

Progress towards prohibiting all corporal punishment in East and Southern Africa

Prepared by the Global Initiative to End All Corporal Punishment of Children
(www.endcorporalpunishment.org)

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Global Initiative to
End All Corporal Punishment
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The following table summarises the legal status of corporal punishment of children – and progress towards achieving prohibition – in all settings in all states in East and Southern Africa. Governments are increasingly enacting laws to prohibit this form of violence against children. As at July 2016, one state has prohibited all corporal punishment of children, including in the home: governments of at least 11 others have expressed a commitment to enacting full prohibition. Two states have prohibited corporal punishment in all alternative care settings and day care, 11 in all schools, 10 in penal institutions and 18 as a sentence for crime.

States with full prohibition in legislation

The following state has prohibited corporal punishment in all settings, including the home.

State	Prohibited in the home	Prohibited in alternative care settings	Prohibited in day care	Prohibited in schools	Prohibited in penal institutions	Prohibited as sentence for crime
Kenya	YES ¹	YES	YES	YES	YES	YES

States expressing commitment to law reform in UPR and other contexts

Governments in the following 11 states have expressed a commitment to prohibition of all corporal punishment of children. In the majority of cases this has been through unequivocally accepting recommendations to prohibit made during the Universal Periodic Review (UPR) of the state concerned. Some states have formally confirmed a commitment to prohibition in a public context outside of the UPR.

<i>States committed to law reform ...</i>						
State	Prohibited in the home	Prohibited in alternative care settings	Prohibited in day care	Prohibited in schools	Prohibited in penal institutions	Prohibited as sentence for crime
Angola ²	NO	NO	NO	NO	NO	YES
Comoros ³	NO	NO	NO	NO	NO	[YES]
Mauritius ⁴	NO	NO	[SOME] ⁵	YES	NO	YES
Mozambique ⁶	NO	NO	NO	NO ⁷	YES	YES

¹ Prohibited in Constitution 2010 but some legislation still to be formally repealed

² Government accepted UPR recommendation to prohibit all corporal punishment (2014)

³ Government accepted UPR recommendations to prohibit in all settings (2014); draft legislation which would prohibit possibly under discussion (2014)

⁴ Bill which would prohibit under discussion (2015)

⁵ Possibly unlawful in preschool provision

States committed to law reform ...						
State	Prohibited in the home	Prohibited in alternative care settings	Prohibited in day care	Prohibited in schools	Prohibited in penal institutions	Prohibited as sentence for crime
Namibia ⁸	NO	SOME ⁹	SOME ¹⁰	YES	YES ¹¹	YES ¹²
Rwanda ¹³	NO	NO	NO	YES	YES	YES
Seychelles ¹⁴	NO	NO	NO	NO ¹⁵	NO	YES
South Africa ¹⁶	NO ¹⁷	YES	YES	YES	YES	YES
Uganda ¹⁸	NO	NO	NO	YES	YES	YES
Zambia ¹⁹	NO	NO	SOME ²⁰	YES	YES	YES ²¹
Zimbabwe ²²	NO	NO	NO	NO	NO	NO ²³

States without a clear commitment to law reform

The following states have yet to make a clear commitment to prohibiting all corporal punishment. Some of these states have accepted UPR recommendations to prohibit but have also indicated that they consider existing legislation adequately protects children from corporal punishment, in conflict with information collected by the Global Initiative. Some states have accepted some UPR recommendations to prohibit corporal punishment but rejected other similar recommendations.

States without a clear commitment to law reform ...						
State	Prohibited in the home	Prohibited in alternative care settings	Prohibited in day care	Prohibited in schools	Prohibited in penal institutions	Prohibited as sentence for crime
Botswana	NO	NO	NO	NO	NO	NO
Burundi	NO	NO	NO	[YES]	NO	YES
Eritrea	NO	NO	NO	NO ²⁴	[NO]	YES

⁶ Government accepted UPR recommendation to prohibit in all settings (2016)

⁷ Government directive advises against corporal punishment but no prohibition in law

⁸ Government accepted UPR recommendations to prohibit in all settings (2016)

⁹ Unlawful in state-run childcare under 1991 Supreme Court ruling but some legislation still to be repealed; prohibited in Child Care and Protection Act 2014, not yet in force

¹⁰ Unlawful in state-run childcare under 1991 Supreme Court ruling but some legislation still to be repealed; prohibited in Child Care and Protection Act 2014, not yet in force

¹¹ Unlawful under 1991 Supreme Court ruling but some legislation still to be repealed; prohibited in Child Care and Protection Act 2014, not yet in force

¹² Unlawful under 1991 Supreme Court ruling but some legislation still to be repealed

¹³ Government accepted UPR recommendation to prohibit in all settings and to repeal the "right of correction" (2011, 2015)

¹⁴ Government accepted UPR recommendations to prohibit in all settings (2016)

¹⁵ Policy states corporal punishment should not be used but no prohibition in law

¹⁶ Government accepted UPR recommendation to prohibit in the home (2012); bill which would prohibit under discussion (2016)

¹⁷ 2017 High Court decision ruled the common law defence of "reasonable chastisement" to be unconstitutional but prohibition in law must still be enacted

¹⁸ Government Bill which would prohibit in all settings tabled in 2015 but failed to progress through parliament

¹⁹ Government accepted UPR recommendation to prohibit in all settings (2012)

²⁰ Prohibited in preschool provision

²¹ Unlawful under 1999 Supreme Court ruling but some legislation still to be repealed

²² Government accepted UPR recommendation to prohibit in all settings (2011)

²³ 2014 High Court ruling declaring judicial corporal punishment unconstitutional not yet confirmed by Constitutional Court

²⁴ Policy states corporal punishment should not be used but no prohibition in law

<i>States without a clear commitment to law reform ...</i>						
State	Prohibited in the home	Prohibited in alternative care settings	Prohibited in day care	Prohibited in schools	Prohibited in penal institutions	Prohibited as sentence for crime
Ethiopia ²⁵	NO	SOME ²⁶	SOME ²⁷	YES	YES	YES
Lesotho ²⁸	NO	NO	NO	NO	YES	YES
Madagascar	NO	NO	NO	[YES]	NO	YES
Malawi	NO	SOME ²⁹	SOME ³⁰	[YES] ³¹	YES	YES
Somalia	NO	SOME ³²	SOME ³³	[SOME] ³⁴	SOME ³⁵	SOME ³⁶
Swaziland	NO	NO	NO	NO	NO	YES
UR Tanzania	NO	SOME ³⁷	NO	NO	SOME ³⁸	SOME ³⁹

Note

The above information is based wherever possible on examination of national legislation; additional information is gathered from many sources, including reports to and by the United Nations human rights treaty bodies. **Information in square brackets is unconfirmed.** We are very grateful to government officials, UNICEF and other UN agencies, NGOs and human rights institutions, and many individuals who have assisted us in our research. We welcome corrections and updates: email info@endcorporalpunishment.org. For further details on all states see the individual state reports at www.endcorporalpunishment.org.

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²⁵ Government accepted UPR recommendation to abolish corporal punishment but rejected recommendation to criminalise it (2014)

²⁶ Prohibited in institutions

²⁷ Prohibited in institutions

²⁸ Government accepted UPR recommendation to abolish corporal punishment, stating it was being implemented (2010), but subsequent law reform prohibited only as sentence for crime

²⁹ Prohibited in state-run institutions

³⁰ Prohibited in state-run day care

³¹ Prohibition in private schools unconfirmed

³² Prohibited in Somaliland

³³ Prohibited in Somaliland

³⁴ Possibly prohibited in Somaliland

³⁵ Prohibited in Somaliland

³⁶ Prohibited in Somaliland

³⁷ Prohibited in residential institutions in Zanzibar

³⁸ Prohibited in approved schools and remand homes in Zanzibar

³⁹ Prohibited in Zanzibar