



End Corporal
Punishment

Corporal punishment of children in Zambia

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Child population 9,408,000 (UNICEF, 2020)

Law reform has been achieved. Corporal punishment is unlawful in all settings, including the home.

Legality of corporal punishment

Home

Corporal punishment is prohibited in the home under the Children's Code Act No. 12 of 2022. Section 22 relating to protection from corporal punishment states: "A person shall not impose corporal punishment as a form of punishment on a child." Section 23 (1) relating to protection from torture and deprivation of liberty provides that "a person shall not subject a child to torture, cruel treatment or punishment, unlawful arrest or deprivation of liberty."

In August 2022, the Zambian Parliament passed the Children's Code Act 2022, with a view to consolidate and codify different existing legislations relating to children. The Children's Code Act No. 12 of 2022 therefore repeals existing child rights statutes including the Juveniles Act 1956, which included the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer lawful punishment to the child, in its article 46. With the enactment of the Children's Code Act 2022, the English common law defence of "reasonable chastisement" which was applicable, under article 2 of the English Law (Extent of Application) (Amendment) Act 2011 also becomes redundant.

The Children's Code Act, 2022 defines corporal punishment as "the prohibited punishment in which physical force is used on a child." (section 2).

The Code sets out safeguarding measures by placing an obligation on a "institution" or "organisation" to establish and implement child safeguarding and protection procedures to prevent violence against a child and child rights abuse (section 276 (a)).

In 2008, a comprehensive review of laws relating to children was undertaken, with a view to bringing them into line with the UN Convention on the Rights of the Child. The Juveniles Act 1956 was being revised, in the context of which a Child Justice Administration Bill had been drafted. However, in 2013 the plans for the Child Justice Administration Bill were scrapped in favour of a unified Children's Code. The Government indicated its commitment to prohibiting corporal punishment of children by accepting

recommendations to do so made during the Universal Periodic Review in 2012;¹ during the review it confirmed that “the Government believed that corporal punishment did not have any place either in schools or in home”.² Consequently, in 2016, as part of a constitutional reform, a Bill of Rights which aimed to prohibit “corporal punishment or other form of violence, cruel or inhuman treatment in the home, school or an institution responsible for the care of children....” was submitted to a public referendum. However, the Bill of Rights could not be adopted despite the majority of voters being in favour of it, due to a low turnout. In May 2022, the Government reported to the UN Committee on the Rights of the Child that the bill on the Children’s Code included a provision on the “complete abolition” of corporal punishment in all settings”.³

In 2020, Zambia became a Pathfinding country with the Global Partnership to End Violence Against Children, which commits it to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals.

Alternative care settings

Corporal punishment is unlawful in alternative care settings, under section 22 of the Children’s Code Act 2022 which states: “A person shall not impose corporal punishment as a form of punishment on a child.” (see under “Home”).

Day care

Corporal punishment is unlawful in day care under section 22 of the Children’s Code Act 2022 which states: “A person shall not impose corporal punishment as a form of punishment on a child.” (see under “Home”). The Education Act 2011 (art. 28, see under “Schools”) also prohibits corporal punishment in some preschools.

Schools

Corporal punishment is unlawful in schools under section 22 of the Children’s Code Act 2022 which states: “A person shall not impose corporal punishment as a form of punishment on a child.” (see under “Home”). Section 276 (a) of the Children’s Code Act 2022 sets out safeguarding measures by placing an obligation on a “institution” or “organisation” to establish and implement child safeguarding and protection procedures to prevent violence against a child and child rights abuse. Corporal punishment is also prohibited in public and private schools in the Education Act 2011. Article 28 states: “(1) A teacher, employee or other person at an educational institution shall not impose or administer corporal punishment or degrading or inhuman treatment on a learner or cause corporal punishment or degrading or inhuman treatment to be imposed or administered on a learner. (2) A teacher, employee or other person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.”

Zambia’s initial report to the African Committee of Experts on the Rights and Welfare of the Child in 2017 stated that children who were consulted on the issue had reported they were still subjected to corporal punishment at school, including “whipping with a hose pipe, holding one’s ears by passing the hands in between the legs and being put on detention for long hours and being made to miss lunch”.⁴

Penal institutions

Corporal punishment is unlawful in penal institutions under section 22 of the Children’s Code Act 2022 which states: “A person shall not impose corporal punishment as a form of punishment on a child.” (see under “Home”). Section 276 (a) of the Children’s Code Act 2022 sets out safeguarding measures by

¹ 31 December 2012, A/HRC/22/13, Report of the working group, paras. 102(23), 102(25) and 102(26)

² Government opening statement to the UPR, October 2012

³ <https://www.ohchr.org/en/press-releases/2022/05/experts-committee-rights-child-ask-zambia-about-exposure-children-lead>, accessed 5 July 2022

⁴ [2017], Initial report on the implementation of the African Charter on the Rights and Welfare of the Child, para. 175

placing an obligation on a “institution” or “organisation” to establish and implement child safeguarding and protection procedures to prevent violence against a child and child rights abuse. Provisions in the Prisons Act 1966 allowing and regulating corporal punishment as a disciplinary measure in penal institutions were also repealed in 2004. The Reformatory School Rules 1965 allowing corporal punishment have been repealed.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime under section 22 of the Children’s Code Act 2022 which states: “A person shall not impose corporal punishment as a form of punishment on a child.” (see under “Home”). The Penal Code provisions for judicial corporal punishment were also amended in 2003, following a 1999 Supreme Court ruling that they were unconstitutional.⁵ The Criminal Procedure Code (Amendment) Act 2003 and the Penal Code (Amendment) Act 2003 repealed articles 14 and 330 and articles 24(c), 27, 36(c), 39 and 40(1) of the Criminal Procedure Code 1934 and the Penal Code 1931 which authorised and regulated flogging. Other laws amended to reflect the prohibition include the Supreme Court Act and the Local Courts Act.

Universal Periodic Review of Zambia’s human rights record

Zambia was examined in the first cycle of the Universal Periodic Review in 2008 (session 2). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:⁶

“To continue with its efforts to strengthen the rights of the child and protect them even further, in particular, the necessary resources should be earmarked so as to protect the weakest segments of the population, above all the disabled persons, and assistance should be requested from UNICEF in that regard (Libyan Arab Jamahiriya);

“To continue its efforts in economic, social and cultural rights to further build upon the progress it has already made (Cuba);

“That international treaties adhered to by Zambia enjoy full implementation and that their incorporation in domestic law be accelerated (Democratic Republic of the Congo)”

Examination in the second cycle took place in 2012 (session 14). In its opening statement, the Government drew attention to the prohibition of corporal punishment in schools and the prohibition in all settings in the draft new Constitution, and stated: “The Government believes that corporal punishment does not have any place either in schools or in homes.... There is evidence that corporal punishment is greatly reduced and the Government is committed to ensure that it is eliminated completely.” The Government confirmed that if passed, article 55(g) of the draft Constitution would prohibit corporal punishment of children in the home, schools and care institutions. During the review the following recommendations were made and were accepted by the Government:⁷

“Adopt additional measures, including legislative, to eliminate the practice of child labour exploitation and the use of corporal punishment for children (Belarus);

“Prohibit corporal punishment of children in all settings (Slovenia);

“Review its legislation to prohibit and sanction corporal punishments of children in all areas (Mexico).”

Third cycle examination took place in 2017 (session 28). The national report mistakenly stated that corporal punishment in homes, schools and other institutions was prohibited by the Constitution of Zambia (Amendment) Act No. 2 of 2016⁸ but the Bill of Rights which would have prohibited all corporal

⁵ John Banda v The People HPA/6/1998

⁶ 2 June 2008, A/HRC/8/43, Report of the working group, paras. 58(12), 58(15) and 59(8)

⁷ 31 December 2012, A/HRC/22/13, Report of the working group, paras. 102(23), 102(25) and 102(26)

⁸ 26 October 2017, A/HRC/WG.6/28/ZMB/1, National report, para. 83

punishment failed in the referendum (see under “Home”). No recommendation specifically on corporal punishment was extended, but the Government supported the following recommendation:⁹

“Continue to adopt effective measures to prevent and eradicate violence against women, children and adolescents and provide protection and assistance to the victims (Chile)”

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(27 June 2022, CRC/C/ZMB/CO/5-7, Concluding observations on the combined fifth to seventh periodic report, paras. 22)

“Recalling its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recalls its previous recommendation⁵ and urges the State party to:

- (a) Explicitly prohibit by law all forms of violence against children, including corporal punishment, in all settings, including in the family, through the children’s code bill, and repeal the right to administer lawful punishment in the Juveniles Act;
- (b) Promote positive, non-violent and participatory forms of child-rearing and discipline;
- (c) Conduct awareness-raising campaigns and parenting education programmes for parents and professionals working with and for children to promote attitudinal change within the family and the community with regard to corporal

Committee on the Rights of the Child

(29 January 2016, CRC/C/ZMB/CO/2-4 Advance Unedited Version, Concluding observations on second-fourth report, paras. 33 and 34)

“The Committee notes with appreciation that the State party has outlawed corporal punishment in schools and in the prison system, and that it has carried out a number of awareness-raising activities. However, the Committee is concerned that corporal punishment is not expressly prohibited, that the Juveniles Act allows for the administration of lawful punishment and that it is still practiced in the family setting.

“In the light of its general comment No. 8 (2006) on corporal punishment, the Committee recommends that the State party ensure the full implementation of the Criminal Procedure Code (Amendment) Act No.9 and Education Act No. 23 and that it explicitly prohibit by law all forms of violence against children, including corporal punishment, in all settings, including in the family. The Committee further recommends that the State party repeal the ‘right to administer lawful punishment’ in the Juveniles Act and intensify its awareness-raising campaigns in order to promote the use of alternative forms of discipline at all levels of society.

Committee on the Rights of the Child

(2 July 2003, CRC/C/15/Add.206, Concluding observations on initial report, paras. 30, 31, 32 and 33)

“The Committee notes that the Constitutional Court outlawed the practice of corporal punishment (John Banda v. the People, HPA/6/1998) but remains concerned that corporal punishment is still practised and accepted in schools, families, and care and juvenile detention institutions.

“The Committee recommends that the State party 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.

⁹ 9 January 2018, A/HRC/37/14, Report of the working group, para. 129(30)

“The Committee is deeply concerned about allegations of instances of ill-treatment by law enforcement officers against street children and children in custody in police stations and other detention centres, despite the circular of 27 December 1999 ordering prison authorities to stop the practice of caning.

“The Committee recommends that the State party:

- a) set up child-sensitive mechanisms to receive complaints against law enforcement officers regarding ill-treatment during arrest, questioning and police custody, and make sure that perpetrators are brought to justice;
- b) systematically train the police force and prison staff and other authorities on the human rights of children; and
- c) ensure the physical and psychological recovery and social reintegration of child victims of such ill-treatment.”

Committee Against Torture

(26 May 2008, CAT/C/ZMB/CO/2, Concluding observations on second report, paras. 3 and 21)

“The Committee welcomes the following positive developments:

- d) the abolition of corporal punishment through the enactment of the Criminal Procedure Code (Amendment) Act No. 9 of 2003, the Penal Code (Amendment) Act No. 10 of 2003, the Education Act (Amendment) Act No. 11 of 2003, and the Prisons (Amendment) Act No. 16 of 2004 ...

“While noting that the State party’s legislation prohibits corporal punishment in schools, the Committee remains concerned about the absence of legislation prohibiting such punishment in the family and in institutions other than schools, and that corporal punishment is de facto widely practised and accepted as a means of upbringing (art. 16).

The State party should extend legislation prohibiting corporal punishment to the family and to institutions other than schools, ensure that legislation prohibiting corporal punishment is strictly enforced and undertake awareness-raising and educational campaigns to that effect.”

Committee Against Torture

(23 November 2001, CAT/C/XXVII/Concl.4, Concluding observations on initial report, para. 3)

“The Committee notes, with satisfaction, the following elements,

- e) the legal prohibition of corporal punishment.”

Human Rights Committee

(9 August 2007, CCPR/C/ZMB/CO/3/, Concluding observations on third report, paras. 6 and 22)

“The Committee welcomes the abolition of corporal punishment by amendments to the Penal Code, the Criminal Procedure Code, the Prisons Act and the Education Act.

“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. (articles 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.”

Prevalence/attitudinal research in the last ten years

A 2010 African Child Policy Forum report on violence against children with disabilities in Cameroon, Ethiopia, Senegal, Uganda and Zambia documented a very high level of violence. Nearly a thousand 18–24-year-olds took part in the study across the five countries, reporting on their experiences as children. In Zambia, all the respondents had experienced at least one type of physical violence during their childhood: 100% had been denied food, over 50% hit, punched, kicked or beaten and over 25% choked, burnt or stabbed. Common perpetrators of physical violence included mothers (10.2%), stepmothers (4.9%) and adult neighbours (18.5%). Across the five countries, 23% said they had experienced physical violence which was “mostly discipline, reasonable and justified” and 27% which was “mostly discipline but not reasonable or justified”; 26% said they had experienced emotional violence which was “discipline, but not reasonable or justified”, 22% that was “disciplinary, reasonable and justified”. Across all five countries, more than half (54%) of those who had been physically beaten said they had suffered broken bones, teeth, bleeding or bruising; 2% had been permanently disabled; 21% required medical attention; 13% had to miss school or work; and 20% had needed rest at home. For all five countries, the majority of respondents with physical, visual and intellectual disabilities experienced physical violence more than 10 times. The report recommends prohibition of all corporal punishment, including in the home, as a way to minimise the risk of violence against children with disabilities.

(The African Child Policy Forum (2010), Violence Against Children With Disabilities in Africa: Field Studies from Cameroon, Ethiopia, Senegal, Uganda and Zambia, Addis Ababa: The African Child Policy Forum)

[End Corporal Punishment](#) acts as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We support and analyse national progress, monitor legality and implementation worldwide, partner with organisations at all levels, and engage with human rights treaty body systems. End Corporal Punishment is hosted by the World Health Organization and supported by a multi-partner Advisory Committee.