



Ending legalised violence against children: HRC members' obligations

Briefing for the 4th session of the Human Rights Council 12 March – 5 April 2007, Geneva

The human rights imperative to ban all corporal punishment

VIOLENCE IN its myriad forms is universally condemned under international human rights law. But corporal punishment is a form of violence that persists in the everyday lives of children worldwide. Children continue to experience violence in the home, schools, and care and juvenile justice systems, inflicted in the name of “discipline” or “correction” and condoned, authorised and regulated in domestic laws.

Corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity. Its legality breaches their right to equal protection under the law. These rights are upheld for everyone – including children – in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

The Convention on the Rights of the Child (CRC) requires states to protect children from “all forms of physical or mental violence” while in the care of parents or others (article 19). It requires discipline in schools to be “administered in a manner consistent with the child’s human dignity” (article 28). Children everywhere must never be subjected to “torture or other cruel, inhuman or degrading treatment or punishment” (article 37).

The Committee on the Rights of the Child consistently interprets the Convention as requiring prohibition in law of all corporal punishment in the family, schools, all forms of alternative care and juvenile justice settings, together with awareness-raising and public education. In 2006, the Committee adopted General Comment No. 8 on the rights of the child to protection from corporal punishment and other cruel or degrading forms of punishment.

Other human rights treaty monitoring bodies have condemned corporal punishment and made recommendations to states parties to prohibit it. And regional human rights instruments also demand that children be protected from all forms of violence.

**Members of the HRC should be leading...
... BUT, of the 47 states on the Council, only five have prohibited all corporal punishment of children in all settings, including the home; only eight have prohibition in place in all forms of alternative care. Almost half have yet to explicitly prohibit corporal punishment in schools and penal institutions. In six states, there is no clear prohibition in any setting and corporal punishment such as whipping of children is still prescribed as a court sentence.**

The Human Rights Council

The Human Rights Council is the body created by UN member states to strengthen the promotion and protection of human rights around the world. This includes the right of children to protection from corporal punishment through prohibition and other measures.

As part of the election process for membership of the Council, candidates gave voluntary commitments to promote and uphold human rights. The 47 successful candidates – from states in all continents – are expected to meet these commitments or else face possible suspension from the Council.

UN Secretary General's Study on Violence against Children

The report of the UN Secretary General's Study on Violence against Children, submitted to the General Assembly in October 2006 (A/61/299), identifies corporal punishment as one of the most prevalent forms of violence faced by children. It calls for universal prohibition of all corporal punishment and all other forms of cruel or degrading punishment in all settings, including the home, setting a target date of 2009.

In their pledges and commitments, members emphasised the importance they place on human rights standards and pledged to uphold and promote them. But the persisting legality of corporal punishment of children, in clear breach of human rights standards, contrasts sharply with many of the statements made for the elections.

No state has a perfect human rights record, but members of the Human Rights Council have a special and prominent responsibility to address human rights violations. Improving children's

protection from violence by prohibiting corporal punishment in legislation and ensuring effective implementation should be a key factor in members' demonstration of their commitment to the promotion and protection of human rights and fundamental freedoms for all.

Defining corporal punishment – Committee on the Rights of the Child

“The Committee defines ‘corporal’ or ‘physical’ punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting (‘smacking’, ‘slapping’, ‘spanking’) children, with the hand or with an implement - a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children’s mouths out with soap or forcing them to swallow hot spices). In the view of the Committee, corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment that are also cruel and degrading and thus incompatible with the Convention. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.”

Committee on the Rights of the Child (2006), General Comment No.8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, para. 11

Global progress towards prohibition

The pace of legal reform is rapidly gaining momentum. Sweden became the first state to prohibit explicitly all corporal punishment and other humiliating treatment of children in 1979. By 1996, six states had adopted prohibition – by 2001 this had risen to 12, and by 2007 there were 18. Another 23 states have legislation in preparation or have committed themselves to legal reform towards full prohibition, including in the home. 27 have made partial progress in the last three years by introducing or committing to introduce prohibition in settings other than the home.

As at March 2007, corporal punishment is prohibited in all settings, including the home, in 18 states. It is prohibited in all schools in 102 states; in penal systems (both as a sentence and as a disciplinary measure in institutions for juvenile detention) in 104 states; and in all alternative care settings in 28 states. A further 55 states have prohibition in place in parts of their penal systems and 28 in some alternative care settings.

“How can we expect children to take human rights seriously and to help build a culture of human rights, while we adults not only persist in slapping, spanking, smacking and beating them, but actually defend doing so as being ‘for their own good’? Smacking children is not just a lesson in bad behaviour, it is a potent demonstration of contempt for the human rights of smaller, weaker people.”

Thomas Hammarberg, Human Rights Commissioner, Council of Europe: Issue Paper 2006/1, “The right not to be hit – also a children’s right”

But at least 92 states have yet to introduce legislation explicitly prohibiting corporal punishment in schools, and at least 80 have yet to prohibit it as a disciplinary measure in institutions for juvenile detention. At the most extreme, at least 40 states have not prohibited corporal punishment of children as a sentence for crime.

Children speaking: it hurts you “inside”...

I felt ashamed and sad..., [Fiji](#)

Felt I wanted to cry but couldn’t ..., [Fiji](#)

This pain stays with you, you don’t forget ..., [Fiji](#)

I wish I hadn’t been born, [Pakistan](#)

It’s like hell, [UK](#)

You feel that your parents don’t love ... because why would they smack you?, [UK](#)

Some day they might hurt me too much, [UK](#)

It hurts and it’s painful inside, [UK](#)

It hurts your feelings and your personality, [Spain](#)

I felt bad. I wished he wasn’t my dad. I felt like killing myself or running away, [Zambia](#)

I felt like grabbing the sweep from her and beating her back, [Zambia](#)

And since I have been beaten I’ve already thought of running away; I’ve already been punished and I feel guilty for having done some of the things I did. I know today that being beaten brings pain, it hurts, [Brazil](#)

I get very frightened, [Brazil](#)

“Many citizens and politicians express deep concern about increasing violence in their societies. The credibility of this concern is questionable as long as they are not willing to seriously and systematically address the use of violence against children. And nobody should suggest that a little bit of violence is acceptable. That applies equally for adults and children.”

Jaap E. Doek, Chairperson, United Nations Committee on the Rights of the Child, 2001 to 2007

“The Study should mark a turning point – an end to adult justification of violence against children, whether accepted as ‘tradition’ or disguised as ‘discipline’. There can be no compromise in challenging violence against children. ”

Paulo Sérgio Pinheiro, Report of the independent expert for the United Nations study on violence against children, A/61/299

Prohibition of corporal punishment in HRC members' states

March 2007

This information has been compiled from many sources, including reports to and by the United Nations human rights treaty bodies. We are very grateful to government officials, UNICEF and other UN agencies, NGOs and human rights institutions, and many individuals who have helped to provide and check information. Square brackets indicate information unconfirmed. Please let us know if you believe any of the information to be incorrect: info@endcorporalpunishment.org

Prohibited in the home **Prohibited in schools** **Prohibited in the penal system** **Prohibited in alternative care**
 As a sentence for crime As a disciplinary measure in penal institutions

NOTES ON TABLE

- 1 Government committed to prohibition (2006)
- 2 Ministerial directives advise against use
- 3 Legislation prohibiting in all settings under discussion (2007)
- 4 But limitations imposed by 2004 Supreme Court ruling
- 5 But prohibition in 2004 Supreme Court ruling not reflected in legislation in all provinces and territories
- 6 But no explicit prohibition
- 7 But possibly lawful among indigenous communities
- 8 1889 High Court ruling allowed "right to correction" for teachers; 2000 ruling stated habitual and non-educational corporal punishment not covered by this
- 9 Government committed to prohibition in schools and other settings outside the home (2006)
- 10 Prohibited in Criminal Code but permitted under Islamic law in Aceh province and other areas; juvenile justice system under review (2005)
- 11 Juvenile justice system under review (2005)
- 12 Prohibited by Ministerial directive
- 13 Prohibited in 2003 Child Rights Act, but this not enacted in all states
- 14 Prohibited in 2000 Juvenile Justice System Ordinance, but this not implemented in all areas
- 15 Prohibited by Decree
- 16 Prohibited in 1997 Constitution, but not confirmed in other legislation
- 17 Prohibited by Ministerial circular
- 18 Removal of "reasonable chastisement" defence under discussion (2007)
- 19 Government committed to full prohibition; bill in process (2007)
- 20 But some legislation not amended (2005)

| | Prohibited in the home | Prohibited in schools | Prohibited in the penal system As a sentence for crime | Prohibited in the penal system As a disciplinary measure in penal institutions | Prohibited in alternative care |
|-------------------------------|------------------------|-----------------------|---|---|--------------------------------|
| Algeria | NO | YES | YES | [NO] | NO |
| Argentina | NO | NO | YES | NO | NO |
| Azerbaijan | NO | YES | YES | YES | NO |
| Bahrain | NO | YES | YES | ? | ? |
| Bangladesh¹ | NO | NO ² | NO | NO | NO |
| Brazil³ | NO | NO | YES | NO | NO |
| Cameroon | NO | YES | YES | YES | NO |
| Canada | NO ⁴ | YES ⁵ | YES | YES | SOME |
| China | NO | YES | YES | YES | ? |
| Cuba | NO | NO | YES | NO | NO |
| Czech Republic | NO | NO | YES | YES ⁶ | NO |
| Djibouti | NO | [YES] | ? | NO | ? |
| Ecuador | NO | YES | YES ⁷ | NO | SOME |
| Finland | YES | YES | YES | YES | YES |
| France | NO | NO ⁸ | YES | YES ⁶ | NO |
| Gabon | NO | YES | ? | ? | ? |
| Germany | YES | YES | YES | YES | YES |
| Ghana | NO | NO | YES | NO | NO |
| Guatemala | NO | NO | YES | NO | NO |
| India⁹ | NO | SOME | YES | NO | NO |
| Indonesia | NO | NO | SOME ¹⁰ | NO ¹¹ | NO |
| Japan | NO | YES | YES | YES | SOME |
| Jordan | NO | YES | YES | YES | [YES] |
| Malaysia | NO | NO | NO | NO | NO |
| Mali | NO | YES | YES | YES ⁶ | NO |
| Mauritius | NO | YES | YES | NO | NO |
| Mexico | NO | NO | YES | NO | NO |
| Morocco | NO | NO ¹² | YES | YES | NO |
| Netherlands | YES | YES | YES | YES | YES |
| Nigeria | NO | NO | SOME ¹³ | [NO] | NO |
| Pakistan¹ | NO | SOME | SOME ¹⁴ | NO | NO |
| Peru³ | NO | NO ¹⁵ | YES | NO | NO |
| Philippines | NO | YES | YES | YES | SOME |
| Poland | NO ¹⁶ | [YES] | YES | YES | [YES] |
| Republic of Korea | NO | NO | YES | YES | NO |
| Romania | YES | YES | YES | YES | YES |
| Russian Federation | NO | YES | YES | YES | NO |
| Saudi Arabia | NO | NO ¹⁷ | NO | NO | NO |
| Senegal | NO | YES | YES | SOME | NO |
| South Africa | NO ¹⁸ | YES | YES | YES | YES |
| Sri Lanka | NO | NO ¹⁷ | YES | YES | NO |
| Switzerland | NO | YES | YES | YES | YES |
| Tunisia | NO | NO ¹⁷ | YES | YES | NO |
| Ukraine | YES | YES | YES | YES | YES |
| United Kingdom | NO | YES | YES | YES | SOME |
| Uruguay¹⁹ | NO | NO | YES | NO | NO |
| Zambia | NO | YES | YES ²⁰ | YES ²⁰ | NO |



Save the Children
Sweden



Global Initiative to
End All Corporal Punishment
of Children