



*Global Initiative to  
End All Corporal Punishment  
of Children*

## BRIEFING ON GHANA FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, PRESESSIONAL WORKING GROUP

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### The human rights obligation to prohibit corporal punishment – a key strategy in eliminating all forms of violence

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), addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.

The near universal acceptance of a degree of violent punishment in childhood and deeply held views that parents and other adults have a “right” to physically punish children can challenge efforts to achieve prohibition. This situation also means that corporal punishment – at least to some degree – is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence. Physical violence against girls and boys in their own home is typically assumed not to be domestic violence because it is inflicted under the guise of “discipline” or “correction” – a rationale totally unacceptable when the victim is an adult woman. **It is for these reasons that we respectfully urge the Committee on the Elimination of Discrimination Against Women to specifically recommend that corporal punishment be prohibited in the home and all settings.**

This briefing describes the legality of corporal punishment of children in Ghana. In light of General Recommendation No. 19 on Violence against women (1992), the links between corporal punishment of children and all other forms of violence including gender-based violence, the repeated recommendations of treaty monitoring bodies and the Government’s acceptance of recommendations to prohibit made during the UPR, we hope the Committee on the Elimination of Discrimination Against Women will:

- raise the issue of corporal punishment of girls in its List of Issues for Ghana, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home, and
- recommend to Ghana, in the concluding observations on the sixth/seventh state party report, that corporal punishment is explicitly prohibited in all settings, including the home, as a matter of priority.

## **1 The state party's report to CEDAW**

- 1.1 The sixth/seventh state report of Ghana to CEDAW includes information on domestic violence and implementation of the Domestic Violence Act but makes no reference to corporal punishment of children – punitive violence which may lawfully be inflicted on them in the home and other settings.<sup>1</sup> **We hope the Committee will, during the review of Ghana, emphasise the importance of prohibiting and eliminating physical punishment of girls and boys within the family when taking measures against family violence.**

## **2 The legality of corporal punishment of children in Ghana**

- 2.1 ***Summary:*** Corporal punishment of children in Ghana is unlawful as a sentence for crime and in prisons, but it is lawful in the home, alternative care settings, day care, schools and possibly some penal institutions.
- 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 also 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)). Neither these provisions 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.
- 2.3 ***Alternative care settings (lawful):*** Corporal punishment is lawful under provisions allowing “reasonable” and “justifiable” correction in article 13(2) of the Children's Act (see para. 2.2).
- 2.4 ***Day care (lawful):*** Corporal punishment is lawful under provisions allowing “reasonable” and “justifiable” correction in article 13(2) of the Children's Act (see para. 2.2).
- 2.5 ***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. Article 13(2) of the Children's Act 1998 allowing “reasonable” and “justifiable” correction also applies (see para. 2.2). Ministerial directives advise against the use of corporal punishment in schools but prohibition has not been enshrined in law.
- 2.6 ***Penal institutions (partial prohibition):*** Corporal punishment is prohibited in prisons under the Prisons Service Decree 1972. The Children's Act 1998 prohibits cruel, inhuman and degrading punishment (art. 13) 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.
- 2.7 ***Sentence for crime (unlawful):*** There is no provision for judicial corporal punishment in criminal law.

## **3 The nature and prevalence of corporal punishment in Ghana**

- 3.1 A number of research studies have exposed the nature, prevalence and general acceptance of corporal punishment in Ghana. UNICEF's major 2010 analysis of data from 2005-2006 found that 90% of 2-14 year olds in Ghana experienced violent “discipline” (physical punishment and/or

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<sup>1</sup> 14 June 2012, CEDAW/C/GHA/6-7 Advance Unedited Version, Sixth/seventh state party report

psychological aggression) in 2005-2006, with 10% being severely physically punished (being hit or slapped on the face, head or ears or being hit over and over with an implement).<sup>2</sup>

3.2 A Government survey of 4,164 children found that 81% experienced corporal punishment in the home, 71% were caned at school.<sup>3</sup> In a 2012 study by Plan International, 75% of children said teachers were the main perpetrators of violence in schools.<sup>4</sup> A survey by the Campaign for Female Education found very high levels of support for corporal punishment in schools.<sup>5</sup>

3.3 A 2012 report by Human Rights Watch documented violations of the rights of children and adults with mental disabilities – including prolonged seclusion, being permanently chained in one position, being denied food and being beaten – in psychiatric hospitals and prayer camps (privately owned Christian religious institutions which seek to heal persons with mental disabilities with prayer and traditional methods).<sup>6</sup>

## 4 Law reform opportunities and moves towards prohibiting corporal punishment

4.1 The Constitution 1992 is under review. In its final report, the Constitution Review Commission acknowledged receipt of submissions concerning the need for clarity regarding discipline of children and made a general recommendation that the Children's Act be “substantially revised”.<sup>7</sup> 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”.<sup>8</sup> This appears to conflict with the Government's acceptance of recommendations to prohibit corporal punishment made during the Universal Periodic Review in 2012 (see para. 5.3, below). **We hope the Committee will stress the necessity for clarity in law that all forms of corporal punishment, without exception, are prohibited and urge the state party to pursue law reform to this effect.**

## 5 Recommendations by human rights treaty bodies and during the UPR

5.1 **CRC:** The Committee on the Rights of the Child has twice recommended prohibition of corporal punishment in Ghana – in its concluding observations on the state party's initial report in 1997, and on the second report in 2006.<sup>9</sup>

5.2 **CAT:** In 2011, the Committee Against Torture recommended that corporal punishment of children be explicitly prohibited in all settings, including through the repeal of all legal defences for “reasonable” and “justifiable” corporal punishment.<sup>10</sup>

5.3 **UPR:** During the Universal Periodic Review of Ghana in 2008, the Government accepted recommendations “to strengthen its efforts to fully implement the recommendations adopted by

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<sup>2</sup> UNICEF, (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

<sup>3</sup> Reported in “Eighty-nine per cent of children believe in correction when at fault – IRAD Report”, *Business Ghana*, 1 February 2011

<sup>4</sup> Plan International West Africa (2012), *Because I am a Girl 2012 Research: Overall Report – Girls' Retention and Performance in Primary and Secondary Education: Makers and Breakers*, Dakar: Plan International West Africa, cited in Greene, M. et al (2012), *A Girl's Right to Learn Without Fear: Working to End Gender-Based Violence at School*, Toronto: Plan Canada

<sup>5</sup> Reported in *GhanaWeb*, 18 August 2011

<sup>6</sup> Human Rights Watch (2012), “*Like a Death Sentence*”: *Abuses against Persons with Mental Disabilities in Ghana*, NY: Human Rights Watch

<sup>7</sup> CRC (2011), *Report of the Constitution Review Commission: From a political to a developmental Constitution*, paras. 365 and 383

<sup>8</sup> *White Paper on the Report of the Constitution Review Commission of Inquiry*, June 2012, p. 46

<sup>9</sup> 18 June 1997, CRC/C/15/Add.73, Concluding observations on initial report, paras. 16 and 36 ; 17 March 2006, CRC/C/GHA/CO/2, Concluding observations on second report, paras. 7, 36 and 37

<sup>10</sup> 15 June 2011, CAT/C/GHA/CO/1, Concluding observations on initial report, para. 24

the CRC and to prohibit all forms of violence against children” and “to take further measures to implement the overarching and setting-specific recommendations of the UN Study on violence against children”.<sup>11</sup> At the second cycle review in 2012, the Government accepted recommendations specifically on corporal punishment – to “explicitly prohibit corporal punishment of children in all settings, including the home” and to “prohibit all forms of corporal punishment of children”.<sup>12</sup>

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

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<sup>11</sup> 29 May 2008, A/HRC/8/36, Report of the working group, para. 68(6)

<sup>12</sup> 13 December 2012, A/HRC/22/6, Report of the working group, paras. 123(20) and 125(50)