

# Prohibiting all corporal punishment of children in Africa: progress and delay

“The full and harmonious development of the child implies the prohibition and elimination of all forms of violence against children, including corporal punishment.”

*(Aissatou Sidikou, Chairperson, African Committee of Experts on the Rights and Welfare of the Child)*

2030 Agenda for Sustainable Development, target 16.2 on ending all forms of violence against children – a new context for prohibiting and eliminating violent punishment of children

Briefing prepared by the  
Global Initiative to End All Corporal  
Punishment of Children  
([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))  
October 2015



Global Initiative to  
End All Corporal Punishment  
of Children

# PROGRESS

## States meeting their obligations

The Committee on the Rights of the Child underlines states' immediate obligation to prohibit and eliminate all corporal punishment in its General Comment No. 8 (2006), which provides detailed guidance to states on fulfilling this obligation. The Committee has made recommendations concerning corporal punishment to more than 50 states across Africa. Its recommendations are echoed by other UN human rights treaty bodies and by the AU human rights mechanisms including the African Committee of Experts on the Rights and Welfare of the Child.

During the Universal Periodic Review of states' overall human rights records, corporal punishment has been raised as an issue in relation to most African states. Recommendations to prohibit all corporal punishment of children have been accepted by 17 African states.

**Seven African states have achieved prohibition in all settings:**

Benin  
Cabo Verde  
Congo, Republic  
Kenya  
South Sudan  
Togo  
Tunisia

"There is no right for individuals, and particularly the government of a country to apply physical violence to individuals for offences. Such a right would be tantamount to sanctioning state sponsored torture under the Charter [on Human and People's Rights] and contrary to the very nature of this human rights treaty."

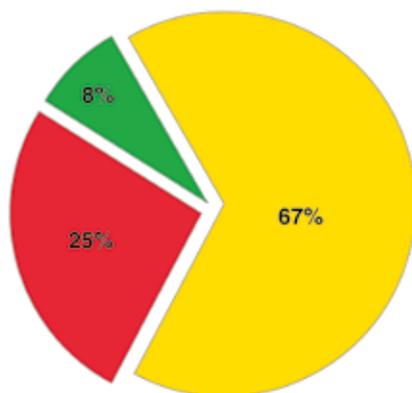
*(African Commission on Human and People's Rights, (2003), Curtis Francis Doebber v Sudan, 236/2000, 33rd Ordinary Session, Niger)*



"Progress towards abolishing corporal punishment is being made, but millions of the world's children still suffer from humiliating acts of violence and these violations of their rights as human beings can have serious lifelong effects. Violence begets violence and we shall reap a whirlwind. Children can be disciplined without violence that instils fear and misery.... If we really want a peaceful and compassionate world, we need to build communities of trust where children are respected, where home and school are safe places to be and where discipline is taught by example."

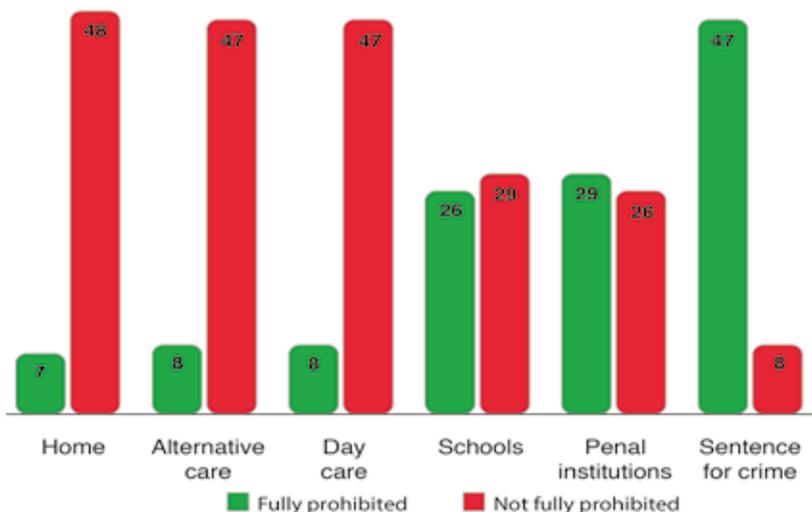
*(Archbishop Emeritus Desmond Tutu, 2006)*

### Percentage of African child population fully protected in law from corporal punishment



■ Fully protected in the home and all other settings  
■ Fully protected in some settings outside the home  
■ Not fully protected in any setting

### Number of states in Africa prohibiting corporal punishment of children in law



"All States have criminal laws to protect citizens from assault. Many have constitutions and/or legislation reflecting international human rights standards and article 37 of the Convention on the Rights of the Child, which uphold 'everyone's' right to protection from torture and cruel, inhuman or degrading treatment or punishment. Many also have specific child protection laws that make 'ill-treatment' or 'abuse' or 'cruelty' an offence. But ... such legislative provisions do not generally guarantee the child protection from all corporal punishment and other cruel or degrading forms of punishment."

*(Committee on the Rights of the Child, General Comment No. 8, 2006)*

# DELAY

## The worst offenders

The human rights imperative to enact legislation explicitly prohibiting corporal punishment of children, wherever they are, is clear. But there are individual governments which resist reform, ignoring repeated recommendations by treaty bodies, rejecting recommendations to prohibit made during the Universal Periodic Review, even openly defending the legality and use of corporal punishment.

**In eight states, corporal punishment – caning, flogging, whipping – is lawful as a sentence for crime under state, religious and/or traditional systems of justice**

Botswana, Eritrea, Libya, Mauritania, Nigeria, Somalia, United Republic of Tanzania, Zimbabwe

**25.4% of Africa's children live in these states.**

**In seven states, corporal punishment is not fully prohibited in any setting**

Botswana, Eritrea, Mauritania, Nigeria, Somalia, United Republic of Tanzania, Zimbabwe

**25.0% of Africa's children live in these states.**



The Africa Project of the Global Initiative to End All Corporal Punishment of Children aims to increase the number of states in Africa committed to and actively pursuing the prohibition and elimination of all corporal punishment of children, in the family, schools and all other settings. In 2012, following up the UN Secretary General's Study on Violence against Children, the Global Initiative together with Save the Children and Plan International published a progress report on prohibiting corporal punishment of children in West Africa, and in 2014 on West and Central Africa. The project also produces a quarterly African Newsletter. These resources are available online in English and French at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org). For more information, please contact the project coordinator at: [vohito@endcorporalpunishment.org](mailto:vohito@endcorporalpunishment.org).

**The UN Committee on the Rights of the Child has made recommendations concerning corporal punishment at least three times to the following states, but they have not yet achieved prohibition in all settings**

Algeria, Eritrea, Ethiopia, Ghana, Mauritius, Morocco, Nigeria, Sudan, United Republic of Tanzania

**The African Committee of Experts on the Rights and Welfare of the Child has made recommendations/observations concerning corporal punishment to the following states**

Burkina Faso, Egypt, Ethiopia, Guinea, Kenya, Liberia, Mozambique, Nigeria, Sudan, Uganda

**Nine states have rejected recommendations to prohibit corporal punishment made during the Universal Periodic Review(s) of their overall human rights record**

Botswana, Burkina Faso\*, Cameroon, Chad, Eritrea, Ethiopia, Sudan, Swaziland, United Republic of Tanzania

*\*But draft legislation which would achieve prohibition is under consideration*

### **States defending corporal punishment in the Universal Periodic Review (extracts from the reports of the Working Group):**

*“The Government ... has no plans to eliminate corporal punishment, contending that it is a legitimate and acceptable form of punishment, as informed by the norms of the society. It is administered within the strict parameters of legislation in the frame of the Customary Courts Act, the Penal Code and the Education Act.”*  
(Botswana)

*“The Education Act and its Regulations prescribe a strict framework within which [caning] is to be administered in schools. Therefore caning of miscreant students in schools is viewed as a legitimate and acceptable form of punishment in Tanzania. It was not the intention of the law makers that it should be violent, abusive and/or degrading as recommended or envisaged.”*  
(United Republic of Tanzania)

# THE REALITY BEHIND THE STATISTICS

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There is a large and still growing body of research which reveals the appalling levels of punitive violence experienced by children in Africa (for full references see [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)):

- UNICEF surveys in 62 countries (23 in Africa), between 2005 and 2013, found that on average 80% of 2-14 year olds experienced physical punishment and/or psychological aggression at home in the month prior to the survey. Across West and Central Africa, the figure was 90%, in the Middle East and North Africa 89%. Worldwide, on average 17% were severely physically punished (hit on the head, face or ears or hit hard and repeatedly). Countries in sub-Saharan Africa and the Middle East and North Africa were most likely to have high levels of severe physical punishment.
- School corporal punishment remains widespread in many states in Africa. Research in Botswana found that 92% of students had been beaten at school. A study in the Gambia found corporal punishment used in 70% of schools. In research in Uganda, 79% of children said they felt unsafe or scared because of beatings at school.
- Violent and other cruel and degrading punishment of children has been documented in care settings, including in Benin, Ethiopia, Ghana, Malawi and Uganda, and in penal institutions.

The available evidence paints a horrific picture – but given that much of the research relies on reporting by adults it is certain that children’s actual experience is worse. Children especially vulnerable to corporal punishment, such as very young children, disabled children and working children, are among the least likely to be visible in research.

Inquiries by the Global Initiative suggest that in 12 African states there has been no research into corporal punishment of children in the last ten years. But we know more than enough to demand urgent action in Africa. Children cannot wait for the fulfilment of their right to protection from all violence. Universal prohibition and elimination of all corporal punishment is needed now.

“Children are sick of being called ‘the future’; they want to enjoy their childhood, free of violence, now.”

*(Paulo Sérgio Pinheiro, Independent Expert who led the UN Secretary General’s Study on Violence against Children)*

# TAKING ACTION

Some African states have acknowledged the need for law reform to prohibit corporal punishment in all settings including in the home. Up to nine states are actively considering draft legislation which would achieve this. Other states are considering prohibiting corporal punishment in one or more settings outside the home.

Yet there are immediate opportunities for law reform in a great many more African states – around 42 across the region – as laws relevant to children are being reviewed and revised.

There are active regional campaigns promoting prohibition of all corporal punishment of children. In Africa, following a consultation on ending corporal punishment of children held in Ouagadougou, Burkina Faso in March 2011, a Strategic Plan to accelerate the prohibition and elimination of corporal punishment of children across Africa was developed and endorsed by international, Pan African and African organisations. This move was later strengthened by national action plans developed by West African organisations in Ouagadougou, in December 2011.

## *Law reform to prohibit corporal punishment means:*

- repealing all legal defences, justifications, authorisations and regulations for the use of corporal punishment
- enacting explicit prohibition of all corporal punishment and other cruel and degrading forms of punishment in all settings

“Article 15 of the Constitution is couched in very clear and unambiguous language, that no person shall be subjected to torture, or to inhuman or degrading punishment or other like treatment.... the provisions of sections 24(c) and 27 of the Penal Code, which permit the infliction or imposition of corporal punishment on offenders, are in total contravention.”

*(High Court, Zambia, 1999)*

“... at this time, so close to the dawn of the 21st century, juvenile whipping is cruel, it is inhuman and it is degrading.”

*(Constitutional Court, South Africa, 1995)*

“Internationally corporal punishment is regarded as violence against children and as a breach of fundamental human rights.... It is said to treat children as half-human beings thereby breaching the principle of equal protection before the law and non-discrimination.”

*(High Court, Zimbabwe, 2014, judgment provisionally suspended by Constitutional Court in June 2015)*

Where progress is not being made, stronger advocacy is now required, including legal advocacy. Full use should be made of Constitutional challenges to corporal punishment and direct application of the Convention on the Rights of the Child and other relevant instruments in national courts. There are many examples of national high level court judgments which have led to law reform in Africa. Recourse can also be made to African and international complaints/communications mechanisms, where a state has accepted these. The Global Initiative is currently preparing reports to support legal action in those states which continue to resist prohibition.

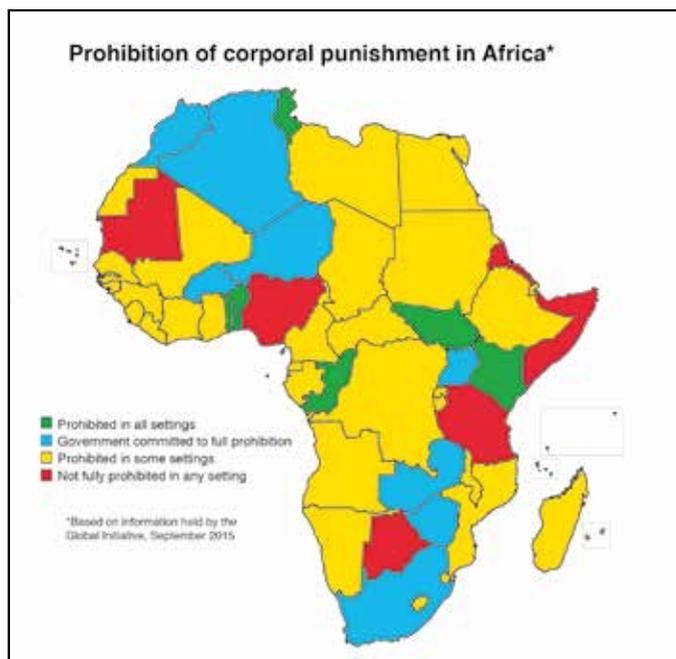
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## Compliance with international human rights law – the Convention on the Rights of the Child and other human rights instruments – requires that states prohibit by law all corporal punishment of children in all settings, including the home.

There has been accelerating progress towards law reform in Africa as in other regions, but the pace of reform is still slow. Too many governments on the one hand claim to support ending all forms of violence against children while on the other they fail to prohibit violence disguised as discipline or punishment. Some governments claim to have prohibited corporal punishment but scrutiny of the laws shows otherwise.

Worldwide, 46 states have prohibited corporal punishment in all settings, including the home – but 21 do not prohibit it fully in any setting. Prohibition has been achieved in schools in 126 states, in penal institutions in 135, in alternative care settings and in day care in 53 and



as a sentence for crime in 162. In Africa, complete prohibition has been enacted in seven states, prohibition in all schools in 26 states, in penal institutions in 29 and in alternative care and day care in eight; corporal punishment is unlawful as a sentence of the courts in 47 African states. Globally, only 9% of children live in countries where they are protected in law from punitive assault by adults; 8% of children in Africa enjoy this protection.

“The State will ensure that discipline within the family, at school and in other public or private institutions does not involve corporal punishment or any other form of cruel or degrading treatment.”

*(Article 130, Children’s Code 2015, Benin)*

“Children are impressionable and when those in positions of authority use violent means to encourage discipline, the children understand this as saying violence is permissible.... This is why we are going to forge ahead with banning corporal punishment even in the home environment.”

*(Ms Bathabile Dlamini, South African Minister of Social Development, 2014)*