



# CRIN NEWSLETTER

Child Rights Information Network Number 19 / May 2006

## Children and Violence

Photo: Anna Kari



### *Featuring:*

**Global commitment** *Professor Paulo Sergio Pinheiro on the UN Study on Violence Against Children*

**Hitting children is wrong** *Peter Newell on ending corporal punishment*

**Too young to have rights?** *Florence Martin on making a justice system just for children*

The Child Rights Information Network (CRIN) is a membership-driven organisation and network of over 1,600 child rights organisations around the world. It strives to improve the lives of children through the exchange of information about child rights and the promotion of the United Nations Convention on the Rights of the Child.

# How to use the new CRIN website

On 1<sup>st</sup> February 2006, CRIN launched its new website at <http://www.crin.org>. The site has a brand new design, offers information in four languages, has new interactive features and highlights the latest items posted.

## Resources

Resources posted on the CRIN website are now displayed in the “latest” box on the homepage as well as in several thematic or regional pages throughout the site. **News** and **publications** also have their own respective pages, and are classified into topics accessible from the right-hand side menu on the homepage. **Events** are entered into an events calendar searchable by month.

In addition to a section for **regional information** using an interactive map, the site offers information in **different languages**: homepages in Arabic, French and Spanish, provide the latest news and resources in those languages as well as links to information on child rights and to the last CRINMAIL.

There is a new section **for children** which offers child friendly information on the Convention on the Rights of the Child, links to helplines, educational materials and interactive games.

## Interactive features:

**Subscribe to CRINMAILs** (CRIN's email lists) and browse for past issues on our CRINMAIL page. You will be asked to choose a password with which you can manage your subscriptions.

**Submit a resource online** through the “resources” section: it will then be approved by CRIN staff and displayed on the website as an event, publication or news item.

**Post your information on the website** Members who provided us with a contact name and email address have been assigned a username and password, with which they can update information about their organisation's activities directly on the site.

**CRIN's RSS feeds** allow you to identify the website content you are interested in and have it delivered directly to you. It takes the hassle out of staying up-to-date, by feeding you the very latest information on the topic of your choice.

**Tell us what you think** about a specific item posted on the site via the “Have your say” feature.

Contact us on: [info@crin.org](mailto:info@crin.org)

# CRIN Newsletter Number 19

*Children and Violence*

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Photo: Tom Pietrasik

# Editorial

After almost two years of work around the UN Study on Violence Against Children, we are close to the end of the first major phase of work – the completion of the Study itself and its presentation to the UN General Assembly. However, this is not the end of our work, rather it is the beginning. It is now essential that strong and effective mechanisms are put in place to ensure effective follow up to the Study.

Professor Paulo Sérgio Pinheiro notes in his introduction that his direct contact with so many children and young people in the course of the Study, and particularly at the regional consultations, has given him a heavy responsibility to ensure that his report does not gather dust on shelves and thereby add to children's sense of frustration and cynicism concerning adults' real commitment to their rights.

Professor Pinheiro shows his commitment to placing strong recommendations before States, to revealing in detail the yawning gap between their legal obligations and the reality of most children's lives, and to securing a strong follow up mechanism for the Study.

The Study in itself cannot change children's lives. But it will make even clearer the responsibility of all those committed to children's rights to make a reality of the clear standards of the Convention and thus have a real impact on children's everyday lives. That is the important challenge for everyone involved.

To support all those involved in the UN Study and committed to ending violence against children in general, CRIN developed a thematic website to serve as a shared platform for civil society to exert an influence on the Study. This newsletter aims to complement that website by looking at some of the current debates on violence against children while also offering some practical tools for those working with children and for those engaged in campaigning and advocacy.

Jaap Doek highlights the importance of the two Optional Protocols to the Convention on the Rights of the Child as existing instruments for the prevention of, and protection against, violence. Jo Becker's article demonstrates the impact of NGO

participation in the UN Study process and explains why NGOs are calling for a Special Representative on Violence Against Children as a follow up mechanism to the Study.

As hope is building that the Study will call for a universal ban on corporal punishment, Peter Newell looks at progress already achieved in making it illegal and gives some tips for campaigners on how to pressurise their governments to fulfil their legal obligations.

The issue of children in conflict with the law has been described as the 'unwanted child of State responsibility'. Florence Martin explains that not only is violence often the reason why children come into conflict with the law, but that most criminal justice systems fail to address root causes of violence, and once within the system, children often suffer serious human rights violations and abuse.

A case study by Ravi Karkara and Lena Karlsson looks at ways of addressing gender discriminations and violence against children by working with men and boys. In another case study in South Africa, which is said to have one of the highest levels of sexual assaults in the world, Carol Bower explains that what is needed is to ensure children's rights are respected, promoted – and more importantly – put into practice.

Dick Sobsey highlights the need for equal standards and treatment of some of the most vulnerable of children: children with disabilities. Ann Birch describes how programmes are helping to address violence faced by children in countries in West Africa that are ravaged by war.

Finally, Chris Dodd gives us a brief look at some efforts that are being made to engage religious leaders and strategies for ending violence against children.

While this newsletter is being published within the framework of the Study, we hope that it will inform but also support NGOs in their broader work in this area.

Veronica Yates



## A Study that lives up to children's expectations

*Professor Paulo Sergio Pinheiro, Independent Expert leading the UN Study on Violence Against Children, reflects on the importance of children's contribution to the Study and a possible follow-up mechanism.*

The UN Secretary-General's Study on Violence against Children was proposed by the Committee on the Rights of the Child in 2001, following the days of General Discussion on violence against children which it held in 2000 and 2001. In December 2001 the General Assembly requested the Secretary-General "to conduct an in-depth study on the question of violence against children, taking into account the outcome of the special session of the General Assembly on children, and to put forward recommendations for consideration by Member States for appropriate action, including effective remedies and preventive and rehabilitative measures".

In 2003, the Secretary-General appointed me to lead the Study. I have been given a formidable task! There has never been a comprehensive, global and human rights based Study on violence against children. The Study's foundation is the almost-universally ratified Convention on the Rights of the Child, described by Nelson Mandela in 2000 as "that luminous living document that enshrines the rights of every child without exception to a life of dignity and self-fulfilment". The Convention has underlined children's status as individual rights-holders. It is the first instrument to require States to protect children from all forms of physical or mental violence.

The Committee on the Rights of the Child, described by one of its members as "accountable only to the children of the world", has been forthright and consistent in its interpretation of the Convention. No violence against children is acceptable or justifiable. As the Committee's Chair, Jaap Doek, has written: "... and nobody should suggest that a little bit of violence is acceptable. That applies equally for adults and for children" (see Jaap Doek's article "Laying down the law: first reactions to Optional Protocol reports" on page 9).

There is already a strong international consensus against the extreme forms of violence against children, together with commitments to eradicate them, in resolutions from the General Assembly and the Commission on Human Rights, in the conclusions of the world congresses on sexual exploitation and the 2002 Special Session on Children. Of course the UNSG's Study must build on that consensus and try and add substance and direction to existing recommendations. But it would be failing the world's two billion children if it stopped there.

The challenge for the Study and for States is to seek to move societies urgently on from attitudes which tolerate and approve any form or level of violence against children to assert the status of children as individuals with the same right to respect for their human dignity and physical integrity as the rest of us.

It should be relatively easy now to end state-authorised violence against children in schools, other institutions and forms of alternative care and penal systems. The General Assembly has already voted by an overwhelming majority for the elimination of school corporal punishment and corporal punishment of children in penal systems (General Assembly resolution on The Rights of the Child December 2005). As the briefing on page 18 details, around 100 States have prohibited school corporal punishment, but that still leaves around half the world's child population being schooled with the threat or reality of physical assault. In at least 33 States children are still being whipped or flogged as a sentence of the courts. And in at least eight countries children are still threatened with the ultimate form of state violence – capital punishment. (According to Amnesty, eight countries since 1990 are known to have executed prisoners who were under 18 years old at the time of the crime.)



Children's rights to protection from all forms of violence do not stop at the door of the family home, any more than women's rights or men's rights do. But equally, children's rights do not threaten the family. The family, as the Convention highlights, "is the natural environment for the growth and well-being of all its members and particularly children". The family offers the greatest potential for protecting children from all forms of violence. In its General Discussion Day recommendations, the Committee proposed that an alternative vision of a family, where the rights and dignity of all are respected, should guide all actions on the issue of violence against children.

My remit for the Study is human rights based, and I will not contradict the Committee on the Rights of the Child, which has been telling States consistently for more than a decade that the Convention requires prohibition of all corporal punishment – including in the family. This call has been echoed by other international human rights treaty bodies, by regional human rights mechanisms including those of the Council of Europe and the Inter-American system, and by decisions of constitutional and other high-level courts.

As my friend and colleague Maud De Boer Buquicchio, Deputy Secretary of the Council of Europe, has highlighted: "Children are not mini-persons with mini-rights, mini-feelings and mini-human dignity. They are vulnerable human beings with full rights which require more, not less protection. It is therefore absolutely unacceptable that when it comes to the protection of their physical and psychological integrity, they should be worse off than adults."

There is no going back. We have already come a long way and we have to shed completely the idea that any form of violence against children is justifiable. I am gratified that the process of the Study, and in particular its regional consultations, has already provoked commitments and real progress; all nine regional consultations called, among detailed recommendations, for prohibition and elimination of all corporal punishment and all other cruel or degrading forms of punishment or treatment.

As I move with colleagues towards final drafting of the report, which the Secretary-General will present to the General Assembly, and the more substantial book which will be published simultaneously, the

subject matter of key recommendations is becoming clear. The report will be organised according to the major settings in which violence occurs: home and family, schools, care and justice systems, workplace and communities; and there will be detailed recommendations following each section. Among some preliminary key overarching recommendations will be calls for:

- recognition that States must fulfil their human rights obligations to protect children from all forms of violence; that all sectors of society have responsibility to prevent and respond to violence against children;
- a coordinated, systematic, human rights based national response to violence against children, giving special attention to particularly vulnerable groups of children and developing both comprehensive and targeted services and programmes;
- prohibition of all forms of violence, including all harmful traditional practices, sexual violence and all corporal punishment;
- active engagement of children in all aspects of response, prevention and monitoring;
- support for families to maximise their potential to protect children from all forms of violence;
- awareness-raising, training and other measures to challenge attitudes that condone any violence against children and to promote positive, non-violent environments for children;
- systematic data collection, including through interviews with children, parents and others to assess the true level of violence against children and to measure progress towards its elimination;
- special attention to the protection of institutionalised children and children in conflict with the law from all forms of violence and re-emphasis on the overall need to reduce institutionalisation.

### **A Study belonging to children**

The Convention requires States to ensure that children not only have the right to express their views on all matters that affect them, but to have those views given "due weight" in accordance with age and maturity (Article 12). The Committee echoed Article 12 in its recommendations following the 2001 General Discussion Day: "In conceptualising violence, the Committee recommends that the critical starting point and frame of reference be the experience of

children themselves. Therefore children and young people must be meaningfully involved in promoting and strategising action on violence against children.” And in its letter to the Secretary-General requesting the Study, the Committee emphasised that it should meaningfully involve children themselves.

My work in the preparation of the UN Study has given me a clear understanding of how children and young people could play a direct role in this sort of international Study. It has been a highly influential learning curve for me. Children have contributed immeasurably to what should be regarded as “their” Study.

Save the Children and many other NGOs, together with UNICEF and other agencies, have supported and facilitated meaningful and ethical participation by children, in particular at the regional consultations. Children and young people attended each consultation, often meeting on their own before the adults and developing their own declarations and recommendations. I made a point of meeting privately with them too at each consultation and also on field trips. The Child Rights Information Network has valuably documented many of these conversations.

There is to be a further consultation with children from all regions in New York in May 2006, partly to plan their involvement in the presentation of the Study report to the General Assembly in October and the follow up.

But these contacts with children, always insightful and often very moving and disturbing, have given me a very direct and weighty responsibility – to make sure that the Study does achieve real change for children. For example, at the Middle East and North Africa consultation in Cairo, a young girl said to me: “I feel that all recommendations are only words and nothing will be done with them.” Another said: “There are a lot of conferences around the world but when it comes to results, not much happens, it is only talking.”

I have had to reassure children like these that I will do my best to ensure that this Study will not be a big frustration for them all. In its request to the Secretary-General, the Committee on the Rights of the Child anticipated that the Study should be “as thorough and influential” as the report of the expert

of the Secretary-General, Ms Graça Machel, on the impact of armed conflict on children. That, too, is a formidable goal to aspire to.

The introduction to Ms Machel’s passionate report, titled “The attack on children” begins: “Millions of children are caught up in conflicts in which they are not merely bystanders, but targets. Some fall victim to a general onslaught against civilians; others die as part of a calculated genocide. Still other children suffer the effects of sexual violence or the multiple deprivations of armed conflict that expose them to hunger or disease. Just as shocking, thousands of young people are cynically exploited as combatants...” (A/51/306 6 September 1996).

Far from gathering dust, that report has provoked real action. Crucial to its impact has been the appointment of a Special Representative for Children and Armed Conflict in the office of the Secretary-General to maintain a high profile for the issues and follow up. It speeded adoption of the Optional Protocol to the CRC on the involvement of children in armed conflict and accelerated ratification. It has led to Security Council reports and resolutions and most recently to a new mechanism for monitoring and reporting violations committed by both governments and insurgents, including: killing and maiming of children, recruiting or using child soldiers, rape or other sexual violence against children, abduction of children, denial of humanitarian access for children and attacks against schools or hospitals.

It has become clear for many actors involved in the process of preparation of the Study that we must have a Special Representative to pursue its recommendations and to ensure a continuing high profile and coordinated response at international, regional and national levels. Internationally, there are various existing mechanisms with relevant mandates, including Special Rapporteurs on torture, on violence against women, on the sale of children, child prostitution and child pornography and on the right to education. This Special Representative – a high-level post reporting directly to the Secretary-General – could be the best means to engage with all UN entities, Member States and civil society organisations, so as to provide global leadership, ensure collaboration and avoid duplication. Hopefully, the General Assembly will accept the need and governments will come forward with voluntary contributions to establish a compact office in New York.





Photo: Boris Heger

The Study has been centrally and actively supported by three key agencies – UNICEF, the Office of the High Commissioner for Human Rights and the World Health Organisation. Other agencies such as ILO and UNESCO, among others, have come on board, thus providing significant collaboration. There is already agreement to form an inter-agency task force which could relate directly to the Special Representative and a first meeting was held in New York last March. An NGO Advisory Panel has also provided me with constant support and inspiration and there would need to be a similar body in support of that Special Representative. And again, I was particularly convinced by young people's advocacy for a strong follow up mechanism and their insistence that the office must be equipped to facilitate and coordinate participation by children.

Following the regional consultations, in many cases inter-governmental bodies – including the Council of Europe and the Middle East and North Africa (MENA) follow up conference held in Cairo in March 2006, articulated with the League of Arab States –

have committed themselves to ongoing coordination and monitoring of activities to eliminate violence against children. Hopefully, these too can be linked to the Special Representative.

The Study will document the scale of all forms of violence against children – in their homes, schools, other institutions, penal systems, on the streets and across communities – and the best practices to prevent these violations. We will need the strong and vocal involvement and support of all members of the children's rights community if we are to narrow the gap between States' very clear obligations and the current reality of children's lives. As Graça Machel's report asserts: "Concern for children has brought us to a common standard around which to rally. In the Convention on the Rights of the Child, the world has a unique instrument that almost every country has ratified. The single most important resolve that the world could make would be to transform universal ratification of this Convention into universal reality."

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# NGOs pin hopes on Special Representative to give Study long-lasting clout

*Jo Becker describes the NGO Advisory Panel's list of practical suggestions for taking forward the Study on Violence Against Children*

Since the moment the Study on Violence Against Children was announced non-governmental organisations (NGOs) have been in action influencing its scope, process and content.

They were first off the starting blocks with the creation of an NGO Advisory Panel, even before the appointment was announced of Professor Paulo Pinheiro, the Secretary-General's independent expert heading the Study. The Advisory Panel was formed specifically to provide civil society expertise and to encourage and enable broad-ranging NGO involvement in the Study and its follow up.

The Advisory Panel includes 24 adult experts on violence against children, drawn from key NGOs and NGO networks around the world. Members include human and child rights activists, psychologists, social workers, educators, medical doctors, disability campaigners and lawyers. Following the Panel's first consultation in June 2003, ten children also were selected to join it, on the basis of nominations received from organisations around the globe. Joint consultations were held with both the children and adults in April 2004 and most recently, in December 2005. The Advisory Panel has met with Professor Pinheiro during each of its consultations, and has provided him with input throughout the Study process. It has put forward recommendations regarding the regional consultations for the Study, child participation, the scope and process for the Study, the structure of the Study's report, and possible outcomes.

During its most recent consultation, held in London, the Panel focused its attention on the recommendations that will accompany the final Study, including both a limited number of general ones, as well as specific ones to accompany the Study's chapters on violence in the home, school, community, institutions, and the workplace. The Panel emphasised that the recommendations should:

- be motivating, compelling and convey a sense of urgency, passion, and the possibility of change;
- be rights-based, emphasising the role of children as rights-holders, empowered to prevent and respond to violence;
- make clear that violence against any child is a violation of human rights and can never be justified or tolerated;
- underline that the participation of children in ensuring respect for and the protection of their

rights is fundamental;

- stress that States have the primary obligation, and all sectors of society have responsibility to prevent and respond to all forms of violence against children.

The Advisory Panel also recommended that a Special Representative of the Secretary-General on Eliminating/Preventing Violence against Children should be appointed. This role is crucial in ensuring that the issues raised by the Study are not shunted aside, but remain high on the international human rights, peace, security, development, humanitarian assistance and public health agendas.

The Special Representative's key responsibilities would be:

- to act as a high-profile advocate to promote the prevention and elimination of all violence against children;
- to follow up and monitor implementation of the Study's recommendations as well as report on both progress and failures;
- to promote international and regional cooperation, including involvement of UN agencies and civil society; and
- to eliminate violence against children, and ensure that children's participation in that process is supported and their views heard and respected.

The youth participants on the Advisory Panel specifically recommended that the Special Representative should work with an international youth council to ensure young people's continued participation. They also suggested that the Special Representative should have a designated person in her/his office to manage the participation and integrate it into the work of the Special Representative.

The Panel will continue to work with the independent expert and the Study secretariat until the Study report is completed. It is also considering ways that a representative group of NGOs could continue to work with UN agencies and a possible Special Representative after the Study is completed to ensure effective follow up.

Jo Becker is Advocacy Director of the Children's Rights Division at Human Rights Watch. She is a member of the NGO Advisory Panel for the UN Study and was co-convenor of the NGO Group subgroup on Violence against children until April 2005. Contact: [beckerj@hrw.org](mailto:beckerj@hrw.org)

# Laying down the law: first reactions to Optional Protocol reports

*Monitoring the two Optional Protocols relating to children and violence is a complex business. Jaap Doek provides a checklist for NGOs by describing what legal requirements need to be in place*

The first reports on the two Optional Protocols – the Involvement of Children in Armed Conflicts (OPAC) and the Sale of Children, Child Prostitution and Child Pornography (OPSC) – have come in, making initial observations possible.

The Optional Protocols are crucial instruments as they spell out very clearly what obligations States parties have and what measures must be undertaken by them to protect children. It could be argued that the two OPs are especially vital when it comes to violence against children, as without them these aspects which blight children's lives in so many ways are overlooked. They pin down States to do what they pledge.

Although a full assessment will come later, the opportunity for an earlier response has come about because working methods at the CRC Committee have speeded up, reducing backlogs. Since January 2006 the Committee reviews States parties' reports in two chambers at the same time. This process enables the growing numbers of initial reports on the two Optional Protocols to be reviewed as well.

## **Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography**

The participation of NGOs and UNICEF in the discussions during the pre-sessional working groups (PSWG) is important. However, this is especially true when it comes to OPSC as there are many national NGOs at the national level fighting to prevent these violations of children's rights. The same applies to UNICEF's country offices and, indeed, where there is no presence a national UNICEF Committee is proving active.

The combination of these factors results in solid, detailed information that is entirely relevant for the implementation of OPSC. The Committee's reviews would be far poorer without this input.

The reviews themselves focus on the two major issues covered by OPSC: the legal requirements and the protection of victims whose rights (the ones relating to violent abuse) have been violated.

The Committee first has to check whether the provisions in the national criminal code do indeed criminalise the activities spelled out in Article 3 which includes the liability of legal persons for offences as established.

The guidelines for reporting require States to provide information on existing or penal laws and regulations covering acts specified in Article 3, paragraph 1 of the OP. These include:

- the age limit used for defining a child in these instances; the penalties for these offences and any aggravating circumstances;
- how long an act can be considered as an offence;
- any other acts considered criminal but not covered by Article 3;
- the liability and definition of legal persons for acts described and the status, under the State's law, of attempts of complicity or participation in the said offences; and
- on the matter of adoption States must indicate any agreements it has struck and how it ensures all those involved in the adoption process conform to international standards.

Secondly the Committee has to discuss the extra-territorial jurisdiction of the State party for offences covered by OPSC, and whether this is in compliance



Photo: Rama Suyra

with Article 4 of the Optional Protocol. States must set out the measures they have adopted and what jurisdiction they have over:

- offences committed on their territory, on board a ship or aircraft belonging to them;
- alleged offenders who are nationals or regular residents;
- victims that are State nationals;
- alleged offenders on a State's territory, but who are not being extradited because they are nationals; in those cases States must indicate if an extradition request is required prior to the State establishing jurisdiction; and
- any other national measures which establish other rules concerning criminal jurisdiction.

Thirdly, the Committee must look at the provisions in the State party's laws regarding extradition and their compliance with Article 5 and the international cooperation and assistance not only related to extradition, but also to criminal investigation, laid out in Article 6. This requires States to help one another as much as they possibly can in criminal investigations, including assistance in obtaining evidence at their disposal necessary for the proceedings.

Finally, the law in each country has to be looked at to see what provisions exist regarding seizure and confiscation and whether or not these comply with Article 7.

The point of spelling out requirements in such detail is clear: it ensures that those States that sign up to OPSC have the maximum legal protection in place for child victims of sale, prostitution and pornography.

But to get a true picture of the situation, the Committee relies equally on other information on whether the laws are being properly implemented and that is where NGOs have an absolutely vital role.

The protection of child victims is the equally important part of the Optional Protocol, especially Articles 8 and 9. Article 8 is concerned with protecting children when they are involved, either as victims or witnesses, in the criminal justice process. This Article includes provisions so that children are fully informed about proceedings; are aware that their views, needs and concerns must be fully represented;

can expect their right to privacy protected; and are provided with appropriate support services.

Article 9 requires that child victims are provided with appropriate assistance for her/his full social reintegration and physical and psychological recovery; and able to access procedures for compensation for damages from those legally responsible.

Article 9 also calls for prevention, awareness raising and dissemination of information.

This part of OPSC requires States to provide specific information about legal provisions along with programmes and policies to help child victims of sale, prostitution and pornography. It also covers prevention and how the protective mechanisms actually operate in practice.

Monitoring OPSC certainly strengthens efforts in this area. But it does more than this as information gathered is then a tool for the implementation of the Plans of Action adopted at the World Congresses against the Commercial Sexual Exploitation of Children in Stockholm (1996) and Yokohama (2001).

The Stockholm meeting produced a set of guidelines to combat commercial sexual exploitation and called on governments to develop national plans of action. The second Congress reaffirmed its commitment to the Stockholm Plans of Action and shared experience of what had and had not worked, and added regional recommendations and commitments.

### **Optional Protocol on Children in Armed Conflicts**

OPAC reviews have fewer provisos to take into account, however these include:

- no direct part in hostilities under age 18 (Article 1);
- no compulsory recruitment under 18 (Article 2);
- raise the minimum age for voluntary recruitment to at least 16 years and ensure that this recruitment meets specific requirements (Article 3);
- no recruitment or involvement of under 18 year by armed groups (Article 4);
- demobilise those young persons recruited and used in hostilities within the State party's jurisdiction and provide them with assistance for recovery and social reintegration (Article 6); and

- effect cooperation between States parties for the prevention of any activity contrary to OPAC and provide for the rehabilitation and social reintegration of child victims (Article 7).

OPSC is far more specific than OPAC. For OPSC's protection to work, there have to be laws in place in a country, including extra-territorial jurisdiction and extradition. However the Committee thinks OPAC should encourage States to set up legal provisions that prevent children from being recruited or being directly involved in hostilities.

### Recommendations

The following suggestions/recommendations have therefore been made.

- Make the recruitment on a State's territory of children under 16 (if voluntary) and under 18 (if involuntary) a crime. That is still the case even for States that do not have armed forces, as it remains

possible that nationals or foreigners will (try to) recruit children for military services abroad.

- Assume extra territorial jurisdiction for cases abroad in which a State's citizen recruits children under age 18 or involves them directly in hostilities and for cases where the child victim is a State national.

Further discussion is needed to develop the most effective national and international system to protect children from being forcefully recruited and/or from being directly involved in hostilities. The Committee hopes that the States are willing to cooperate in achieving this protection and that NGOs, UNICEF and other specialised UN agencies will support this regard.

The weight of an international legal system is required if we are to prevent and stop the use of children as soldiers.

Jaap Doek is the Chair of the UN Committee on the Rights of the Child. Contact: [jaapedoek@cs.com](mailto:jaapedoek@cs.com)



Photo: Boris Heger



# Factfile

## *Learning from NGO reports*

Reporting violence against children is often only one aspect of the work of local or national NGOs. International research and advocacy is not a priority if it does not have an immediate impact on the situation in their country. Yet a wealth of information on violence against children can be found in the alternative reports to the Committee on the Rights of the Child (CRC) produced by these organisations over the 15 years from 1990 to 2005.

Since the NGO Group for the CRC has handled the reporting process for over 15 years, it was natural for it to highlight this treasure trove of information so it could contribute to the global findings and recommendations of the UN Study on Violence Against Children.

### **Main findings**

- Violence against children is a critical issue present in nearly all NGO reports. However each issue is only raised on average in a third of the 140 reports reviewed. Sexual exploitation is addressed in over 60 per cent of the reports while violence in military schools is referred to in less than 10 per cent.
- The absence of data regarding violence in different settings or about different types of violence is key. This absence does not necessarily mean a low incidence of violence. The low reporting can be due to many factors: problems of definition, lack of information, lack of awareness, cultural values, or indeed low incidence of violence. This issue should be addressed systematically as each national alternative report is prepared.
- Great care must be exercised in interpreting the data that has been submitted. In certain regions some types of violence are so prevalent that other forms may not receive adequate attention.
- In the past, NGO reports have not reflected a systematic collection, synthesis and analysis of information. While the quality varies among the countries and regions, there is a compelling need to improve the reporting function as a whole.
- Considerable differences exist among the regions. This is not only in terms of the quality of reporting, but also in terms of what types of violence and in which settings violence is considered prevalent.
- This study provides a broad outline, with the aid of graphics, of how violence is reported in different settings according to regions. More details are provided in the extracts of the country reports available in a separate annex. This information can also be usefully exploited by providing examples of good practices of reporting.

### **Valuable lessons for Child Rights NGOs coalitions**

#### **1. Improve reporting process**

- Review checklist of violence-related issues to ensure that these are taken into account in information gathering and reporting.
- Review the definitions, settings and sub-themes related to violence as provided by the UN Secretary-General's Study on Violence Against Children (UNSGVAC) to ensure coherence and consistency in information gathering and reporting.
- Broaden the base of participation in reporting. Include representatives of parents, pupils and teachers' associations, as well as other professional groups, into the reporting process.
- Review alternative reports from countries noted for good practices in reporting; consider forms of bilateral exchanges and collaboration to share expertise.

#### **2. Devote specific attention, according to needs in country, to information gathering and reporting on:**

- children with disabilities in institutions and at home;
- peer violence at school and in other settings; and
- harmful traditional practices with separate reporting on female genital mutilation and early and coerced marriages.

#### **3. Expand monitoring activities**

- Develop permanent monitoring of institutions, with particular attention to the use of protection and complaint mechanisms available.
- Monitor non-state-run institutions, such as shelters and private boarding schools.

#### **4. Strengthen NGO capacity**

- Support the development of child rights coalitions and alternative reporting in countries that do not have such experience.
- Undertake national advocacy campaigns to raise awareness among the public and the authorities on the urgency of addressing violence against children.
- Capitalise on expertise on violence to engage in policy planning and implementation.

NGO Group for the Convention in the Rights of the Child, Geneva, 2006. The full report *Violence Against Children – What do NGOs know, What do NGOs say?* is available on the CRIN website at [http://www.crin.org/docs/NGO\\_Group\\_NGOs\\_and\\_VAC.doc](http://www.crin.org/docs/NGO_Group_NGOs_and_VAC.doc)



# Corporal punishment beats a retreat

*Peter Newell reports on how hard-line support is waning and the importance of the law in achieving the ultimate goal of abolition*

Every state now pretends to have some sort of child protection system. However in 94 countries it co-exists with the state-authorised beating of children in schools with canes, belts and so-called wooden paddles. In 81 others state-authorised and ritualised whipping or caning of children takes place in penal systems. In just 16 states have children acquired full legal protection from being assaulted in their homes as well as everywhere else.

But at last progress towards achieving equal protection for children is starting to pick up pace. This is in the overall context of the almost universal ratification of the Convention on the Rights of the Child, and the immediate, current context of the UN Secretary-General's Study on Violence against Children. The independent expert leading this, Professor Paulo Pinheiro from Brazil, has made it clear that he will recommend a universal ban on all corporal punishment when he presents his report to the UN General Assembly late in 2006.

Addressing a meeting in the UK's parliament in London last year, he said: "I have been surprised at the controversy aroused in some quarters by my

statement, made after the regional consultations, that the Study report will certainly recommend a universal ban on all corporal punishment. Surely, it would be strange indeed if the expert leading a study on violence against children would suggest that it is OK to hit children.

"The fact is, I could not look those many children I have met around the world in the eyes and say that I had decided they were worthy of less legal protection from assault than myself or other adults. Really, it is absurd..."

At the nine regional consultations held about the Study around the world during 2005, the adopted recommendations in every case included support for banning all corporal punishment, in the family and elsewhere.

The participation of children and young people in these consultations made it very much more difficult for government representatives and other adults to remain in denial about this issue. While adult presentations constantly referred to children as "the future of our society", or in one case as "the future

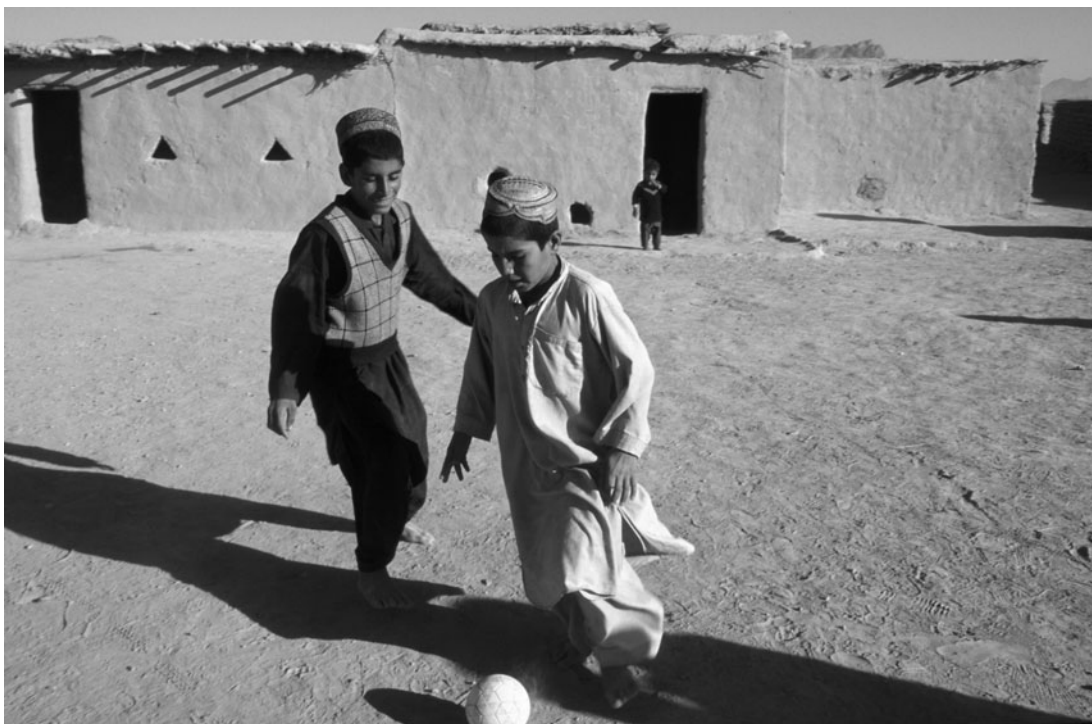


Photo: Stuart Freedman/Network Photographers

men of our society”, they could not but notice that children are children now. And they heard children reminding them forcefully that they are people too, with an equal right to respect for their human dignity – now.

Visibility is one key to action on this issue. Children, when heard as well as seen, are telling adults how much corporal punishment hurts them – and not just physically. Once visible, it is very hard for adults to continue to find hypocritical excuses and justifications for what is such a completely obvious breach of respect for human dignity – the foundation of all international human rights law. The Convention on the Rights of the Child underlines, if there is any lingering doubt, that children are people and rights holders alongside the rest of us.

This is both a very simple issue – hitting people is wrong, and children are people too – and a hugely difficult one. The difficulty is the personal dimension. Most people in almost every country were hit as children by their parents. Most parents have hit their



Photo: Tom Pietrasik

children. None of us likes to think badly of our parents, or of our own parenting. And this makes it difficult for many people, including politicians and community leaders and child protection workers and even human rights advocates, to consider the issue with humanity and logic.

Why is eliminating corporal punishment so important? People are often scornful that anyone could see ending corporal punishment as a priority, given the extreme forms of violence that children in many states are facing. But the challenge is not simply to one particular category of violence, but to the whole idea that some arbitrary degree of violence against children should, uniquely, be legal and socially approved. It is pursuing children's equal right to respect – something as fundamental and symbolic as anything can be to improving children's status.

The idea that breaching a child's human dignity and physical integrity is acceptable, normal, or even as some still suggest in their best interests, perpetuates children's status as objects or property. It makes every other sort of extreme abuse and exploitation more likely and easier.

“But children are different” is the usual response. True, and in this particular respect: the babies and small children who research suggests are the victims of most corporal punishment in the home are different in that they are very small and very fragile. Children's vulnerability, their developmental status, their dependence on adults and the huge difficulties they face in seeking protection for themselves – all these differences suggest that they should have more, not less protection from being hit and deliberately hurt.

Some ask how corporal punishment is defined. This is usually because they desperately want to draw a line and imply that some degree of punitive violence must surely be acceptable. The simplest way of defining it is as any punitive act designed to cause some level, however minor, of pain or discomfort, which would be treated as a criminal assault if directed against an adult. We do not draw lines when we condemn violence against women or elderly people – so why children? The many different forms of corporal punishment illustrate the ingenuity and savagery of adults in devising ways of deliberately hurting and humiliating children.

Some suggest that outlawing corporal punishment is a Eurocentric idea. It certainly doesn't feel like that if you live in the UK where a majority of babies and children are still being hit in their homes. It is true that progress towards outlawing this practice is now proceeding particularly quickly in Europe. But that is because of the relatively strong European human rights mechanisms, forcing governments to act ahead of public opinion.

One look at the UK's colonial history reveals it has been particularly responsible for promoting the habit of corporal punishment of both children and adults around the world – in the context of military occupation, slavery and certain missionary teaching. The ancient English common law defence of reasonable chastisement exists in more than 70 countries worldwide. Others have inherited the French or Portuguese right of correction. In the US, too, rates of corporal punishment in the home are as high or higher than in the UK, and school corporal punishment has only been prohibited in half the states, and in private schools in only two states.

Hitting and humiliating children is an adult habit throughout the world. It is a global assault on children on a massive scale. No state or culture should suggest that it owns corporal punishment. Every state has an immediate human rights obligation to prohibit and eliminate it.

At last, we can begin to see real progress. The Committee on the Rights of the Child started to examine reports from States parties to the UNCRC in 1993. It has consistently held that the Convention requires prohibition of all corporal punishment, including in the family, because children's, like women's, rights do not stop at the door of the family home. It has recommended prohibition, linked to awareness-raising of the law and children's right to protection and promotion of positive forms of discipline, to 130 states in all continents.

Other UN human rights treaty bodies are taking the same position. Regionally, the European Court of Human Rights has progressively condemned corporal punishment and most recently the European Committee of Social Rights has concluded that the European Social Charter requires full prohibition.

The Inter-American Commission on Human Rights held a hearing in October 2005 on ending corporal punishment. This is likely to lead to confirmation from the Inter-American Court that the American Convention on Human Rights requires prohibition too. In Latin America, five states now have Bills before their parliaments prohibiting corporal punishment in the family. A growing number of constitutional and other high-level courts have produced judgments condemning corporal punishment in some or all settings and forcing prohibition, quoting the UNCRC.

Hard-line support for corporal punishment is diminishing. When states voted on the annual children's rights resolution in the General Assembly in December 2005, just ten – led by Singapore and including the US – tried to dilute a call to "eliminate" school corporal punishment to "strictly regulate". Fourteen abstained.

Children have had to wait until last for equal legal protection from assault, the protection adults tend to take for granted. This is an outrage of adult hypocrisy and double standards, endless excuses and self-deception.

The late acceptance of this issue as a vital and highly significant and symbolic human rights issue for children is also an indictment of our collective and individual failure as children's rights advocates. The follow-up to the UN Secretary General's Study on Violence Against Children provides the immediate opportunity to make good this failure,

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## Essential tips for campaigners

*How to pressurise governments into fulfilling their legal obligations*

- **Advocates need to know what the legal status of corporal punishment is in their state and what reforms are needed to ensure universal prohibition, including in the family** The Global Initiative to End All Corporal Punishment website includes a report on legal status in every State: [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org). The Global Initiative will be glad to provide advice and support with any strategies: [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).
- **Convention and Committee on the Rights of the Child** It is important to use the reporting process at national level to raise the issue of ending corporal punishment and advocate for law reform. Lobby the government when preparing its State report; get issue included in alternative reports from NGOs and human rights institutions; ensure that the Committee includes appropriate recommendations in concluding observations. Use the concluding observations to pressurise government.
- **Other UN human rights treaty bodies** Consider also briefing the Human Rights Committee, Committee against Torture, Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women on corporal punishment before they examine your State's report.
- **Individual communications (complaints) to treaty bodies** It is possible to raise individual cases of corporal punishment with the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, and the Committee against Torture. This is possible if your State has accepted the relevant Optional Protocol or in the case of CAT, article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Before making an individual complaint, possible domestic remedies have to be exhausted – but if corporal punishment is lawful, there will be no domestic remedy. Details of the procedures and how to use them: <http://www.ohchr.org>
- **Using regional human rights mechanisms** In Europe, the European Court of Human Rights and the collective complaints procedure under the European Social Charter have been used to challenge corporal punishment. There are possibilities under the Inter-American human rights system, and also under the African mechanisms: the African Charter and Committee on the Rights and Welfare of the Child, and the African Charter and Commission on Human and People's Rights.
- **Using regional inter-governmental bodies** The Parliamentary Assembly of the Council of Europe adopted a recommendation in 2004, calling for Europe to become a corporal-punishment-free-zone for children. It may be possible to get other inter-governmental bodies to add pressure for reform.
- **Legal challenges using constitutional and/or international human rights obligations** High-level courts in a number of countries have declared corporal punishment of children, in schools, penal systems and in some cases in the home, to be in breach of the constitution or of a State's international obligations. Advocates should obtain a legal opinion on whether such challenges are possible, either on behalf of an individual victim child, or on behalf of children as a discriminated against group in society. Getting an authoritative legal opinion that the legality of corporal punishment is unconstitutional and threatening a case may be sufficient to encourage governments to reform their law.
- **Human rights institutions** National human rights institutions and ombudsman offices, including children's ombudspersons, have a special responsibility to pursue this issue. Suggest individual or collective actions these institutions could take. The European Network of Ombudspersons for Children (ENOC) and the Central American Network have both adopted position statements calling for universal prohibition.
- **Children's rights NGOs/INGOs/NGO children's rights coalitions/child-led organisations** Think – are these organisations working towards elimination of all corporal punishment in your State?

# Factfile

## *Ending corporal punishment*

At last, societies are recognising children's right to equal protection from being hit and humiliated. States' human rights obligations to end all currently legalised violence against children are clear and immediate.

### Advances

- *All nine of the regional consultations held in 2005 for the UN Secretary-General's Study on Violence against Children recommended prohibition of all corporal punishment.*
- *16 States have prohibited all corporal punishment, including in the family.*
- *97 States have prohibited school corporal punishment.*
- *99 States have prohibited corporal punishment in their penal systems for young offenders.*
- *7 more European States are committed to abolition in the near future.*
- *Bills to prohibit all corporal punishment are before parliaments in four Latin American countries, in Canada and New Zealand.*
- *The Committee on the Rights of the Child has consistently interpreted the CRC as requiring prohibition and other measures to eliminate all corporal punishment for more than a decade.*
- *Other human rights treaty bodies, including the Committee on Economic, Social and Cultural Rights, the Human Rights Committee and the Committee Against Torture have condemned corporal punishment of children.*
- *Networks of children's ombudspersons in Europe and Latin America have called on governments to reform their laws urgently to give children equal protection.*

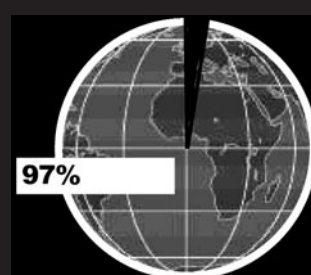
### The Global Initiative

The Global Initiative was launched during the Commission on Human Rights in Geneva in 2001. It aims to act as a catalyst to encourage more action and progress towards ending all corporal punishment in all continents; to encourage governments and other organisations to work actively on it; and to support national campaigns with relevant information

and assistance. There are developed programmes and materials to promote positive, non-violent forms of discipline and child-rearing for parents, other carers and teachers. For links, see <http://www.endcorporalpunishment.org>.

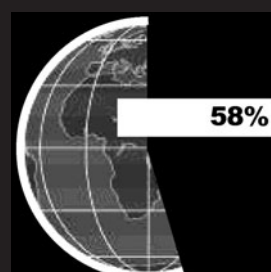
### IN THE HOME

Percentage of world child population not protected from all corporal punishment



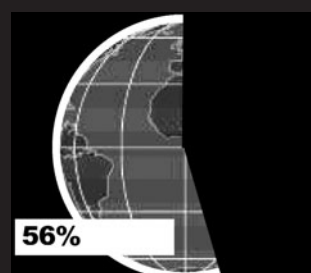
### AT SCHOOL

Percentage of world child population not protected from all corporal punishment



### IN THE PENAL SYSTEM

Percentage of world child population not protected from all corporal punishment



### Where in the world

The 16 countries where corporal punishment is prohibited in all settings, including in the home, with



date of prohibiting legislation (\* indicates Supreme Court ruling only):

Austria (1989), Bulgaria (2000), Croatia (1998), Cyprus (1994), Denmark (1997), Finland (1983), Germany (2000), Hungary (2004), Iceland (2003), Israel (2000), Italy (1996)\*, Latvia (1998), Norway (1987), Romania (2004), Sweden (1979), Ukraine (2001)

The 94 countries where corporal punishment is not explicitly prohibited by law in all schools:

Afghanistan, Antigua and Barbuda, Argentina, Australia, Bahamas, Bangladesh, Barbados, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Chile, Colombia, Comoros, Cook Islands, Costa Rica, Cuba, Czech Republic, DPR Korea, Dominica, Equatorial Guinea, Eritrea, France, Gambia, Ghana, Grenada, Guatemala, Guyana, India, Indonesia, Jamaica, Lao PDR, Lebanon, Lesotho, Liberia, Madagascar, Malaysia, Mauritania, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Palau, Palestine, Panama, Paraguay, Peru, Qatar, Republic of Congo, Republic of Korea, Rwanda, St Kitts & Nevis, St Lucia, St Vincent & the Grenadines, Samoa, Saudi Arabia, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia,

Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Taiwan, Tajikistan, Timor-Leste, Togo, Trinidad & Tobago, Tunisia, Tuvalu, UR Tanzania, USA, Uganda, Uruguay, Vietnam, Zimbabwe

The 83 countries where corporal punishment is not explicitly prohibited by law in the penal system, as a sentence for crime and as a disciplinary measure in penal institutions:

Afghanistan, Algeria, Antigua & Barbuda, Argentina, Australia, Bahamas, Bangladesh, Barbados, Belize, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burundi, Chad, Chile, Colombia, Comoros, Cuba, DR Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Eritrea, Federated States of Micronesia, Gambia, Ghana, Grenada, Guatemala, Guinea, Guyana, Honduras, India, Indonesia, Iran, Kiribati, Kuwait, Lesotho, Liberia, Libyan Arab Jamahiriya, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Mongolia, Mozambique, Myanmar, Nauru, Nepal, Niger, Nigeria, Oman, Pakistan, Palau, Palestine, Papua New Guinea, Peru, Qatar, Republic of Congo, St Kitts & Nevis, St Lucia, St Vincent & the Grenadines, Saudi Arabia, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Swaziland, Tajikistan, Tonga, Trinidad & Tobago, Tuvalu, United Arab Emirates, UR Tanzania, USA, Uruguay, Yemen, Zimbabwe

### Learning from Sweden

The state which has worked most systematically to eradicate corporal punishment of children is unquestionably Sweden. There, the reforms started in 1957 with the removal of a provision in the Criminal Code that had excused parents who caused minor injuries to their children in the course of discipline. At that time corporal punishment, including with implements, was as common in Swedish homes as it is today in the UK or US and a majority of the population believed in it.

Twenty years on Sweden found it needed to explicitly prohibit all corporal punishment in its Parenthood and Guardianship Code, linking law reform with public education campaigns. It is

significant that they had to do so: the tradition of hitting children was so strong that simply repealing defences and leaving the criminal law on assault to apply equally to disciplinary assaults of children did not send a clear enough message.

By 2001, just six per cent of under-35-year-olds in Sweden believed in any use of corporal punishment, and only a tiny proportion of children were still experiencing it. Sweden has resolved to continue to disseminate information on the law and on positive forms of discipline and to regularly monitor attitudes and children's experiences through interview research. For more details of states with abolition in place:

<http://www.endcorporalpunishment.org>



# Making a justice system just for children

*No government has got this one right – juvenile justice is riven with contradictions and inequalities throughout the world. Florence Martin examines the root causes and what can be done about a very sorry state of affairs*

## **“Rights? Maybe we do not have that because we are still too young ...”**

Child detained at the Tagum City jail in Davao, Philippines

Few issues exercise as much media sensationalism and public fascination, sometimes verging on hysteria, as when children are seen to break the social and legal rules that we have set for them.

The daily coverage of children going feral, gangs of youths on the rampage, the youngest ever murderer or waves of acts of antisocial behaviours by children are not just headline news in the UK or US, but strike a worldwide chord as a major social preoccupation and malaise. It is as if there is something particularly unsettling to our societies when crimes are committed by children.

One reason is our tendency to construct childhood as a time of innocence, of purity and lack of responsibility. When children do not live up to these expectations, our societies respond with particular vindictiveness, as if in shock that the image we created, the childhood we want to believe in, does not exist. Media frenzy and political opportunists can take over and every child can be tainted with the same brush: children are demonised for not being what they used to be and for being capable of the worst things. Soon communities and societies are convinced that they are in the throes of a major new wave of juvenile violence.

Yet beyond the periodic hysteria about youth offending lie some lesser known facts:

- The overwhelming majority of children in conflict with the law – over 90 per cent of them – are petty offenders, who mainly commit offences against property, in other words their crimes are non-violent and non-serious.
- Four out of five children who commit an offence only commit one in their lifetime. This is not only true of the Philippines, of Laos, of Kenya or Ethiopia; this is also true of industrialised countries and even countries facing major levels of social and community violence.
- The majority of children who end up in the criminal justice system are from particularly deprived communities and families, often from discriminated minorities.
- In some countries (such as Bangladesh, Kenya, Philippines or Tajikistan) the great majority of

children coming into conflict with the law are children who are criminalised for simply trying to survive.

The reality is that while children are one of the most closely regulated and scrutinised groups of the population, they commit a very small percentage of all crimes and overwhelmingly minor, property offences.

The incidence of survival crimes as opposed to crimes relating to adolescent testing of social boundaries may differ between children living in countries or areas facing chronic poverty and those facing mainly issues of inequity and marginalisation. Nevertheless there are striking similarities all over the world in patterns of crimes committed by children. Children are far more likely to be victims of violence than they are likely to be perpetrators and they should be far more scared of the adults that are supposed to protect them, rather than us of them.

Yet we treat that overwhelming majority of children as if they were all committing serious and violent offences. We portray them as such and we respond to their offending by putting them through a criminal justice system that is devised to deal with those who actually do pose a real and serious risk to public safety. To make things worse, by responding to their offending in this way, we expose them to situations and environments that are inherently violent, and take them away from the social and familial environment that is supposed to socialise them.

Most criminal justice systems not only fail to address any of the root causes of offending by these children, but they also compound the challenges they face and expose them to what are often violent and inappropriate environments. Numerous reports published from virtually every country in the world highlight the violence faced by children once they come into conflict with the law.

While the scale of these abuses varies greatly from individual incidents to systemic violence, there can be no doubt that once a child comes into conflict with the law, he or she is exposed to a much higher risk of facing violence.

The very nature of the justice system provides extensive powers to some individuals over the lives of other individuals under a state mandate. It relies on coercion, control and institutionalisation, the

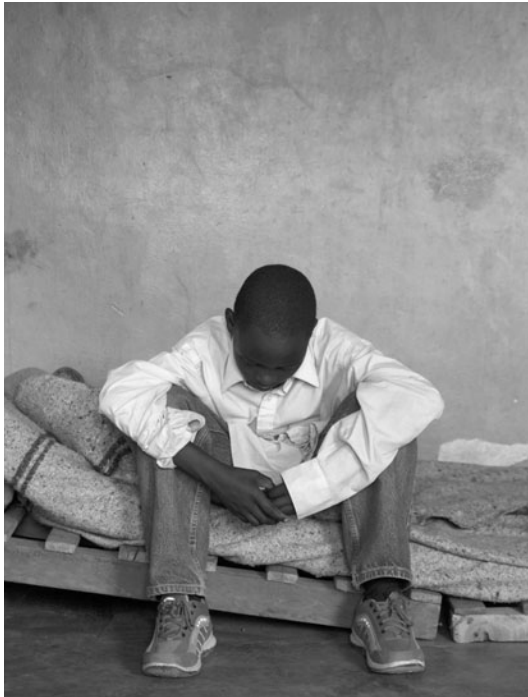


Photo: Anna Kari

retributive nature of the system, the gathering under one roof of individuals who often have violent and troubled backgrounds, and isolation away from the support network of families and communities. It creates an environment that, if not constantly and closely regulated and monitored, can lead to egregious human rights violations and abuses, not only by state agents but also by other prisoners.

Contrary to popular opinion too, violence in the justice system is not only a problem faced by developing countries with highly stretched and under-resourced facilities or unaccountable justice personnel.

It is a recurrent feature of all penal systems, no matter how well resourced, as the UK's own Parliamentary Joint Committee on Human Rights can attest: "Young offender institutions experience the highest levels of assaults among prisoners, staff and others of all prisons in England and Wales ... the worst being Ashfield" which has an assault rate of 74 per cent.

"Control and restraint, the use of pain-reliant systems of physical restraint by staff, was used 3,615 times on children in prison between April 2000 and January 2002, resulting in recorded injuries to 296

juveniles, five of whom required hospital treatment for fractures or suspected fractures."

One of the most disturbing findings of a series of consultations undertaken by Save the Children with children in conflict with the law in a number of countries across the globe was that most children had experienced some form of violence at the hands of the police and few identified law enforcement authorities as people they could go to for help. Many wanted to think of them as people who would be understanding and kind, but through their own experiences saw them as harassing children and sometimes causing them severe harm.

For decades international law has recognised that the formal justice system is an inappropriate place for addressing the challenges faced by most children coming into conflict with it. Articles 37 and 40 of the UN Convention on the Rights of the Child and international standards on the administration of juvenile justice require states to establish a child-centred, specialised justice system whose overarching aim is children's social reintegration, and which should guarantee that their rights are respected.

In recognition of the particular nature of youth offending and the overall goal of promoting the child's reintegration and the child assuming a constructive role in society, it emphasises the need to divert children away from judicial proceedings whenever possible and to redirect them to community support services. The formal justice system should in fact only deal with the small minority of children who have committed very serious crimes and represent a threat to their society, and the detention of children should always be a measure of last resort.

Despite this, the reality is that the incarceration of children, including pre-trial detention, remains the norm rather than the exception. This is the case, moreover, despite the evidence of the risk of exposure to serious levels of violence against children within those systems. This is as well as evidence that they are singularly failing not only the individual boy or girl, but also their communities, as the incidence of children's recidivism upon incarceration is demonstrated to be much higher. It is estimated that there are over one million children detained all over the world, but the figures are only a broad estimate and there are certainly many more children in some form or other of

detention including correctional centres, reform institutions and other so-called welfare centres.

Criminalisation of children's behaviours that are deemed socially inappropriate or harmful is intensifying rather than being discouraged, with increasing reliance on the criminal justice apparatus to deal with such behaviours through anti-social behaviour orders (ASBOs), curfews, round-ups of children and the application of status offences which criminalise being out of school or beyond parental control. Diversion of children away from the formal system continues to be seen as the icing on the cake rather than the primary response to children who come into conflict with the law. It remains at the level of an experimental alternative to be piloted whenever resources and political will are available, while the latter continue to be overwhelmingly directed towards the funding of more penal solutions.

A child-centred, specialised justice system is still understood mainly as one where justice personnel are trained to be nice to children. While a fully functioning and child-friendly criminal justice system would be a measurable achievement in terms of justice for children, particularly bearing in mind the levels of violence and abuse children are presently facing in these systems, it would still fail to address the root causes of offending. It would still stigmatise and result in inappropriate criminalisation. It would also rarely provide the support and follow-up within the community that children require in order to move away from offending and become fully participating and engaged citizens.

The UN Study on Violence Against Children being carried out by the Secretary General at the request of the UN General Assembly is a key opportunity to go beyond the myths and explore the reality of violence in the lives of children in conflict with the law.

It should not only address the considerable violence that children face once they come into contact with law enforcement officers or when they enter the penal system but, crucially, explore the role violence plays in bringing these children into conflict with the law in the first place. Anyone who has worked with and talks to children who have been in conflict with the law knows that the issue of violence within the home in particular is constantly brought up as one of the key reasons for the child leaving home in the first place, and as an important factor in the family

breakdown or as a major deterrent to the child returning home.

But the Study is also an opportunity to assess the effectiveness of our responses and identify whether inappropriate criminal justice responses may actually be driving children into more risky behaviours, often compounding the challenges they face, forcing them into coping strategies that are far more likely to expose them to violence and increase the likelihood of long-term criminalisation.

Most of the children who come into conflict with the law – whether they are children trying to survive, petty offenders or serious offenders – are children who are facing challenges in their relationships with their families, communities and society. Their lives, choices and opportunities are affected to a great extent by the social, economic and political realities in which they live. These include communities increasingly fragmented through urbanisation, chronic poverty, social and inter-personal violence, and increased pressure from commercialisation and materialism. These children are no more divorced from the context and environment in which they live, grow up and develop than the adults who are supposed to care for them, protect them and guide them.

Coming into conflict with the law for the majority of these children is usually only the latest consequence of a range of care and protection failures they are facing in their lives.

One of the most common of the factors that bring children into conflict with the law is the breakdown of their familial and protective environment. Whether this is the result of violence within the family, the death of a parent, divorce, separation in an emergency situation or migration as a result of chronic poverty, its impact is that it exposes the child to a much higher risk of both violence and coming into conflict with the law. These two are inextricably linked.

The child attempts to fend for him or herself and often to care for other siblings by living or working on the street or in temporary and unstable environments. The lack of a stable social situation and status, plus the criminalisation of most livelihood options and coping behaviours, all compound to take what is already a personal crisis and make it a situation of potential conflict with the law. At the same time it is crucial that the Study moves

away from the simplistic discourses that would like to see children only in terms of victims or perpetrators. It should explore the impact of conflicting discourses that often seek to justify further restrictions and controls on children's use of public spaces and their social environment while at the same time emphasising their social responsibility.

It is striking that children's social and antisocial behaviours are so heavily watched and policed when at the same time they are barely recognised as social actors outside of the family or the school environment. Their lack of participation and control over their lives, over decisions that are made for them and on their behalf and over their environment mean that, on the one hand, children are treated as irresponsible and incapable human beings, "adults-in-waiting" or non-adults. However their every move, their location, and their behaviours are closely watched and ruled by communities that want them to abide by their rules and behave as responsible citizens.

By restricting children's social and spatial involvement in their communities and in their lives and by not recognising and supporting their capacity to consider options we are, in effect, undermining their ability to respond to the situations and problems they face by making better choices. We discourage them from seeking solutions, including solutions to the violence and abuse they face or they perpetrate. We alienate them from their communities and yet we demand that they feel part of them and abide by their rules. We remove their opportunity to take responsibility for themselves, yet we are quick to attribute responsibility to them when they do make what we consider to be the wrong choices such as breaking the law or behaving inappropriately.

The reality is that children do make choices, often in circumstances where the only choices available to them are bleak and sometimes even dangerous. The recognition of children's roles as social actors when they come into conflict with the law must be mirrored by recognition of their role and responsibilities as members of their societies. Instead of relying on inappropriate criminal justice responses that narrow even further the options available to them, we need to engage children in seeking their own solutions and determining the boundaries of their own behaviour towards others. This is precisely what socialisation is about and it is

certainly what the Convention on the Rights of the Child had in mind when it stated that children in conflict with the law should be treated in a way that "reinforces the child's respect for the human rights and fundamental freedoms of others" and should promote boys and girls "assuming a constructive role in society". This remains a far greater vision and tougher challenge for all of us. It is not only about making the justice system safe for children; it is about making it just.

[1] Martin, F. and Parry Williams, J. *The right not to lose hope: children in conflict with the law, policy analysis and examples of good practice*, Save the Children (2005).

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Photo: Michael Amendolia

# How to end the violence

*Lena Karlsson and Ravi Karkara explain why a new focus on boys and men will help stem the tide of abuse against the vulnerable of both sexes*

Girls and women are continuing to get a rough deal the world over, forced down the pecking order without equal access to education, health care and income. Undoubtedly gender-based violence plays a significant part in this continued subjugation.

Weapons of rape, sexual harassment, female foeticide and genital mutilation, infanticide and honour killing are widely used to maintain this status quo. It has been suggested that this type of violence is wielded to perpetuate gender inequalities and sustain the established order. The roots go back to the rigid discourses of what constitutes the masculine and the feminine and the power relationships between men and women, boys and girls.

Even though most forms of gender discrimination affect girls and women, international research has clearly demonstrated that dominant forms and perceptions of masculinities among young boys become the most compelling force for male risk-taking behaviour. Examples of this in action include street violence, unsafe sexual practices and misogyny.

Girls and boys are treated differently everywhere and consequently are expected to behave differently too. Regardless of other circumstances, societies have precise expectations based on gender and it is these that have the biggest impact on the lives of children and adolescents.

Different messages and stereotypes are conveyed to girls and boys through the media, religious leaders, parents, school, peers, etc. Children learn their gender roles and what is expected from them. For girls they are usually associated with their future roles as mothers and wives. Young men often learn that it is considered masculine to be strong and dominant, sexually active, not to show emotions, and to exercise authority over women and children. Boys are often expected to support their parents financially through their lives. Fathers usually spend less time with their children than women do. In most societies boys learn from an early age that conflict can be resolved by physical violence and this encourages them to adopt violent measures to resolve problems. It is a habit that puts young males at particular risk.

Despite these rigid processes, perception of masculinity differs between and within societies and it also changes over time. Men and boys can

experience power and powerlessness at the same time. A boy can experience the former in relation to his sister and then later when he encounters his employer. However, although most young boys are socialised in ways that promote gender inequality and violence, not all boys fall into the pattern and behave like that all the time.

It is now emerging that many men and boys feel uncomfortable with the expectations and demands associated with dominant masculinity. Some men and boys are also beginning to step forward to unite with women and girls in a bid to challenge violence and achieve equity. They want their mothers, sisters or daughters to be safe and have the same opportunities enjoyed by males. Many men and boys are also outraged by the epidemic levels of violence waged on women and girls – as well as by the violence that many boys and men experience.

In the past two decades, most efforts for building a more gender equitable world have focused on violence against women and girls as a fundamental



Photo: Tom Pietrasik



area of concern and activism. But there is now an urgent need to broaden this to include boys and men if we want to promote true justice. Gender discrimination and violence will continue unless we reach out to boys and men and find ways that encourage them and allow them to change their own ideas and behaviour

### **Save the Children Sweden's work with men and boys**

Save the Children Sweden (SCS) has made a commitment to address gender discrimination and violence against children by working with boys and men to challenge its root causes. SC is also taking steps to build partnerships with boys and men to prevent HIV/AIDS and to promote caring fatherhood.

SCS is also committed to link various forms of discrimination and address them holistically from a child rights' perspective. To be able to promote gender equality and a society free of violence, boys and girls have to be involved in designing and monitoring these interventions and in addressing the responsible actors such as family members, community leaders, teachers, religious leaders, governments and the private sector. SCS will soon become a member of the steering committee of Men Engage, A Global Alliance to Engage Men and Boys in Gender Equality and Ending Violence. SCS is also supporting projects and programmes on working with men and boys in Sweden, in Southern Africa, South and Central Africa, Latin America, South and Central Asia.

During 2007 SCS will globally map its experiences of working with men and boys. This will then be presented and discussed during an international workshop in South Asia later that year. Through its



Photo: Tim Hetherington

involvement in the UN Study, SCS is also promoting the importance of involving men and boys in the battle to prevent violence against children.

Since 2003 SCS in South and Central Asia has included working with men and boys in its regional strategy. A series of regional workshops on working with men and boys has been conducted. These include:

- strengthening partnerships with men and boys to promote gender equality and end violence against girls and boys (March 2004);
- strategies and tools for working with men and boys to end violence against girls, boys, women and other men, facilitated by Michael Kaufman from the White Ribbon Campaign (December 2004); and
- a regional capacity building workshop on men, caring and fatherhood, engaging men as partners in healthier families, facilitated by Gary Barker, director of Promodu in Brazil.

A number of country-based workshops have subsequently taken place as a result of these initiatives, and a Non-Governmental Organisation (NGO) network of working with men and boys has been formed in Bangladesh. There is a growing interest among NGOs and Governmental Organisations (GOs) in Nepal, India and Pakistan to form a similar network. There are also a number of organisations in this region addressing forms of masculinities through various projects and programmes. However, most projects do target adult men and the need is more to involve and partner boys.

Remember masculinities are not static and all men and boys are not violent. We need to reinforce alternative ways of behaving by showing better examples and demonstrating practice that persuade men and boys to shun violence and masculine behaviour. At the same time we need to continue to work with women and girls and to promote networks and initiatives where girls and boys-women and men join hands to fight discrimination and violence.

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## Recommendations for initiating programmes working with men and boys

### *Practical actions*

- **understand how that violent streak has developed in you;**
- **stop being a perpetrator or a victim of violence and share your resolutions with others;**
- **be proactive, stop being a silent spectator to violence;**
- **recognise and make others aware of the serious and multiple consequences of violence;**
- **challenge persistent notions of masculinity and the condoning of violence and oppression.**

### *Practical actions for organisations*

- share and analyse good practices of working with boys and men to promote gender equality and to prevent gender-based violence and abuse;
- find role models, men/boys who already behave the way in which we want more men/boys to behave, and persuade them to take part in programmes addressing violence and abuse;
- call on and organise boys and men to protest against violence and abuse and to take initiatives for more equal gender roles and relationships;
- address violence from a rights-based approach (including power and gender analysis);
- question narrow definitions and perceptions of gender roles and relations, including the idea of masculinity;
- promote programmes for men on parenting and responsible sexual behaviour;
- advocate that governments make and implement laws against gender-based violence;
- network with human resources and women's rights organisations and influence them to incorporate gender-based violence against children into their work as well as programmes working with men and boys;
- increase knowledge about gender issues among professionals and the extent it features in the school curriculum;
- promote educational material for men and boys-women and girls, on gender, reproductive health issues and on the unacceptability of violence and abuse;
- stress the benefits for all members in society of men playing a more active role in nurturing their children and abandoning the culture of violence as a proof of masculinity.

# Violence study has the best chance to make a difference where it counts – on the ground

*Carol Bower explains the background to South Africa's appalling levels of child sex abuse and why it is not so much rights laws that are the issue, but putting them into practice*

South Africa has an exceptionally high rate of sexual abuse perpetrated against children. According to Interpol (<http://www.interpol.int>), South Africa has the highest rate of reported rape in the world, and some 50,000 rapes are logged each year (<http://www.saps.gov.za>). Although obtaining statistics broken down into component parts are difficult to get hold of in South Africa, it has been the case for several years that approximately 40 to 50 per cent of reported rapes are committed against children.

Given that rape is under-reported in the country, as in other parts of the world, and that only one in 20 is formally registered (<http://www.rapecrisis.org.za>), the true figures indicate that between 400,000 and 500,000 children are raped in this country each year. Furthermore, rape and the sexual abuse of children are two of a handful of crimes in South Africa increasing in prevalence. From April 2004 to March 2005, rape increased by four per cent and indecent assault by eight per cent (official government figures 2005). It is also worth noting that in terms of current legislation, rape is defined only as a penis-vaginal penetration. The Sexual Offences Bill currently being considered widens this definition to include anal and oral penetration as well as that with objects, activities not currently defined as rape.

Through its work, the Cape Town-based NGO Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN) has come to realise that this problem cannot be addressed in isolation. It must be considered within a range of other violations of children's rights, as well as the generally violent, and specifically sexually violent, ethos in which South African children are born and raised.

Levels of domestic violence are very high, and a woman is murdered in South Africa every six hours by her intimate partner, according to the 2004 policy briefing, *A National Study of Female Homicide in South Africa*. Levels of rape murder are also high. For every 1,000 reported rapes, there are 12 killings. This is a figure 12 times higher than in the US and 40 times higher than in Scandinavian countries. Girl children are especially vulnerable to sexual and gender-based violence.

Although little hard evidence as to the prevalence exists, there is agreement among all those engaged in prevention and response to child abuse that South African children are vulnerable to trafficking.

According to the limited available literature, South Africa is an established country of origin, destination and transit for trafficking in women and children for sexual purposes (<http://www.state.gov/g/tip/rls/tiprpt/2004/33186.htm>)

The country also has high levels of violence within communities, and the legacy of its apartheid past lives on still in this, and in the deep poverty in which many South African children are born and raised. Between 10 and 14 million children even have to take turns to eat as there is not enough food in their homes for everyone to eat every day, according to Guthrie's *Childhood Poverty in South Africa*. Children have inadequate access to nutrition, suitable accommodation, education, health care and social services.

Being on the receiving end of, and/or witnessing, such high levels of intimate partner, family and community violence has devastating consequences for children. These challenges to child rights are enormously exacerbated by the HIV pandemic, which sees growing numbers of children living without parental care and becoming increasingly vulnerable as a result.

## The reasons

If the prevention of violence against children, including the prevention of sexual violence, is to be tackled effectively, then it must take account of the complex context in which it arises and the root causes.

RAPCAN sees this as twofold: the unique South African history, and in common with the rest of the world, a legacy of deeply patriarchal and conservative social constructions of masculinity and femininity. The negative effects of these twin elements are significantly increased by the deep poverty in which many South Africans live, and the HIV/AIDS pandemic.

## Background

South Africa is a mere 12 years into democracy. It is still emerging from a situation ingrained for 300 years of colonialism. This established the foundations for the systematic denigration and dehumanisation by the minority of 90 per cent of the people. This was a situation in which nearly five decades of apartheid perfected, legalised and claimed religious vindication for it.



Photo: Paul Weinberg/Panos

Inequities, built into the fabric of society, are being addressed, but they are a long way from being removed. The inhumanity that was practised and taught to others as South Africans either fought for or against apartheid lingers in the national psyche.

In general, South African society prescribes rigid roles for men and women. Women's status is largely determined by their relationship to men – father, husband, son or brother. Masculinity is about being strong and in control, about knowing what you want and going after it, at whatever cost; it is inextricably linked to an active sex life, and to a sense of entitlement about sex. Femininity is set as the opposite, the 'other'. It is about being weak and subservient, about being unsure and scatter-brained; it is inextricably linked to the fact of being in a relationship at any price – including a lack of space to negotiate sex.

That children are viewed as the property of their parents in this context is not surprising; neither is the fact that there is far greater acceptance by society of notions of parental rights than of parental responsibilities (Carol Bower's "Virginity testing – in

whose interest?", *Aids Law Quarterly*, September 2005). Despite various pieces of legislation and policy being in place, and ratification of international instruments, it remains true that the rights of children in South Africa are in general not protected in their homes and communities. In RAPCAN's experience there is a poor understanding of the inalienable nature of children's rights in society at large. A common comment heard is: "the problem with children today is that we have given them too many rights". There is a failure to understand that children are bearers of rights in their own right – rights which are not ours as adults to withhold or allow as a right.

### **The heavy hand of poverty**

South Africa has one of the fastest-growing and largest gaps between haves and the have-nots, according to the UN's 2004 *Development Programme Report*. Between 10.5 and 14.5 million children live in deep poverty – around a quarter of the population. Poverty routinely denies children access to education, health services, justice, adequate material living conditions, and nutritious food. Poverty

enormously increases the vulnerability of children to rape, abuse and neglect.

Children up to the age of 14 are eligible for a monthly child support grant of R170 (US\$28). Older people, the disabled and those formally fostering children are eligible for various other grants. All South African social grants are means tested. However, there is no social assistance for able-bodied people between the ages of 14 and 60, if female, or 65 if male.

### **Future action**

To strengthen respect for the rights of children, and make them an automatic part of everyday life requires a response as complex and holistic as the context in which children's vulnerability to abuse and neglect is rooted. Indeed, it is imperative to inculcate a culture and ethos in which the rights of children are respected, protected and promoted if South Africa is to fulfil the promise of this young democracy.

Children are the present and the future. How well South Africans care for and raise the next generation of adults now will determine what kind of future life everyone can look forward to.

Critically, as advocates for the rights of children, those in organisations like RAPCAN, need to change attitudes and behaviour. South Africa has ratified a number of international treaties and conventions that oblige it to recognise and protect the rights of children, and promote their realisation, and has developed laws in this regard. However, these have had little impact on general attitudes towards children. Significant advocacy and lobbying campaigns, awareness-raising and training are required to ensure that there is understanding and acceptance of children as rights-holders.

A legislative framework is needed, based on the inalienable rights of children, which actively protects these rights. South Africa has made significant progress in this, for while there is always room for improvement, generally the laws are rights-based and rights-protective.

Now the spirit of legislation must be translated into rights-based and rights-protective policies governing the practical details of abuse, prevention of neglect,

early intervention, and child protection. Again, while there is always room for improvement, in general it has developed good policies for prevention, early intervention and child protection.

### **Putting policies into practice**

It is at the level of implementation of law and policy where South Africa struggles, and where the rights of children are violated. While the overhaul of the statutory system has been methodical, it has been very slow indeed. Only half of the Children's Bill, for instance, has been passed by parliament – yet it has been in development since 1996. Similarly, the Child Justice and Sexual Offences Bills, in the making since 1998, are languishing on someone's desk somewhere. The National Child Protection Committee is developing a national child protection Policy, but the process thus far has taken more than ten years, and is still not finalised.

In addition to the slow pace of legislative and policy reform, implementation of existing law and policy is uncoordinated, patchy, poorly resourced, seriously

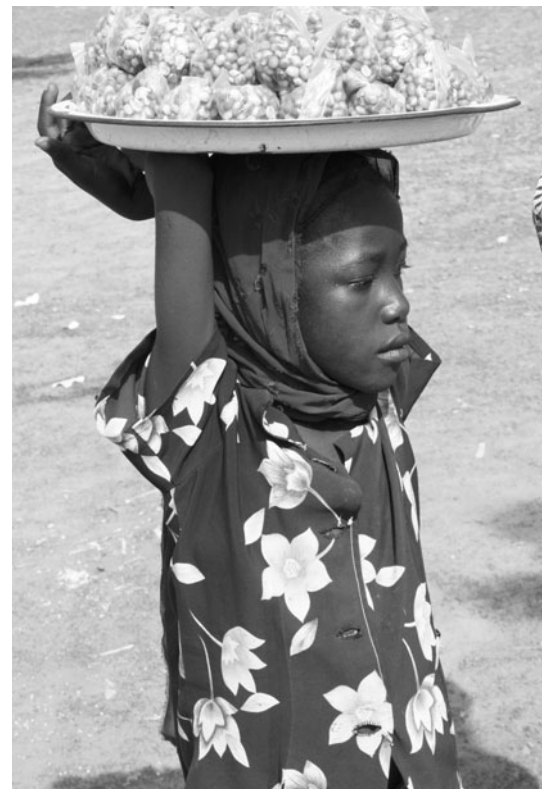


Photo: Catherine Noble/Save the Children

under-trained, and in itself, the cause of further trauma.

While many argue that it is the state's responsibility to fund and manage the statutory component of child protection services, reality dictates otherwise. Much of direct service delivery is delegated by the state to NGOs. Unfortunately, the majority of these NGOs are under incredible financial strains which greatly limit the salaries they are able to pay their staff. For example, social workers employed by NGOs often receive salaries that are 30 per cent lower than their counterparts in the state sector, according to a member of the Project Committee on the Children's Bill within the South African Law Commission.

As a result, NGOs are coping with unhappy workers and unmanageable turnover rates. They are often left with inexperienced caseworkers who are forced to handle incredibly large caseloads. Additionally, much of their time is spent in court proceedings and carrying out the associated follow-up, severely limiting their ability to focus on critical primary and secondary measures aimed at the prevention of abuse and neglect. Ultimately, far too many children are receiving inadequate care or are slipping through the cracks altogether.

### **Implications for the UN violence study**

The NGO Advisory Panel has been working on a concept paper with the study's leader Professor Paulo Pinheiro and his team. Data has been gathered via nine regional consultations, government questionnaires, situational analyses of areas of specific concern, such as corporal punishment, child justice, sexual abuse, and civil society submissions. According to the NGO paper, the study will provide an in-depth global picture of violence against children and

propose clear recommendations for the improvement of legislation, policy and programmes relating to the prevention of and responses to violence against children. It will document the magnitude, incidence and consequences of various types of violence against children. It will focus on prevention strategies, in particular through the identification of best practices in prevention, including those designed by children. It will also survey legal responses to violence and services for children who have been its victims, again including interventions designed by children. Furthermore, the study will describe the evidence demonstrating which interventions work, which are promising, and which have been shown to be ineffective.

The study should provoke comprehensive national reviews of the situation of violence against children in as many states as possible. It should cover prevalence, legal frameworks, child protection systems, statistics, violence in institutions, evaluation of reports and recording of data and initiatives to protect children and prevent violence against them that have proven to be effective.

This focus on implementation, especially of proven early intervention strategies, is a critical aspect of the study – it is not enough for children to have rights. It is the *realisation* of rights that counts. We need to know more about what works and why, in protecting children, and to put more of our resources into primary prevention. It is RAPCAN's expectation that the study will highlight this and provide guidance in doing so.

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## Special cases, not double standards, please

*Violence is a particular problem for disabled children and their families, but there is a lot we can do to improve matters, says Dick Sobsey*

- Violence and war permanently maim more than a million of the world's children a year.
- Children with disabilities are three times more likely to experience physical, sexual, and psychological abuse. (US research)
- Child sex abuse surfaces six times more frequently among children with mental disabilities than among the general population. (Spain research)
- High rates of mental disabilities have been recorded among adolescent prostitutes. (Taiwan research)
- Children with disabilities confined to institutions in countries such as China, Romania, Russia, are particularly prey to violent and inhumane treatment.

**For a more comprehensive list of examples, see Einar Helander's *The World of the Defenseless* (2004).**

It is a vicious circle: violence frequently causes disabilities and children with disabilities are more vulnerable to violence. Children with sustained disabilities, which are often the result of violence, are repeatedly victimised, creating situations which lead to more injury.

Violence can also have a different impact on these children. Take war, for example. This typically disrupts social, economic, and medical systems in various ways. Deaths and military service commonly remove one parent from the home, while embargoes and redeployment of medical resources create shortages of medical supplies and services for civilians. The destruction of property, disruption of trade, and the military's demand for more money play havoc with the economy.

The impact of all this chaos is particularly acute for vulnerable young people and their relatives. Those especially reliant on health services suffer first, with death a frequent consequence. Single parents may see little alternative to tethering their children to their beds while they venture out in search of water, food, or work. The plight of refugees, travelling long distances over difficult terrain, becomes many times

more difficult if they have a child who cannot walk. All youngsters are at risk in areas awash with mines and weaponry, but for the blind or mentally disabled the threat is much greater.

Child soldiers are always a tragic prospect, but the horror is amplified when disabled young people are used as disposable decoys or forced into becoming human death traps by having explosives strapped to their bodies, which are then detonated by remote control.

As the world struggles to address violence against children, it is time to make the disabled a special case. Before tackling the specific efforts necessary, ensuring those children have the same protection as others would be an important start. Improvements in the following three areas would certainly help.

### **Equal protection from corporal punishment and torture**

Some countries have banned the use of corporal punishment, and many children's rights campaigners have called for a worldwide ban. The disabled however, have often been ignored and sometimes deliberately exempted from protection.

There needs to be an explicit statement that no case exists for so-called aversive treatment of these young people. This must cover slapping, pinching, spanking, administering noxious substances, electric shock, and other methods of inflicting pain, which are still endorsed by some professionals to control behaviour.

Calling punishment 'treatment' and portraying unwilling children subjected to it as requesting or consenting to it through the decision of a guardian are dangerous distortions. Such procedures carried out on criminals and political prisoners are deemed as torture and rightly banned. So how can they be acceptable when meted out to disabled children? This is denying protection to those who need it most.

### **Equal protection of life**

The right to life, the most basic of all rights, is frequently denied to disabled children when they are cut off from medical treatments and necessities of life. This practice is widespread and justified by the belief that the disabled child can get little out of life, in spite of the fact that research clearly demonstrates



the opposite. This view may be responsible for 10 per cent of all infant deaths in hospitals. These babies are dying simply because someone decides that their lives are not worthwhile or because they are unwanted.

### **Equal protection of the justice system**

Parents are another high risk area. In many countries, including Canada, the US and the UK, there is a disturbing pattern of discretionary prosecutions, plea-bargaining, acquittals, and light sentencing in situations where parents have been charged with killing their disabled child. Parents, admitting to this offence, defend their actions by saying they believed that their children are better off dead or that the stress of raising such a child caused them to act irrationally.

But these are basically the same reasons commonly given by parents who kill children without disabilities. About half of all parents who kill any child claim that they did it for the benefit of the victim. Many do so while under pressure from an unhappy marriage, domestic violence, coping with debts or unemployment. But societies seem more willing to

accept that the disabled child might really be better off dead and appear more willing to excuse child murder due to the stress of raising a child with a disability than any other kind of difficulty.

This inequity does not necessarily mean that we should strive to increase the penalties for killing children with disabilities; but it does imply the need for equal treatment of all parents who kill their children. Treating the murder of some children as understandable while others as a heinous crime is unacceptable. The same holds true for other forms of maltreatment.

As advocates for children's rights, we need to ensure equal standards and equal treatment for all. As progress is made towards higher standards and better treatment, we cannot leave the most vulnerable children behind.

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# FACTFILE

## *Children with disabilities: facts and figures*

Disability is defined by the World Health Organisation as physical, sensory, intellectual or mental impairment.

About 10 per cent of the global population (6 billion people) is considered disabled.

The majority of disabled people live in the South. About 82 per cent of disabled people live below the poverty line in developing countries.

### **Children with disabilities**

About 10 per cent of the total population of children is born with a disability or becomes disabled before the age of 19. This corresponds to 150-200 million children out of a global population of 2 billion children.

About 98 per cent of disabled children receive no formal education (the majority of those who do are boys). The vast majority live without adequate access to healthcare and rehabilitation services.

The mortality rate among children with disabilities in countries where under five mortality as a whole has fallen below 20 per cent<sup>1</sup> can be as high as 80 per cent.

As many as 50 per cent of all disabilities are preventable: in many places poverty is the direct cause of disability through lack of prenatal care, malnutrition or lack of vaccines.

### **Violence as a precursor to disability**

A child who is physically, psychologically or sexually abused is more likely to become disabled. Children involved in hazardous labour, exposed to street crime or affected by armed conflict also run a greater risk of becoming disabled.

### **Forms of violence exerted on children with disabilities**

Most children with disabilities experience neglect, abuse and violence at home, in the community or in institutional settings.

### *Violence in the home and family*

Disabled children are more likely to experience violence from birth, not only because they can be discriminated against, but also because their disability will often leave them defenceless to abuse. Sometimes, the abuse actually aggravates the child's disability.

Practices such as infanticide and mercy killings of children with disabilities deny children's fundamental right to life, survival and development. They are based on the belief that the child is suffering so much that s/he will be better off dead, or that the child is evil and will bring misfortune into the family.

### **Violence in educational and custodial institutions**

Untrained teachers can sometimes be responsible for teasing, bullying, humiliating and abusing children with disabilities, thus prompting schoolchildren to behave in similar ways. This increases the isolation and victimisation of the disabled child, especially when many schools lack efficient supervisory and reporting mechanisms.

Specialised educational establishments are rare, so children often have to travel long distances to reach them, which exposes them to further risks of abuse. A recent study conducted in the US showed that five per cent of young people with disabilities reporting sexual abuse were abused by their school bus drivers<sup>2</sup>.

Children placed in institutions at birth are even more subject to violence than children raised in their family. Custodial institutions generally lack government funding, are overcrowded, understaffed and rundown. Children become victims of the staff's impatience and discontent by being excessively restrained, locked up, deprived of heat/food, or beaten.

### *Violence in the community*

Stigma and prejudice often encourage violent practices against disabled children. For example, the

<sup>1</sup>This is an estimate, due to poor detection systems, lack of data and the fact that the concept of disability is not clearly defined.

<sup>2</sup>Helander, E. *The World of the Defenseless: A Global Overview of the health of maltreated children, effects of interventions, human rights issues and development strategies* (2004).

belief that disabled children are a threat to others or do not feel any pain.

Some communities hold superstitious beliefs whereby a disabled child is the manifestation of a curse, or of the devil. This results in beatings, starvation or other violent exorcism practices.

In communities that believe sexual intercourse with a virgin can cure HIV/AIDS, disabled persons, including children, are particularly targeted as they are believed to be sexually inactive.

Harmful medical treatments are also often imposed by society on disabled persons, notably electroshock therapy, unnecessary medication and routine hysterectomies practiced on young girls, to prevent them from having children.

#### **A UN Convention for persons with disabilities**

An International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities is currently being drafted. The final text should be finalised in August 2006 and submitted to the UN General Assembly for adoption.

The aim of the new Convention is not to create new human rights standards, but to introduce obligations on governments to implement existing human rights for people with disabilities.

#### **The rights of disabled children in the Convention**

Article 23 of the UN Convention on the Rights of the Child (CRC) explicitly includes disability as a ground for protection from discrimination.

However, analysis of government reports to the Committee on the Rights of the Child reveals that virtually the only issues ever addressed by

governments in respect of children with disabilities relate to education and social welfare.

In the current draft of the Disability Convention, two important issues are still being ignored: the prohibition on sterilisation of children and the prohibition on institutionalising children on the basis of their disability.

At present, violence against children with disabilities is mentioned in the following articles of the draft Convention:

- Article 16: Freedom from exploitation, violence and abuse. Obligation to provide age and gender sensitive assistance and protection services to prevent violence, as well as effective gender and child specific legislation and policies to ensure that exploitation, violence and abuse are identified, investigated and where appropriate, prosecuted.
- Article 23: Respect for the home and the family. Recognition of equal rights of disabled children to family life; support for families to prevent concealment, abandonment, neglect and segregation; requirement, where children cannot live with immediate families, to provide care within the wider family or community.

#### **Further reading**

Lansdown, Gerison, "Disability Convention: Real progress for children in the Chair's revised text" (2005)  
<http://www.crin.org/resources/infoDetail.asp?ID=7211>

UNICEF, *Summary Report: Violence against Disabled Children: UN Secretary General's Report on Violence against Children, Findings and Recommendations* (2005).

CRIN's news page for the drafting of the Disability Convention at: <http://www.crin.org/disabilitynews>

# Overcoming a violent legacy in central Africa

*Long-running wars in the region have robbed millions of young people of everything that matters. Ann Birch describes how efforts to repair disrupted schooling have led to bigger problems of violent abuse being tackled.*

Violence is a mundane reality of life in central Africa's Great Lakes region. Wars waged over long periods in Rwanda, Burundi, the Democratic Republic of Congo and Uganda are the main cause of this situation. Some of these conflicts have ended, others continue alongside peace talks, but for the people everywhere it is violence that is the constant.

The ghastly experiences young Rwandan Joseph has encountered are typical for his generation. His mother was murdered during the genocide. Now 20, Joseph demonstrates a maturity beyond his years and, despite all the brutality he has gone through, he remains a sensitive young man.

"Countless numbers have vanished or been banished from their homes," he says. "Many children abandoned their schools and were kidnapped to become soldiers. In Rwanda thousands were taken by soldiers and are still living with them in the jungles in the Democratic Republic of Congo. This is not hearsay, but accounts from children and young people who went through this but then managed to escape and return to Rwanda."

Although Joseph does not presume to speak for others, undoubtedly he is one young man among millions whose lives have been radically changed because of violence.

Increasingly development workers are addressing the links between education, violence and the impact of war on the young. Those who have been cut off from educational systems following conflicts and wars have special educational needs. Refugees and displaced people, or populations subject to military occupation are all in need of tailored education programmes.

Miriam Murray, from Plan International Sierra Leone, explains: "We saw a huge need to provide learning opportunities for all the young people whose education had been disrupted by the war in this country.

"We designed a non-formal initiative, known as the Rapid Ed programme, that prepared children so they could return to school. Its aim was essentially damage limitation, to address the children's lost school years caused by the war, but in recognition of the circumstances also included a healing component in the shape of post-conflict trauma counselling. Girls were the ones who mainly benefited from the

programme and it led to the creation of a special type of education programme for the country."

Questions are now being raised, however, about the issue of violence within the education system itself. Research by Plan International Togo and the Forum for African Women Educationalists (FAWE) in the districts of Tchoudjo and Tchamba, for example, has demonstrated that 88 per cent of girls, and 87 per cent of boys, in their last three years of primary school, reported having experienced physical violence at school. Fifty-two per cent of girls, and 48 per cent of boys, reported threatening behaviour or psychological violence, and over four per cent of girls reported having suffered sexual violence at school. Now the inquiries are being widened to address the general violence that children suffer at home or within their communities, which in turn prevents them from attending school.

Violence also takes other forms, points out Joseph, such as sexual abuse, especially of very young girls, leading to unwanted pregnancies and the spread of HIV/Aids.

Domestic violence and forms of child exploitation are other reasons why children and young people leave their villages and end up in towns and cities in search of better lives. However, as Joseph confirms, all too often what they find is more abuse, sometimes the same, sometimes in a different form.

"They take any work they can get their hands on they are so desperate for money, no matter how harmful that work might be. Their bosses just care about profits and not about how young their workers might be. And there is often a further shocking exploitation in store as many youngsters are not even paid for their labour."

For Joseph – and many other young Africans like him – hope lies in their leaders treating acts of violence as crimes and pursuing the perpetrators as criminals. If this is done, he believes, the actions will not only alert young Africans that this is a situation they do not have to tolerate, it will signal that violence is not an inevitable way of life, but that it can be eradicated and that young people themselves can take a role in rooting it out.

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Plan International is a child-centred community-based organisation working for the rights and development of all children. Plan works in 46 countries and has 16 national organisations, <http://www.plan-international.org>

## ...Talking point...

*The world's religions make a stand*

The UN Secretary-General's Study on Violence Against Children, the work of the Global Initiative to End All Corporal Punishment of Children and the World Council of Churches Decade for Non-Violence, have provided opportunities to raise greater awareness amongst religious communities about the impact of violence on children. In 2006 there are more international events to engage religious groups and encourage churches to take strong leadership roles in addressing violence against children.

The World Conference of Religions for Peace and UNICEF, in coordination with the Violence Study Secretariat, are engaging religious organisations to address the problem and then take action in the wake of the UN Study. A small consultation in Helsinki in September 2005 developed recommendations from religious leaders. They agreed the strategy for involvement of religious communities should be grounded in the sacred respect that each religion shows to the person.

Religions for Peace and UNICEF are holding a global consultation in Toledo, Spain, with support from the UNICEF Spanish National Committee, in May 2006. This will bring together religious representatives and experts on issues of violence and child protection. The objectives include submitting a set of recommendations for inclusion in the UN's Study report; developing key messages and commitments for religious communities to address violence against children; preparing a draft declaration for religious leaders on violence against children that will be formally adopted at the Religions for Peace World Assembly in Kyoto, in August 2006.

The World Council of Churches Assembly meeting in Brazil in February 2006 included as one of five assembly themes, workshops and ecumenical conversations to engage churches with the movement to eliminate violence against women and children, including corporal punishment of children.

In the UK, on October 14 at the cathedral in the Midlands' city of Coventry, the Churches' Network for Non-Violence will hold an all-age, ecumenical service dedicated to children and non-violence. A

Charter for Children and Non-Violence will be adopted and signed at the service. The Bishop of Coventry, The Rt Rev Colin Bennetts commented:

"Children are the most vulnerable people in our society. It seems curious therefore that adults should resort to smacking them as a means to correct perceived bad behaviour; it is demeaning to both child and adult. Whatever the motive, smacking is an aggressive act which only serves to model violence as either a tool to resolve disputes or as a punitive measure, and this is hardly a pattern of behaviour that we would wish children to reproduce as they grow into adults.

"Children have a right to feel safe and secure in their upbringing; not only physically safe, but emotionally safe too, and adults have the moral responsibility to nurture children without recourse to actions that in any way diminish the child. This moral responsibility surely has to be shaped by the love of God for each one of us."

Prominent religious leaders have recently given their support to the Global Initiative, including His Holiness the Dalai Lama and Archbishop Emeritus Desmond Tutu.

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Photo: Dan White



# Resources

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Email: [songbkk@cscsoms.com](mailto:songbkk@cscsoms.com)

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West and Central Africa:

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North America:

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Middle East and North Africa:

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East Asia and Pacific:

<http://www.endcorporalpunishment.org/pages/pdfs/Report-EastAsiaPacific.pdf>

Europe and Central Asia:

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East and Southern Africa:

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## Information

The Child Rights Information Network (CRIN) is a membership-driven organisation and network of more than 1,600 child rights organisations around the world. It strives to improve the lives of children through the exchange of information about child rights and the promotion of the United Nations Convention on the Rights of the Child.

### A website

Updated regularly, the website, which is a leading resource on child rights issues, contains references to hundreds of publications, recent news and forthcoming events as well as details of organisations working worldwide for children. The site also includes reports submitted by NGOs to the UN Committee on the Rights of the Child. Two recent thematic websites have been launched recently: on rights based approaches to programming – <http://www.crin.org/hrbap> and on violence against children – <http://www.crin.org/violence>

### An email service

Distributed twice a week, CRINMAIL provides regular news bulletins about child rights issues, as well as information about new publications and forthcoming events.

### A newsletter

Published yearly, the Newsletter is a thematic publication that examines a specific issue affecting children. It also summarises news, events, campaigns and publications.

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Bookmark CRIN's website to learn more, or email us to contribute news or information.

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## Previous issues

CRIN Newsletter 12, March 2000:  
Education;

CRIN Newsletter 13, November 2000:  
Children and Macroeconomics;

CRIN Newsletter 14, June 2001:  
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CRIN Newsletter 15, March 2002:  
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CRIN Newsletter 16, October 2002:  
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CRIN Newsletter 18, March 2005:  
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CRIN Newsletter 19, May 2006:  
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