 (*John Banda v The People* HPA/6/1998) and subsequent amendments to the Penal Code and the Local Court Act, but as at May 2007, article 73(1)(e) of the Juveniles Act, which allows a court to order caning, was yet to be repealed. Corporal punishment is unlawful as a disciplinary measure in penal institutions.

Corporal punishment is lawful in **alternative care settings**, where article 46 of the Juveniles Act (see above) applies and rules made under the Act provide for corporal punishment in childcare facilities.

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

In 2003, following examination of the state party’s initial report, the **Committee on the Rights of the Child** expressed concern that “corporal punishment is still practised and accepted in schools, families, and care and juvenile detention institutions” (CRC/C/15/Add.206, para. 30) and recommended that the state party (para. 31):

“... take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment, in schools and care institutions, as well as in families. The Committee encourages the State party to reinforce its public awareness campaigns to promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society.

In 2007, on examination of the state party’s third report, the **Human Rights Committee** expressed concern at the legality of corporal punishment of children by teachers and parents and recommended prohibition “wherever it occurs”, stating (CCPR/C/ZMB/CO/3, para. 22):

“The Committee remains concerned at information according to which the legal recognition of the rights of parents and teachers to administer punishment on children brings confusion and jeopardizes their full protection against ill-treatment. It is further concerned that corporal punishment is still widely practised on children. (arts 7 and 24)

The State party should prohibit all forms of violence against children wherever it occurs, including corporal punishment in the schools, and undertake public information efforts with respect to appropriate protection of children from violence.”

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<sup>1</sup> Clacherty, G., Donald, D. & Clacherty, A., 2005, *Zambian Children’s Experiences of Corporal Punishment*, Pretoria: Save the Children Sweden