

GLOBAL INITIATIVE NEWSLETTER 14

(NOVEMBER 2010)

This issue reports on the achievement of full prohibition in Kenya, lots of newly published research on corporal punishment of children, and much more. Please consider taking action to promote prohibition where there are bills under discussion and to submit briefings to treaty bodies when your country is being examined. The Global Initiative is always willing to offer technical assistance and advice, just email info@endcorporalpunishment.org <mailto:info@endcorporalpunishment.org> .

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1 GLOBAL PROGRESS

Kenya achieves prohibition in all settings

The new Constitution adopted in August protects every person from corporal punishment, making Kenya the second African state this year to legally protect children from all corporal punishment in all settings, including the home. Article 29 of the Constitution states that every person "has the right to freedom and security of the person, which includes the right not to be ... (c) subjected to any form of violence from either public or private sources; (d) subjected to torture in any manner, whether physical or psychological; (e) subjected to corporal punishment; or (f) treated or punished in a cruel, inhuman or degrading manner". Article 20(1) states: "The Bill of Rights applies to all law and binds all State organs and all persons." And article 53 confirms that every child has the right "to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment

and punishment, and hazardous or exploitative labour".

The effect of the prohibition in the new Constitution was immediate: article 2(4) renders void any law, including customary law, that is inconsistent with the Constitution. Various provisions in Kenyan law which justify or authorise corporal punishment, in conflict with the new Constitution, must now be reviewed and amended, including repeal of "the right of any parent or other person having the lawful control or charge of a child to administer reasonable punishment on him" in article 127 of the Children Act 2001 and of the authorisation of corporal punishment in schools in article 11 of the Education (School Discipline) Regulations.

Civil society organisations in the country have united in efforts to ensure that the provisions which together prohibit all corporal punishment - articles 2, 20, 29 and 53 - are publicised, understood and implemented. A press statement issued on behalf of child rights civil society organisations in Kenya highlights the new Constitutional provisions on corporal punishment and calls on the Government to ensure these are enforced through further legal reform to harmonise existing legislation with the new Constitution.

Other positive moves

Bangladesh: Following an order from the Bangladesh High Court, the Ministry of Education has issued a circular to all schools stating that corporal punishment "is absolutely prohibited in all educational institutions". Inflicting corporal punishment "shall be considered to constitute misconduct" and education officers "shall take measures against persons imposing corporal punishment under the Bangladesh Penal Code 1860, the Children Act 1974 and, where appropriate, through initiating departmental action". The Ministry will develop policy guidelines on appropriate, non-violent school discipline. Prohibition is yet to be confirmed in law.

Bhutan: A Child Care and Protection Bill is being discussed which aims to prohibit corporal punishment of children.

Guyana: The Juvenile Offenders (Amendment) Act has been passed which repeals provisions for whipping of juvenile offenders as a sentence of the courts and in penal institutions. However, it appears that legislation defines juveniles as under 17 and boys from the age of 17 continue to be liable to whipping (information unconfirmed). Whipping of females has long been unlawful.

New Zealand: A private members bill that would have restored the right of parents to hit their children was defeated on introduction in Parliament by 115 votes to 5.

Philippines: House Bills 1082 and 914, which would prohibit all corporal punishment of children, have been filed in the current (15th) Congress. Child rights advocates have urged legislators to take them up as a matter of urgency. A similar bill was approved by the House of Representatives during the 14th Congress but was not taken forward by the Senate.

Republic of Korea: The central government is due to submit a bill prohibiting corporal punishment in schools to the National Assembly. The Gyeonggi Provincial Office of Education has already passed a students' rights ordinance which aims to "guarantee dignity, value and rights of students as humans" and prohibits corporal punishment in all schools and kindergartens. Similar laws are expected to be passed in other provinces over the coming months.

Uganda: Prohibition of corporal punishment in schools is included in the Children (Amendment)

Bill submitted to parliament by the Uganda Law Reform Commission.

But ...

Botswana: The Children's Act 2009 states that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment, but also states that this "shall not be construed as prohibiting the corporal punishment of children in such circumstances or manner as may be set out in this Act or any other law" (article 61). The Act provides for judicial whipping of children convicted of an offence by a children's court (article 85).

United Arab Emirates: The Federal Supreme Court upheld a husband's right to "chastise" his wife and children. The ruling cited the UAE penal code and sanctions beating and other punishment which leaves no physical marks. The ruling dated 5 October 2010 states: "Although the husband has the right to discipline his wife in accordance with article 53 of the penal code, he must abide by conditions setting limits to this right, and if the husband abuses this right to discipline he shall not be exempt from punishment". According to Human Rights Watch (HRW), article 53 provides for the right of "chastisement by a husband to his wife and the chastisement of minor children". The case concerned a man who slapped and kicked his wife and his adult daughter. The man was convicted because of the severity of the attack. HRW called for the repeal of all discriminatory laws sanctioning violence against women and children.

Zanzibar: The current Children's Bill 2010 prohibits cruel, inhuman or degrading punishment or treatment but does not explicitly prohibit corporal punishment in any setting. In consultation on the Bill, children called for the government to prohibit corporal punishment (see below, Research and Reports).

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2 CAMPAIGNS AND CALLS FOR PROHIBITION

The Child Rights Information Network has launched a new campaign against inhuman sentencing <<http://www.crin.org/violence/campaigns/sentencing/#countries>> of children, focusing on ending the legality and practice of sentencing child offenders to capital punishment, corporal punishment, and life imprisonment. The launch at the UN General Assembly in October was hosted by the Norwegian Mission to the United Nations, with the involvement of Marta Santos Pais, Special Representative of the UN Secretary General on Violence against Children, and Paulo Sérgio Pinheiro, Independent Expert appointed by the UN Secretary-General to lead the UNSG's Study on Violence against Children, 2003 - 2007; Commissioner and Rapporteur on Children's Rights, Inter-American Commission on Human Rights, Organization of American States.

In West Africa, as part of the Violence Against Children Project <<http://www.plan-childrenmedia.org/spip.php?rubrique77&vac=1&lang=en>> co-ordinated by Plan International and Save the Children, more than 80 children from countries in the region gathered for the Regional Youth Forum on Violence Against Children in Accra, Ghana from August 31 to September 3 2010. They spoke with government and UN officials, drawing particular attention to violence in schools, including corporal punishment, and highlighting severe school violence as a reason for dropping out of school. Marta Santos Pais, the UN Secretary General's Special Representative on Violence against Children said that her office would make the necessary partnerships to ensure children's

issues are promoted throughout Africa.

And ...

France: The 24th national meeting of the French Federation of Psychotherapy and Psychoanalysis was entitled "Love and Punishment" <<http://www.colloques-ff2p.com/>> and focussed on corporal punishment of children in the home. Sessions were held on how all corporal punishment can be ended, including through law reform, as well as on the effects of corporal punishment and positive alternatives to it. Edwige Antier, the MP who introduced a bill that would prohibit all corporal punishment in January 2010, spoke at the event.

Ghana: During a courtesy call on Minister of Education, Mr Alex Tettey-Eno, Marta Santos Pais called for the government to enact legislation to prohibit corporal punishment in schools. The Minister pledged government support for eradicating violence against children, including corporal punishment in schools.

Nigeria: Journalist and Project Coordinator of Educators Against Corporal Punishment Bayo Olupohunda has stepped up his campaign against corporal punishment in schools in his newspaper column <<http://234next.com/csp/cms/sites/Next/News/Metro/5602788-183/story.csp>> .

The latest newsletter of the Nigerian Child Rights Network (CHIRN), Discipline <<http://www.endcorporalpunishment.org/pages/pdfs/legalreform/Discipline%20vol1%20no4%202009.pdf>> , has been distributed.

Paraguay: UNICEF is running a campaign to raise awareness of the negative effects of corporal punishment of children in the family and to promote positive, non-violent discipline. The campaign, entitled "Sin Violencia Si Educa Mejor <<http://www.sinviolencia.com.py>> " (Non-violence is better education) runs from 22 September to 22 November 2010 and is supported by The Creative Circle of Paraguay and other organisations and the media, and was launched following the publication of a new research report on the issue (see below).

St Lucia: RISE St. Lucia Inc <<http://www.risesaintlucia.com/>> held a peaceful protest on 21 September 2010, the UN International Day of Peace, using the slogan "A Total Ban on the Striking Hand!" They circulated information to many schools and homes and were widely reported on in the national media.

UK: The Children Are Unbeatable! Alliance has published its third campaign newsletter <<http://www.childrenareunbeatable.org.uk/pdfs/newsletters/CAU-Issue03.pdf>> (September 2010), covering legal developments in the UK, growing support for prohibition among professionals working with children and among faith groups, and new research with children and young people.

In the House of Commons, Caroline Lucas MP called on the Secretary of State for Justice, Mr Kenneth Clarke, to explicitly prohibit corporal punishment in secure training centres (privately run child prisons). It is already prohibited in other penal institutions for children.

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3 HUMAN RIGHTS MONITORING

Key decisions and recommendations, etc.

The Committee on the Rights of the Child published its concluding observations on states examined at the 55th session, 13 September - 1 October 2010. The Committee examined the state party reports of Angola, Burundi, Guatemala, Montenegro, Nicaragua, Spain, Sri Lanka and Sudan. The Committee recommended prohibition of corporal punishment in all settings, including the home, drawing attention to its General Comment No. 8 on the right of the child to protection from corporal punishment and other cruel and degrading forms of punishment. To Spain, which achieved full prohibition in 2007, the Committee recommended continued awareness raising and public education programmes to ensure full implementation of the law.

The African Committee of Experts on the Rights and Welfare of the Child published its concluding observations on states examined at the 14th and 15th sessions. The Committee examined the state party reports of Mali and Burkina Faso in November 2009 and Kenya, Tanzania and Uganda in March 2010. The Committee noted that cases of corporal punishment are still observed in schools in Kenya and congratulated the Ugandan Government for its efforts made towards prohibiting corporal punishment.

Briefing the human rights bodies

The Global Initiative regularly briefs human rights treaty monitoring bodies prior to examination of state parties, and encourages national NGOs and human rights institutions to do likewise. Current opportunities to submit advance briefings on states coming up for examination are listed below. We are always willing to advise NGOs and human rights institutions on the practical details of how to submit briefings (email info@endcorporalpunishment.org <mailto:info@endcorporalpunishment.org>).

The Committee on the Rights of the Child pre-sessional working group will be meeting at its 56th session in January/February 2011 to consider the issues to raise in its forthcoming examinations of Bahrain, Cambodia, Costa Rica, Cuba, Czech Republic, Egypt, Finland and Iceland. Briefings on these countries should be submitted before 20 December 2010.

The Committee Against Torture pre-sessional working group will be meeting at its 46th session in May 2011 to consider the issues to raise in its future examinations of states still to be identified. Information relevant to the next opportunity for briefing the Committee will be confirmed in the next newsletter.

The Committee on Economic, Social and Cultural Rights pre-sessional working group will be meeting at its 46th session in May 2011 to consider the issues to raise in its forthcoming examinations of Argentina, New Zealand, Peru, Slovakia and Spain. Briefings on these countries should be submitted before 9 May 2011.

The Committee on the Elimination of Discrimination against Women pre-sessional working group will be meeting at its 48th session in January/February 2011 to consider the issues to raise with states being examined at the 50th session (not yet identified). Briefings should be submitted by 17 December 2010. Please check the CEDAW website <<http://www2.ohchr.org/english/bodies/cedaw/sessions.htm>> for the list of states being examined at the 50th session.

The Human Rights Committee. Details are not yet available regarding the states to be considered by the country report task forces during the 101st session. Information relevant to the next opportunity

for briefing the Committee will be confirmed in the next newsletter.

The 12th session of the Universal Periodic Review will take place in October 2011. The deadlines for making submissions on the countries involved are:

14 March 2011 for Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Uganda, United Republic of Tanzania, and Zimbabwe

21 March 2011 for Antigua and Barbuda, Bolivarian Republic of Venezuela, Haiti, Iceland, Ireland, Lithuania, Moldova, Timor Leste, and Trinidad and Tobago.

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4 RESEARCH AND REPORTS

An event held at the United Nations Headquarters on 15 October organised by the Special Representative of the Secretary-General on Violence Against Children, UNICEF and OHCHR, and supported by the Government of Sweden, focused on how to promote better information and research to inform child sensitive and effective laws. Panelists highlighted new evidence about children's exposure to corporal punishment, the preliminary findings of a soon to be published UNICEF report on child discipline in the home, and called for improved research on violence against children in order to strengthen government action against it and to support legal prohibitions. We will report on the UNICEF research when it becomes available.

Other new research and reports include:

Bahamas: New research on the prevalence of corporal punishment has found that children are physically punished in up to 77% of homes. The study - A preliminary investigation of the prevalence of corporal punishment of children and selected co-occurring behaviours in households on New Providence, The Bahamas

<<http://researchjournal.cob.edu.bs/index.php/files/article/view/121/144>> by Brennen et al. - is published in The College of The Bahamas Online International Journal of Bahamian Studies, launched in October.

Mozambique: A new report by Save the Children, Ending Corporal Punishment of Children in Mozambique <http://www.crin.org/docs/FileManager/Ending_CP_Mozambique.pdf> , provides information about corporal and other humiliating punishment of children in Mozambique, outlines international obligations to prohibit it and to engage in public education on the issue, and makes recommendations to government and civil society.

Namibia: The Legal Assistance Centre has issued a new report on corporal punishment - Corporal Punishment: National and international perspectives <http://www.crin.org/docs/CP_Monograph.pdf> . It presents the opinions of over 2,000 children surveyed for the public consultation on the Child Care and Protection Bill. It also includes sections on the effects of corporal punishment, common justifications for its use, international human rights standards, the current national legal situation, examples of law reform in other countries, the promotion of positive parenting, and answers to frequently asked questions on the issue.

New Zealand: The seventh review <<http://www.police.govt.nz/seventh-review-police-activity-enactment-crimes-substituted-section-59-amendment-act-2007>> of police activity following the

repeal of the legal defence for the use of force in correcting children has been published. Covering the December 2009 to June 2010, the results show that the law continues to be implemented sensibly, with very few prosecutions concerning minor assaults and a significant number of cases being referred to other government and non-government agencies for help. There is an increase in reporting of child assault, indicating decreased tolerance of violence against children.

Paraguay: The first major study on family violence against children - Estudio sobre maltrato infantil en el ámbito familiar <<http://www.sinviolencia.com.py/docs/informeviolenciapy.pdf>> - was published by UNICEF Paraguay in September 2010. The study involved over 800 children and young people from at least 50 public and private schools. It found that 6 out of 10 children experience physical violence and other maltreatment in the home, including beatings, kicks and burns. Over a third (35%) reported suffering severe physical punishments, 13% light violence.

Philippines: A Plan International report on violence against children in schools was released in August. It found that at least five out of 10 children in Grades I to III, seven out of 10 in Grades 4-6, and six out of 10 in high school have experienced violence in school, most commonly verbal abuse, including being shouted at, cursed at, ridiculed, teased or humiliated. Physical violence experienced includes pinching, throwing things at the child, spanking, making the child stand under the sun, locking the child in a room or enclosed space, and sexual assault. The study, Towards a Child-Friendly Environment - Baseline Study on Violence Against Children <<http://plan-international.org/learnwithoutfear/files/philippines-toward-a-child-friendly-education-environment-english>> , documents violence between children as well as that inflicted by adults, and includes violence in the name of discipline.

A 2010 survey of 270 grade-six students (aged around 12) found that 61.1% of them had experienced physical punishment at home. Three out of four (74.5%) of those who experienced physical punishment had been pinched, 49.7% beaten, 13.9% slapped, 3.6% kicked and 3% punched. Boys were more likely to be physically punished than girls, and mothers were reported to inflict more physical punishment than fathers. The most common reasons for being physically punished were disobedience, cited by 35.6% of children who had been punished, and "pasaway" or being naughty (35.3%), which included causing younger siblings to cry, interrupting adult conversations by what was perceived to be meaningless or disrespectful chatter, play-fighting with other children or siblings, making noises and disrupting order in the house. (Sanapo, M. and Nakamura, Y., 2010, "Gender and Physical Punishment: The Filipino Children's Experience <<http://onlinelibrary.wiley.com/doi/10.1002/car.1148/abstract>> ", Child Abuse Review, published online in Wiley Online Library DOI: 10.1002/car.1148)

Turkey: A 2010 study examined the prevalence of various types of family violence in the childhoods of 988 college students through anonymous questionnaires. The types of violence included being kicked, punched, thrown, bruised, burned, or caused to bleed, lose teeth, or have broken bones. More than half (53.3%) had experienced some of these types of violence in childhood (64% of males and 41.6% of females). The most common perpetrators were mothers and fathers, but siblings and other relatives also inflicted some violence. Almost a quarter (22.6%) reported that the perpetrator had behaved violently to establish discipline, 15.9% said the perpetrator wanted to teach them a lesson and 16.1% that the perpetrator wanted to instill respect. (Turla, A., DüNDAR, C., and ÖZKANLI, C., 2010, "Prevalence of Childhood Physical Abuse in a Representative Sample of College Students in Samsun, Turkey", Journal of Interpersonal Violence <<http://jiv.sagepub.com/>> , vol. 25, no. 7, pp. 1298-1308)

Zanzibar: The National Child Consultation Programme, a partnership between the Ministry of Labour, Youth, Women and Children Development and Save the Children, UNICEF and others, has published a report on the proposed new Children's Act - Capturing Children's Views on the Children

Bill 2010: The National Child Consultation Programme in Zanzibar

<http://www.savethechildren.org.uk/en/docs/310810_NCCP_report_Final1.pdf> . Of the children consulted on the Children's Bill 2010, 77% described corporal punishment as a harmful, arbitrary and meaningless practice and over 80% called on the government to prohibit it in schools and promote alternative forms of discipline.

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5 MEDIA WATCH

A selection of media reports:

India: A 7-year-old child suffered an eye injury after allegedly being pushed to the ground by his teacher for going to the toilet too often. The case has been registered with the police. (The Times of India, 21 September 2010)

In Jaipur, a student lost the sight in her left eye after a teacher allegedly thrashed her for not doing her homework. In Assam, a boy was seriously injured and had to be hospitalised after being allegedly caned by the headmaster. (DNA India, 20 August 2010)

In Ghaziabad, a 5-year-old child in a public school needed stitches in his head after allegedly being beaten for being outside the class, and a 9-year-old child's hand was fractured allegedly following a beating for violating the school dress code. Orders have been issued for the arrest of the perpetrators. (The Hindu, 24 August 2010)

There was widespread coverage of the case of Rouvanjit Rawla, a pupil at Law Martiniere school for boys who committed suicide allegedly after being caned at school. The matter is being investigated and legal action that can be taken by the West Bengal government is being explored (it is a private school). Since the incident other allegations of corporal punishment have been made. (Times of India, 28 August 2010; Hindustan Times, 28 August 2010; ExpressIndia.com, 5 October 2010)

Minister of State for Human Resource Development, Smt D. Purandeswari, confirmed that the National Commission for Protection of Child Rights (NCPCR) has issued guidelines to all states and territories and to the district administrations to tackle the problem of corporal punishment in schools and to support implementation of the prohibition of corporal punishment in the Right of Children to Free and Compulsory Education Act 2009. (voiceofsikkim.com, 30 August 2010)

Nepal: The National Human Rights Commission expressed concern following reports of a nursery child being beaten by the teacher causing deep bruising. The NHRC called for an investigation into the incident. (The Himalayan Times, 31 August 2010)

Nigeria: A child was sentenced to seven strokes of the cane for hawking on the streets of Abuja by a mobile court set up by the Abuja Environmental Protection Board (Daily Trust, 29 August 2010)

In October, nine child hawkers were ordered to be flogged with seven strokes of the cane. (Daily Trust, 21 October 2010)

Pakistan: A conference on violence against children in Punjab, organised by the Society for the Protection of the Rights of the Child (SPARC), drew attention to the problem of corporal

punishment in schools as the reason for children dropping out of schools. (Daily Times, 11 August 2010)

Advisor to Sindh Chief Minister Ms Sharmila Farooqui has called for an end to corporal punishment in schools because it discourages children from getting an education. She stated that the Pakistan government is committed to ending such punishment of students. (Regional Times, September 2010)

Republic of Korea: The appeals court in Gwangju upheld a lower court's ruling that found a teacher guilty of assault for hitting a student on the head once and on the palm twice with a wooden rod bigger than the authorized size. The teacher received a suspended sentence and a fine. (Korea Times, 23 August 2010)

Syrian Arab Republic: Two teachers were fired and banned from working with children after a Facebook group posted a video of them beating children on their hands and on the soles of their feet with sticks. The Ministry of Education opened an investigation into the case. (BBC News, 29 September 2010)

Taiwan: A junior high school in Taichung City was ordered to pay compensation to a student who had been punished by his teacher. The student was spanked 108 times on his bottom and pinched three times on his face for not tucking his shirt in properly. The court ruled that the teacher had been overly punitive and abusive. (The China Post, 15 October 2010)

Thailand: An art teacher at a Catholic boarding school secretly filmed hitting students on the buttocks with a cane wrapped in electrical wire was fired. Parents lodged complaints with the police. (The Prince George Citizen, 30 August 2010)

Uganda: At a workshop on protecting school children against violence, Arua district education officer, Nicholas Kabantito Tembo, warned educators that using corporal punishment risks legal action being taken against them. (The New Vision, 6 October 2010)

At the launch of a four-year project of the African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN) at Mukono, district inspector of schools, Dauda Lubega, spoke out against the continued use of corporal punishment in schools despite awareness raising on alternatives and the distribution of guidelines on positive discipline to teachers. (The New Vision, 28 September 2010)

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6 CAN YOU HELP?

Can you offer assistance as a volunteer translator? We occasionally require translation of materials between English and other languages, including Arabic, Chinese, French, Portuguese, Russian and Spanish. If you would like to be included in the list of persons we can turn to, please email us at info@endcorporalpunishment.org <mailto:info@endcorporalpunishment.org> .

We would also appreciate any information on laws prohibiting or authorising corporal punishment in the following countries and settings:

Penal system (sentence of the courts) - Equatorial Guinea, Gabon, Oman

Penal system (disciplinary measure in penal institutions) - Bahrain, Equatorial Guinea, Eritrea, Gabon, Guinea, Liberia, Libyan Arab Jamahiriya, Niue, Sao Tome and Principe, Syrian Arab Republic

Alternative care settings - Guinea-Bissau, Kuwait, Libyan Arab Jamahiriya.

And finally, if draft legislation is proposed in your country which provides an opportunity to prohibit corporal punishment, or if laws are enacted which achieve this in any setting, please let us know so that we can keep our information up to date.

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We hope you find this newsletter informative and useful and welcome your comments: please email info@endcorporalpunishment.org <mailto:info@endcorporalpunishment.org> . We are sending the newsletter to supporters of the aims of the Global Initiative (for the full list, click on "Supporters" on the website <<http://www.endcorporalpunishment.org>>) and others who we think will be interested. If you do not want to receive future editions, please tell us at info@endcorporalpunishment.org <mailto:info@endcorporalpunishment.org> . If your organisation is not listed as supporting the aims of the Initiative, please consider signing up (email info@endcorporalpunishment.org <mailto:info@endcorporalpunishment.org>).

To receive the latest developments between newsletters, please sign up to the RSS news feed at www.endcorporalpunishment.org <<http://www.endcorporalpunishment.org>> .

"Many countries have reviewed their juvenile justice systems to ensure conformity with international human rights standards. Following the UN Study [on Violence against Children], a growing number of countries are moving towards a legal ban on all forms of violence against children, including violent forms of punishment in the penal system. While these developments are encouraging, it remains a matter of deep concern that a minority of countries still permit the sentencing of children to extreme penalties including execution, whipping, flogging, stoning and amputation, as well as lengthy periods of imprisonment, in some cases with the possibility of a life in prison.

As the international community celebrates 20 years of implementation of the CRC, it is more than ever urgent that countries bring their laws in line with human rights standards and ensure that no child is subjected to these forms of punishment...."

Marta Santos Pais, Special Representative of the Secretary General on Violence against Children, speaking at the launch of the CRIN campaign against inhuman sentencing, New York, 14 October 2010