



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

**BRIEFING ON THE UNITED REPUBLIC OF TANZANIA FOR THE
COMMITTEE ON THE RIGHTS OF THE CHILD,
PRESESSIONAL WORKING GROUP – June 2014**

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This briefing describes the legality of corporal punishment of children in the United Republic of Tanzania. In light of the Committee’s General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, the repeated recommendations to prohibit made by the Committee on the Rights of the Child and other treaty bodies, the recommendations to prohibit made during the Universal Periodic Review of Tanzania in 2011 (rejected by the Government) and the importance of eradicating this form of violence given by the UN Secretary General’s Study on Violence against Children, we hope the Committee will:

- **in its List of Issues for Tanzania, raise the issue of corporal punishment of children, in particular asking what steps are being taken to ensure that all corporal punishment, without exception, is explicitly prohibited in the home and all other settings, in mainland Tanzania and in Zanzibar?**
- **in its concluding observations on Tanzania’s third/fourth report, recommend that legislation is enacted to explicitly prohibit all corporal punishment in all settings, including in the home, in mainland Tanzania and in Zanzibar, and that prohibition is enforced through appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

1 Tanzania’s report to the Committee on the Rights of the Child

1.1 At the time of briefing, the third/fourth report of Tanzania is not available on the Committee’s website.

2 The legality of corporal punishment of children in Tanzania

2.1 **Summary:** Corporal punishment of children in mainland Tanzania is lawful in all settings – the home, alternative care settings, day care, schools, penal institutions and as a sentence for crime. In

Zanzibar, corporal punishment is unlawful in the penal system and in residential care institutions but it is not prohibited in the home, non-institutional alternative care settings, day care or schools.

- 2.2 **Home (lawful):** In **mainland Tanzania**, the Law of the Child Act 2009 states that parents should protect children from all forms of violence (art. 9), includes beatings which cause harm in the definition of child abuse (art. 3) and prohibits “torture, or other cruel, inhuman punishment or degrading treatment” (art. 13). However, it allows for “justifiable” correction (art. 13) and does not exclude all forms of corporal punishment from such correction. In **Zanzibar**, the Children’s Act 2011 states that “no child shall be subjected to violence, torture, or other cruel, inhuman or degrading punishment or treatment or any cultural or traditional practice which dehumanizes or is injurious to his physical and mental wellbeing” but it also states that “parents may discipline their children in such a manner which shall not amount to injury to the child’s physical and mental wellbeing” (art. 14). The Act does not explicitly prohibit all corporal punishment in childrearing.
- 2.3 **Alternative care settings (partial prohibition):** In **mainland Tanzania**, the Law of the Child Act 2009 does not explicitly prohibit corporal punishment in care settings; it is lawful under the provisions for “justifiable” correction in article 13 (see para. 2.2). In **Zanzibar**, article 125(2)(e) of the Children’s Act 2011 prohibits corporal punishment in residential institutions (art. 125) but there is no prohibition in relation to other forms of care.
- 2.4 **Day care (lawful):** In **mainland Tanzania**, the Law of the Child Act 2009 does not explicitly prohibit corporal punishment in day care; it is lawful under the provisions for “justifiable” correction in article 13 (see para. 2.2). In **Zanzibar**, there is no explicit prohibition of corporal punishment in early childhood care and in day care for older children. The provision for disciplining children in the Children’s Act 2011 (art. 14, see para. 2.2) presumably applies to all with parental authority.
- 2.5 **Schools (lawful):** Corporal punishment is lawful in schools in **mainland Tanzania** under the National Corporal Punishment Regulations 1979 pursuant to article 60 of the National Education Act 1978, which authorises the minister to make regulations “to provide for and control the administration of corporal punishment in schools”. The Law of the Child Act 2009 does not does not repeal this provision nor does it prohibit corporal punishment in schools. Government guidelines in 2000 reduced the number of strokes from six to four and stated that only the heads of schools are allowed to administer the punishment, with penalties for teachers who flout these regulations. In **Zanzibar**, the Ministry of Education has adopted a policy against corporal punishment in schools, but it remains lawful under the 1982 Education Act. The Zanzibar Children’s Act 2011 does not explicitly prohibit corporal punishment in schools.
- 2.6 In rejecting the recommendations to prohibit corporal punishment made during the UPR in 2011, the Government asserted that “corporal punishment does not apply in the education system” but that caning is administered in schools and is “a legitimate and acceptable form of punishment [not intended to] be violent, abusive or degrading”.¹ In April 2013, the Government reportedly confirmed that corporal punishment would continue to be used in public schools.²
- 2.7 **Penal institutions (partial prohibition):** In **mainland Tanzania**, there is no prohibition of corporal punishment in penal institutions. The Law of the Child Act 2009 prohibits “torture, or other cruel, inhuman punishment or degrading treatment” (art. 13) but does not explicitly prohibit corporal punishment. Corporal punishment is prohibited in **Zanzibar** under article 122 of the Children’s Act 2011: “(1) The Minister may make rules for the proper implementation of the purposes and provisions of this Part without prejudice to the generality of the foregoing, for providing for the following purposes: (a) the management, control, discipline and interior economy of Approved Schools and remand homes; ... (d) the prohibition of all forms of corporal punishment and other cruel or degrading punishments....”

¹ *ibid.*, para. 86(47)

² 9 April 2013, *Daily News*

2.8 **Sentence for crime (*partial prohibition*)**: In **mainland Tanzania** corporal punishment is authorised as a sentence under a number of laws, including the Corporal Punishment Ordinance 1930, the Minimum Sentences Act 1963, the Sexual Offences (Special Provisions) Act 1998, the Penal Code 1981 and the Criminal Procedure Code 1985. The Minimum Sentences Act amends the Corporal Punishment Ordinance (art. 12) to allow for administering corporal punishment in instalments. Under article 8 of the Ordinance, juveniles may be given up to 12 strokes (up to 20 for adults) and the punishment may be inflicted in the open courtroom. The Minimum Sentences Act does not apply to females or to juveniles under the age of 16 years (arts. 2 and 3). The Law of the Child Act 2009 provides for criminal charges against children to be heard by a juvenile court (art. 98); it prohibits “torture, or other cruel, inhuman punishment or degrading treatment” (art. 13) and does not explicitly provide for corporal punishment as a sentence of the court. But the Act does not prohibit judicial corporal punishment for child offenders or repeal the above mentioned laws which authorise such sentences. Corporal punishment is prohibited in **Zanzibar** under article 47(2) of the Children’s Act 2011: “No child shall be subject to corporal punishment as a result of being found guilty of the commission of an offence....”

2.9 In rejecting the recommendation to prohibit made during the UPR in 2011, the Government defended corporal punishment as a sentence for crime, stating that “the procedure for the administration of the punishment has strict controls to eliminate any likelihood of arbitrariness and to ensure the protection of the health of the concerned”.³

3 Recommendations by human rights treaty bodies and during the UPR

3.1 **CRC**: The Committee on the Rights of the Child has twice recommended that corporal punishment of children in Tanzania be prohibited in all settings, including in the home and in the juvenile justice system – in its concluding observations on the initial report in 2001⁴ and on the second report in 2006.⁵

3.2 **CESCR**: In 2012, the Committee on Economic, Social and Cultural Rights urged the state party to prohibit corporal punishment of children in Tanzania in the home, alternative care institutions, schools and as a sentence of the courts.⁶

3.3 **HRC**: The Human Rights Committee first expressed concern at corporal punishment of children in Tanzania in 1998, recommending that it should be abolished as a judicial sentence and in schools.⁷ The Committee recommended abolition again in 2009.⁸

3.4 **UPR**: Tanzania was examined in the first cycle UPR in 2011 (session 12). The Government rejected recommendations to prohibit corporal punishment.⁹

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³ 12 March 2012, A/HRC/19/4/Add.1, Report of the working group: Addendum, para. 86(47)

⁴ 9 July 2001, CRC/C/15/Add.156, Concluding observations on initial report, paras. 38, 39 and 67

⁵ 21 June 2006, CRC/C/TZA/CO/2, Concluding observations on second report, paras. 6, 33, 34 and 70

⁶ 13 December 2012, E/C.12/TZA/CO/1-3, Concluding observations on initial-third report, paras. 4 and 14

⁷ 18 August 1998, CCPR/C/79/Add.97, Concluding observations on third report, para. 16

⁸ 6 August 2009, CCPR/C/TZA/CO/4, Concluding observations on fourth report, para. 16

⁹ 8 December 2011, A/HRC/19/4, Report of the working group, paras. 85(7), 86(37), 86 (38) and 86(47)