

# *Towards the universal prohibition of all violent punishment of children*



Report of the global workshop on 'Prohibiting all corporal punishment and other humiliating punishment of children: Achieving legal reform'  
Bangkok, Thailand, May 2008

*Save the Children works for:*

*A world which respects and values each child*

*A world which listens to children and learns*

*A world where all children have hope and opportunity*

*Save the Children fights for children's rights.*

*We deliver immediate and lasting improvements to children's lives worldwide.*

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# Foreword

Corporal punishment is one of the most pervasive forms of violence against children the world over. The fact that it is lawful in schools and justice and care settings in many countries – and in the home in most countries – underpins its continued use and provides a spurious basis for the belief that it is somehow morally “right” and “justifiable”.

But times are changing. Children’s right to equal protection from assault in law, including from all forms of corporal punishment in all settings, is undisputed among the bodies charged with monitoring countries’ compliance with their obligations under international human rights law. The Committee on the Rights of the Child has been at the forefront of this, recommending explicit prohibition of corporal punishment to states parties since the earliest days of the Convention on the Rights of the Child. The issue was put high on the agenda by the UN Study on Violence against Children, which recommended that all states enact prohibition of corporal punishment in all settings – including the family home – by 2009. And now, every year the list of countries achieving full prohibition in law is growing.

In May 2008, Save the Children, in collaboration with the Global Initiative to End All Corporal Punishment of Children and the Churches’ Network for Non-Violence, organised the first Global Workshop on achieving legal reform to prohibit corporal punishment. Child rights advocates from almost 30 countries met to grapple with the issues: understanding the absolute necessity of law reform, identifying precisely what is needed in the countries in which they work, and learning from experiences in countries which have been successful in achieving prohibition.

We hope this report captures in some measure the deep commitment of the participants to making children’s right to equal protection a reality, their determination to develop and follow the national strategies for law reform drafted during the workshop, and the information and experiences exchanged during the dialogues. More importantly, we hope the report is both an inspiration and a resource for those setting out on the task of law reform in countries which have yet to give children the legal recognition of the rights that are theirs.

Peter Newell,  
Coordinator  
Global Initiative to End All Corporal Punishment of Children

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## Executive summary

The widespread legal acceptance of corporal and other cruel and degrading punishment is one of the most potent symbols of the low status given to children. While adults the world over are protected in law from violence and assault, including the most minor forms, children are lawfully assaulted and humiliated every day of their lives in the name of punishment and 'discipline'.

The human right of children to equal legal protection from assault, including by parents in the home, has long been confirmed and promoted by the Committee on the Rights of the Child, in its monitoring of the implementation of the UN Convention on the Rights of the Child. Other treaty monitoring bodies are increasingly urging states to prohibit all corporal punishment of children. The global movement towards reform received impetus from the UN Secretary-General's Study on Violence against Children, which recommended full prohibition of all corporal punishment of children, in all settings, in all states – with a target date of 2009.

In May 2008 – in recognition of the urgency of law reform and the need to maximise efforts across the world to achieve prohibition – the International Save the Children Alliance, in collaboration with the Global Initiative to End All Corporal Punishment of Children and the Churches' Network for Non-Violence, held the first global workshop on achieving legal reform.

Over four intensive days, nearly 60 participants from all regions of the world shared knowledge and skills, focusing on why law reform is necessary, what reforms are required, and how reform will be achieved. The fundamental message is that explicit prohibition is a straightforward issue, but one that is too often over-complicated. The obstacles to reform are not legal ones; rather, resistance stems from the near universal acceptance of corporal punishment in childrearing and the failure to regard children as people and rights holders alongside adults.

Educating ourselves about existing legislation, and about the legal and parliamentary processes for changing it, equips us to more effectively advocate for the law reform necessary to realise children's rights to respect for their human dignity and physical integrity, protection from all forms of violence, and equal protection from assault under the law.

Participants from countries which have successfully pursued law reform to prohibit corporal punishment in the home and/or other settings shared their experiences, including of implementing the law, and reflected on what had been learned that would be useful for countries just embarking on the process. The scope for learning was wide, from the first country to achieve explicit prohibition, nearly 30 years ago (Sweden, in 1979), to the most recent countries to prohibit (New Zealand in 2007, Costa Rica in 2008). But the challenges faced and the lessons learned are remarkably similar.

Building up faith-based support for prohibition was also addressed, to deal with one of the most challenging aspects of law reform, religious opposition.

The workshop began by situating the case for legal reform firmly in the context of international human rights law, and recognising how this imposes obligations on states to change their national laws. It ended with a return to this international context, but this time looking at how states can influence the international agenda. Practical guidance was given on how to use national legal action to put pressure on governments to reform their laws, making use of the Convention on the Rights of the Child, and other treaties, as legal instruments.

If attempts to use national legal systems fail, regional and international human rights mechanisms can be used to 'force' governments to face their obligations under the treaties they have ratified. And international pressure can be increased when organisations lobby international bodies and events and keep the need to prohibit corporal punishment of children high on the international agenda.

During the workshop, participants drafted national strategies to pursue legal reform in their own countries, bearing in mind the UN Study deadline of 2009. These strategies built on their existing experience and incorporated what was learned during the workshop. The strategies provide a remarkable record of what was achieved during the workshop in terms of understanding, confidence and commitment. They are an exciting indication of progress to be expected in the coming months towards achieving legal reform across the world. Like the report as a whole, they also provide a useful resource for others engaging in the process of law reform.

## **The report**

This report aims to be a useful resource for all those working towards prohibiting and eliminating corporal punishment, rather than simply an account of the workshop sessions. It broadly follows the workshop agenda (see Annex 3). Part 1 sets the scene, providing the historical context of Save the Children's work on the issue of corporal punishment, and outlining the importance and purpose of prohibition. It notes the major milestones that have been reached on the way to universal prohibition, as well as the obstacles and setbacks.

Part 2 examines what law reform means, describing the elements of reform and global progress towards achieving it.

Part 3 looks at how to get laws into and through parliament. It provides concrete examples of this process in three countries which have achieved prohibition (New Zealand, Costa Rica and Romania) and one in which law reform is still under way (Philippines).

Part 4 follows in the same vein, on the issue of child participation in law reform. Each chapter describes the experiences of child participation in the law reform process and reflects what can be learned from these. Examples come from Venezuela, Kenya and South Africa.

Part 5 examines ways of gaining faith-based support for law reform.

Part 6 describes implementation of prohibition in the home and other settings, and the lessons learned, in Sweden, New Zealand, South Africa and Romania.

Part 7 returns to the international context. It begins with practical guidance on how to use national legal action to put pressure on government to reform their laws, making use of the UNCRC and other treaties as legal instruments. It also explores how regional and international mechanisms can be used to 'force' governments to face their obligations under the treaties they have ratified. The final section looks at how states can lobby international bodies and events.

The workshop was intensely interactive, with the emphasis on sharing information, experience and expertise and developing useful materials to support reform. The issues raised in discussion have been incorporated into the chapters in this report and many are addressed in the revised 'Frequently Asked Questions' about prohibiting and eliminating corporal punishment, which were developed during and following the workshop (see Annex 4).

The phrase ‘corporal/physical punishment and other cruel and degrading punishment’ is used throughout the report, reflecting the terminology used by the UN Committee on the Rights of the Child and other treaty bodies.



# 1. Introduction

## 1.1 Context and rationale for the workshop

### ***The human rights obligation to prohibit corporal punishment and other cruel or degrading forms of punishment***

In societies across the world, corporal punishment of children has long been socially and legally accepted, within the home and family, in alternative care, schools and other educational institutions, justice systems and in the community.

The United Nations Convention on the Rights of the Child (UNCRC), ratified by almost every UN member state, is clear that states must protect children from all forms of violence. The Committee on the Rights of the Child, which monitors implementation of the UNCRC, has consistently recognised corporal punishment as a form of violence and has urged governments to enact legislation to prohibit all corporal punishment of children, including within the family home.

In June 2006, the Committee adopted General Comment No. 8 on ‘The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, *inter alia*)’. Its aim is ‘to highlight the obligation of all States parties to move quickly to prohibit and eliminate all corporal punishment and all other cruel or degrading forms of punishment of children and to outline the legislative and other awareness-raising and educational measures that States must take’ (para. 2). It confirms that addressing and eliminating corporal punishment of children is ‘a key strategy for reducing and preventing all forms of violence in societies’ (para. 3).

At the same time, the Committee is clear in not rejecting the positive concept of discipline, which is essential for the healthy development of children. The UNCRC upholds the importance of the family and requires states to respect and support families. Family life is not undermined by prohibiting corporal punishment by parents any more than by prohibiting domestic violence between adults. As the Committee states, there is no conflict between states’ obligations to respect and support families and ‘to ensure that the human dignity and physical integrity of children within the family receive full protection alongside other family members’ (para. 27).

Many try to justify the use of corporal punishment by referring to religious teachings and texts. The Committee states clearly that ‘practice of a religion or belief must be consistent with respect for others’ human dignity and physical integrity’ and that ‘freedom to practice one’s religion or belief may be legitimately limited in order to protect the fundamental rights and freedoms of others’ (para 29).

Other human rights treaty monitoring bodies have also recommended prohibition of corporal punishment of children, increasingly referring explicitly to the family home.

In October 2006, Professor Paulo Pinheiro presented the report of the UN Study on Violence against Children to the General Assembly. The Study was commissioned by the UN Secretary General to reveal the extent and nature of the violence being perpetrated against children all over the world. Its main message is that ‘no violence against children is justifiable; all violence against children is preventable’. A deadline of 2009 was set for all

states to prohibit all forms of violence against children, including all corporal punishment.

### **Rationale for the workshop**

Progress towards prohibiting all corporal punishment is accelerating worldwide, particularly in the context of the UN Study and its recommendations. Eighteen European countries have achieved full prohibition, including within the family home. In 2007, New Zealand became the first English-speaking country to prohibit all corporal punishment and the first Latin American countries were added to the list of states achieving law reform. Governments in other countries have made public commitments to enacting prohibiting legislation and reform is under way in many.

However, in very many countries, corporal punishment is still lawful. Cultural, social and religious acceptance and approval mean that parents worldwide regularly use violence against children as a form of 'discipline'. Many countries have prohibited corporal punishment in settings outside the home, but resist extending this to the family home because of a reluctance to 'interfere' in the privacy of family life.

The purpose of prohibition is prevention – to encourage a change of attitudes and practice and to promote positive non-violent methods of childrearing. A clear message that no level of violence is acceptable is very important.

The problem is deep and serious. In their daily lives, children around the world continue to be spanked, slapped, hit, smacked, shaken, kicked, pinched, punched, caned, flogged, belted, beaten and battered in the name of 'discipline', by adults whom they depend upon. This violence may be a deliberate act of punishment or the impulsive reaction of an irritated parent or teacher. Whatever the motivation for the use of corporal punishment, it

breach's children's universal human rights to respect for their human dignity and to physical integrity. Its legality breaches their right to equal legal protection from assault.

Corporal and other cruel or degrading forms of punishment is not a trivial issue. There is no more symbolic sign of the persisting low status of children as less than human – as objects or possessions – than laws which allow adults to hit and humiliate them. Achieving total prohibition of corporal punishment would signify dramatic progress towards asserting children's status as people and rights holders. It would make realisation of their other human rights easier, and reduce violent behaviour and attitudes, not only towards children but throughout societies.

Children have a right to protection from corporal punishment and other cruel or degrading forms of punishment, in *law*, as well as in policy and practice. The International Save the Children Global Workshop in Bangkok was a response to this urgent need to ensure that legal reform to achieve this is being actively pursued, and during the workshop participants drafted national strategies for working towards prohibition in their states (see Annex 5).

### **Objectives of the workshop**

The ultimate goal of the workshop must be to see laws prohibiting all corporal punishment of children being enacted in each of the countries represented by the participants. This was echoed by participants themselves who included among their expectations of the workshop the desire to implement the UN Study's recommendation on prohibiting corporal punishment. Other expectations, expressed in advance of the workshop, were:

- to build knowledge and skills on prohibiting corporal punishment
- to share experiences, successes, challenges and obstacles

- to learn about good practice models of the campaign
- to meet colleagues.

The objectives of the workshop and the development of the campaign included:

- building renewed confidence about the vital importance of law reform – to both children and adults – and the belief that it is achievable and in a short time, by the UN Study target of 2009
- developing a full understanding of the essential foundation that clear law reform provides, the necessary elements of it, and how it should be implemented in the best interests of children
- learning to communicate the issue of legal reform to prohibit corporal punishment as a simple one, however much other adults want to make it complicated
- understanding the obstacles to achieving legal reform, and how to minimise and overcome them, including overcoming religious opposition by maximising faith-based support for law reform
- increasing co-ordination, within Save the Children and with other international, regional and national partners. There must be a global early warning system of opportunities for law reform as they occur in every region
- ensuring that the issue has been raised clearly with governments and in parliaments in every country. Very few governments will address this issue without active lobbying by non-government organisations (NGOs), human rights institutions and others
- increasing expertise in lobbying governments and parliaments
- producing a concise set of basic documents, including the handbook *Prohibiting corporal punishment of children: A guide*

*to legal reform and other measures* prepared by the Global Initiative to End All Corporal Punishment of Children, a set of answers to frequently asked questions, the General Comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia) of the Committee on the Rights of the Child, the summary of the UN Study recommendations, and other key recommendations and quotes from prominent leaders. All these must be available for adaptation as necessary for use in all states, and in translation

- building specialist support for pursuing legal advocacy and the use of human rights mechanisms where governments remain unwilling to act and need to be held to their human rights obligations.

## 1.2 Review of Save the Children's involvement

### David Ruiz Coronado

#### Background

The UN Study on Violence against Children forms the basis for much of Save the Children's work. The report of the Study, presented at the UN General Assembly on 11 October 2006, has been a guiding document for organisations working to prohibit corporal punishment. In the final report, Paulo Sérgio Pinheiro, the independent expert appointed by the UN Secretary General to lead the Study, recommended that states 'prohibit all forms of violence against children, in all settings, including all corporal punishment ... and inhuman or degrading treatment or punishment, as required by international treaties'.

"The Study should mark a turning point – an end to adult justification of violence against children, whether accepted as 'tradition' or disguised as 'discipline'. There can be no compromise in challenging violence against children. Children's uniqueness – their potential and vulnerability, their dependence on adults – makes it imperative that they have more, not less, protection from violence... The core message of the Study is that no violence against children is justifiable; all violence against children is preventable. There should be no more excuses. Member States must act now with urgency to fulfil their human rights obligations and other commitments to ensure protection from all forms of violence."

– Report of the independent expert for the United Nations Study on Violence against Children, 2006, paras. 2 and 91

#### Save the Children's involvement

In late 2003, members of SC Alliance Regional Focal Points and the Task Group on Violence Against Children (VAC) met to plan SC's involvement in the process of the UN Study. It was emphasised that all SC Alliance work within the framework of the UN Study should:

- be addressed from a children's rights perspective
- be based on the principles of accountability, child participation and non-discrimination
- focus on the participation of girls and boys from all backgrounds
- give specific consideration to gender-based violence.

Based on children's concerns from consultations around the world, SC members' programme experiences and knowledge, and the need to complement other agencies' priorities, three specific themes were emphasised:

- children in conflict with the law
- child sexual abuse of girls and boys
- physical and all other forms of humiliating punishment.

#### Save the Children's vision

The vision guiding Save the Children's work on corporal punishment is the realisation of the right of every child to a life free from violence, including corporal punishment and other cruel or degrading forms of punishment. Save the Children aims to ensure that all societies recognise all forms of corporal punishment and other cruel or degrading

forms of punishment as violence against children, with the result that social behaviours, attitudes and practices are changed.

### ***Prioritising challenging corporal punishment***

In the nine regional consultations held in connection with the UN Study, children across the world repeatedly affirmed that corporal and other cruel or degrading forms of punishment is the most common and widespread form of violence they experience. These views were reflected in the report submitted by Save the Children to the UN in 2005.<sup>1</sup>

In keeping with SC Alliance's belief that children's views should be acted upon, ending corporal punishment is a priority issue because:

- it is a violation of children's human rights to physical integrity, human dignity and equal protection under the law. In many cases, it can also threaten their rights to education, development, health and even survival
- it can cause serious physical and psychological harm to the child
- it teaches the child that violence is an acceptable and appropriate strategy for resolving conflict or getting people to do what you want
- the perceived legitimacy of corporal punishment makes protection of children difficult by implying that there are some forms or levels of violence against children that are acceptable
- there are positive ways to teach, correct or discipline children which are better for the child's development and relationships with parents and the community and which do not include corporal punishment and other degrading punishment
- children have suffered unseen and unheard violence at the hands of adults for centuries. Now that the scale and impact of

violence against children is becoming visible, they cannot be kept waiting any longer for the effective protection to which they have an unqualified right. This is an emergency, albeit not a new one.

### ***Global Strategy to end all corporal punishment and other cruel or degrading forms of punishment***

Save the Children Sweden (SCS) leads an International Task Force within the International Save the Children Alliance to promote the elimination of corporal punishment and other cruel or degrading punishment. Five inter-linked strategies were agreed upon by SC Alliance members across the world in 2003.

#### **1. Research**

This includes researching and documenting the prevalence of corporal punishment of children, the historical and cultural contexts of current childrearing practices, and the current legal situation, all of which feed into the other strategies of law reform, awareness raising, etc.

#### **2. Awareness raising and public education**

This involves the promotion of positive non-violent parenting and working with children on non-violent conflict resolution, including through media campaigns. For example, a number of training manuals on positive discipline have been produced.

#### **3. Child participation**

Developing methodologies for engaging children in efforts to change adults' attitudes and behaviours, with appropriate protective measures, is crucial. Other elements of the strategy include listening to children's opinions and suggestions about discipline, educating children on non-violent relationships, and demonstrating the links between children's participation and their improved protection

from violence. The participation of children in the regional consultations held for the UN Study provides a good example.

#### 4. Advocacy

Advocacy is aimed at ending the social acceptance of corporal punishment, convincing societies that it violates children's rights and has a negative impact on their development as healthy and happy human beings. National child protection systems are promoted which enable governments to prevent and respond to violence against children, including all corporal punishment and other cruel or degrading punishment. Examples include interventions at the United Nations (Human Rights Council, Committee on the Rights of the Child, General Assembly) and at the regional level (Inter-American Court of Human Rights, Council of Europe, European Parliament), and involvement in the UN Study process and in follow-up to its recommendations.

#### 5. Law reform

Law reform involves identifying gaps in national legislation and proposing amendments to guarantee children's equal right to protection from violence under the law and lobbying parliament and other key decision-makers so that law reform is approved. It is combined with awareness raising on children's right to protection and the promotion of positive forms of discipline. The example of the successful campaign in Romania is described in section 3.5 of this report.

#### Key achievements

- SC is among the first international NGOs to take up this challenge, hastening the process with a variety of programmes at regional and national levels.
- SC and its partners have documented, consolidated and advocated its programmes to address corporal and other cruel or degrading punishment with

adapted regional training materials in all regions.

- SC members and partners in all regions are undertaking campaigns against corporal punishment in the home, schools, and other settings.
- SC members have developed extensive networks with new strategic partners at national, regional and international levels.
- SC has made it a high priority to engage with the UN Study based on the belief that it can change the lives of boys and girls for the better.
- SC and children's recommendations for a ban of all forms of corporal punishment have been reflected in the UN Study.
- SC has been cited as a key actor in the UN Study process, and is particularly known among other agencies for its work on ending the use of corporal punishment.
- SC and the Global Initiative to End All Corporal Punishment of Children have been recognised globally for leading the movement for a global ban on all forms of corporal and other cruel or degrading punishment.

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1. Save the Children (2005), *Ending Physical and Humiliating Punishment of Children – making it happen* (available at [www.rb.se/eng/Programme/Exploitationandabuse/Corporalpunishment/1415+Publications.htm](http://www.rb.se/eng/Programme/Exploitationandabuse/Corporalpunishment/1415+Publications.htm))

## 1.3 *The imperative to prohibit all violent punishment of children: global progress towards universal prohibition*

**Peter Newell**

### ***Importance of prohibition for children and society***

Why is the campaign to prohibit and eliminate corporal punishment so important? Many people are puzzled or scornful that anyone could see ending corporal punishment as a priority, given the extreme forms of violence and extreme breaches of other rights which children in many states are facing. However, what is being challenged is the idea that some arbitrary degree or level of violence against children should, uniquely, be legal and socially approved in societies that have moved to condemn and prohibit other forms of violence. The emphasis is on pursuing children's equal right to respect for their human dignity and physical integrity. This is as fundamental as anything can be to improving children's status and gaining recognition and respect for children as people, and as holders of rights.

Put yourself in the place of a child. How would you feel if it was considered OK to slap or physically harm you if you didn't live up to the haphazard expectations of those who say they love you or those you live or work with, or if you do not obey their unexplained commands, or you pick the wrong thing off the supermarket shelves, or you ask the wrong question?

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 their status as objects or property, and makes every other sort of extreme abuse and exploitation, including sexual exploitation and trafficking, more likely and

easier. Working towards ending the legal and social acceptance of hitting and humiliating children is a foundation, not an alternative, to addressing these other issues. The promotion of children's rights generally, and the overall reduction of violence in societies is unlikely to get very far while adults believe they still have a routine right to hit and humiliate children. Hitting children is so common in most societies that it becomes part of the scenery, often not even noticed.

There is no other children's rights issue that is so symbolic of children's low status as less than people. The strength of the resistance to challenging hitting and humiliating children, seen very publicly in the ultimately successful campaign for a full ban in New Zealand in 2007,<sup>2</sup> demonstrates how much it is a part of the traditional culture of almost every society. This campaign is about cultural change – a real shift in how children are regarded and respected.

Persuading governments, societies, and individual parents and other adults of children's equal right to respect and their right to equal protection under the law, would be a huge breakthrough towards the overall goal of achieving respect for children as rights holders and the recognition and realisation of their rights.

Prohibiting corporal punishment can transform human societies. And by challenging the complete illogicality and madness of societies which persist in giving children, of all people, less protection than adults, in stopping the cycle of punitive violence passed on from one genera-

tion to the next, we can also hope to move our societies altogether on from a punitive and violent approach to problem-solving.

We should not be modest in advocating the potential of this issue for transforming human societies. Some will be familiar with the work of Alice Miller and other psychologists and researchers, who have traced the roots of violent attitudes and actions in adulthood to violence in childrearing, including the childhoods of Hitler, Saddam Hussein, George Bush and many others through the ages.<sup>3</sup>

### **“But children are different ...”**

When this issue is compared to challenging violence against women or other population groups, the response often still is: “But children are different.” Yes, of course they are different. The babies and small children whom 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 and their dependence on adults, all make them different. And in comparison with adults, they face huge difficulties in seeking protection for themselves and remedies for breaches of their rights. Millions of children are beaten every day in ways which plainly amount to cruel or degrading treatment, in breach of all international and regional human rights instruments and in breach of most constitutions. Yet how many children have found ways to challenge the laws that allow these extreme breaches of their rights through the use of high-level courts or human rights mechanisms? Maybe 10 globally.

Children *are* different – but all the differences suggest that they should have more, not less, legal protection, including from being hit and hurt.

This inverted reality – giving the least protection to those who need it most – must be exposed, to demonstrate just how hypocritical

adults are in advocating non-violence *except* when it comes to their own parenting, caring and teaching relationships with children. In their defence of corporal punishment, adults are now desperate to make the issue appear hugely complicated and difficult. But it is not complicated; it is at root, very simple: *hitting people is wrong, and children are people too.*

### **The purpose of law reform**

In every country there are criminal laws that protect adults from assault. Children have the right to at least equal legal protection.

The first purpose of legal reform is to require states to recognise and realise children’s rights, by quickly developing a clear and adequate legal framework. The main objective of any good law must be to prevent crime, in this case preventing assaults on, and humiliation of, children. Criminal law also exists to punish those who commit crimes, but that is not its primary aim: from the child victim’s point of view, it is a bit late once they have suffered the assault.

Laws that prohibit all corporal punishment, reflecting children’s right to equal protection, must be taken seriously. However, when parents are the perpetrators, prosecution and other formal interventions in families are very seldom going to be in the child’s best interests. The Committee on the Rights of the Child provides detailed advice on this in its General Comment No. 8, suggesting that prosecution and formal interventions should only occur when necessary to protect a child from significant harm and in the best interests of the child.

### **Milestones on the journey to universal prohibition**

Key situations and developments have contributed positively and negatively towards achieving universal prohibition of all corporal punishment of children.

### *Positive milestones*

Situations and events which have helped to progress children's right to legal protection from corporal punishment include:

- the Committee on the Rights of the Child's consistent advocacy over 15 years that the Convention requires prohibition and elimination of all corporal punishment, culminating in its General Comment No. 8 (2006)
- the report of the UN Study, including the explicit recommendation and deadline for the prohibition of all violence, including all corporal punishment, by the end of 2009
- movement towards more explicit language in the rights of the child resolutions of the UN General Assembly and Human Rights Council. This is an important symbolic target as it aims to achieve open commitment to prohibition from UN member states
- other human rights treaty bodies increasingly recommending prohibition, echoing the Committee on the Rights of the Child (e.g. in May 2008 the Committee Against Torture recommended prohibition, including in the home, to Algeria, Australia, Costa Rica and Zambia). Prohibition has also been recommended in the first sessions of the new Universal Periodic Review process at the Human Rights Council
- children's own experiences of violence becoming much more visible through interview research with them and their parents, largely pioneered by Save the Children. Increasingly children work alongside adults in advocating their rights. All this makes it difficult for adults to deny the problem
- mainstream faith leaders supporting reform and actively advocating for it in all regions

- accelerating progress worldwide – 24 States with full prohibition, and at least another 25 either publicly committed to full prohibition or with legislation before their parliaments; 12 per cent of UN member states have achieved full prohibition, and almost a quarter have either achieved it, are committed to it or have legislation before their parliaments<sup>4</sup>
- the launch in 2008 of a regional campaign by the first inter-governmental body to make a commitment to universal prohibition, with the Council of Europe committing itself to prohibiting corporal punishment in all 47 member states
- New Zealand becoming the first English-speaking nation to achieve full prohibition in June 2007 – a special milestone given England's contribution to institutionalising corporal punishment and the disreputable 'reasonable chastisement' defence in so many states throughout the world
- reform now speeding across Latin America too...

### *Negative milestones*

But progress towards universal prohibition has also been hindered, by:

- missed opportunities, in the form of relevant bills that have passed through parliaments without including explicit prohibition of all corporal punishment, in many cases without the issue being raised at all. Some reforms have gone through with vague, non-explicit language that allow parents and the courts to carry on saying that the law does not prohibit 'loving discipline' or 'little slaps'
- serious continuing resistance to prohibition, and open advocacy of corporal punishment, from some states. The most resistant countries in every region should be identified, and strategies developed to pursue prohibition

- a refusal to accept the universality of the problem, with people the world over claiming that corporal punishment is part of their culture – as if it was not part of the culture in every country until effectively prohibited and eliminated through awareness raising and public and parent education
- continuing invisibility of the extent of corporal punishment in some states, with no interview research with children and parents, allowing governments and adults to remain in denial
- continuing advocacy of compromise reforms, with some governments, including the UK, getting away with the truly shocking exercise of trying to define how hard a child can be hit, with what implements, on what parts of the body, and at what age
- governments and NGOs advocating the promotion of positive discipline *instead of* or *before* embarking on law reform. It is unthinkable that such strategies would gain weight with advocates challenging violence against women. Law reform to give children the same protection as adults under the law on assault is an immediate obligation. It must be linked to awareness raising of the law and children's right to protection, and the promotion of positive, non-violent relationships with children, but these are not alternatives to law reform
- religious groups still posing a very vocal and disproportionately effective obstacle to law reform in many states, reflected for example in the difficulties experienced in the ultimately successful New Zealand campaign.<sup>5</sup>
- Shariah law being used to justify the most extreme violent punishment of children from puberty. This has to be confronted, including by authoritative scholars
- a lack of support for ending corporal punishment from the movement challenging violence against women and girls, reflect-

ed in the 2007 UN session on violence against girls and in the reluctance of the Committee on the Elimination of Discrimination Against Women to take up the issue

- little sign of *legal* challenges to corporal punishment. Millions of children across the world are being hit daily in ways which breach the UN Convention on the Rights of the Child, in many cases amounting to cruel or degrading punishment and in some to torture. Yet there have been less than a dozen legal challenges to the laws allowing corporal punishment, and even fewer to laws authorising it in the home. The UNCRC is a legal instrument and there are international and regional mechanisms available in most States to challenge corporal punishment where governments are slow to accept their obligations.<sup>6</sup> The Convention is supposed to be part of domestic law, usable in domestic courts, in many states. Many others have constitutions guaranteeing respect for human dignity and physical integrity, freedom from cruel or degrading punishment, and equal protection under the law. So why have there been so few legal challenges?

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2. See sections 3.2 and 6.2 of this report

3. Miller, A. (1987), *For Your Own Good: The roots of violence in childrearing*, London: Virago Press Ltd, and see [www.alice-miller.com/](http://www.alice-miller.com/)

4. See Annex 6

5. See sections 3.2 and 6.2 of this report

6. See section 7.1

## 2 Reforming the law

### 2.1 The elements of legal reform

**Peter Newell and Dominique Pierre Plateau**

The material in this chapter, reflecting sessions in the workshop, is based on the legal reform handbook, *Prohibiting corporal punishment of children: A guide to legal reform and other measures*, published by the Global Initiative to End All Corporal Punishment of Children in January 2008. The handbook covers: the human rights imperative to prohibit all corporal punishment, legislative measures to prohibit all corporal punishment, and other measures to support prohibition, including awareness raising, promoting positive parenting, integrating prohibition into professional codes of conduct, linking strategies for prohibition with strategies addressing domestic violence, and monitoring and evaluation. It is available as a pdf on the website of the Global Initiative ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)).

#### **Three basic elements**

Effectively working towards prohibiting corporal punishment requires a clear understanding of *why* prohibition is needed (the human rights imperative), what should be prohibited (all corporal punishment and other cruel and degrading punishments) and *how* prohibition is achieved (law review and reform).

#### **Why is prohibition needed?**

Prohibition is necessary because all people, including children, have human rights to

respect for their dignity and physical integrity, protection from all forms of violence, and equal protection under the law. The UN Committee on the Rights of the Child has made it absolutely clear that prohibition in all settings is required to implement the Convention on the Rights of the Child.

The Committee has also emphasised that, in addition to being an obligation of States, prohibition is ‘a key strategy for reducing and preventing all forms of violence in societies’.<sup>7</sup>

#### **What should be prohibited?**

All corporal punishment and other cruel or degrading forms of punishment should be prohibited. In its General Comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia), the Committee on the Rights of the Child provides a detailed definition of corporal punishment which encompasses both physical and psychological punishment of children (see box). Significantly, it also emphasises that corporal punishment is *always* degrading – it always has a negative impact on children’s emotions, breaching their physical and emotional integrity.

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7. General Comment No. 8, para. 3

### **Defining corporal punishment**

Corporal punishment is:

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

- UN Committee on the Rights of the Child (2006),  
General Comment No.8, para.11

General Comment No.8 provides detailed guidance on prohibition and its implementation. It should be translated into as many languages as possible so that it is accessible across the world.

### **How is prohibition achieved?**

Prohibition is achieved by law review followed by law reform.

#### **Law review**

All laws relevant to corporal punishment must be reviewed. This includes:

- laws which authorise the infliction of corporal punishment and/or state how it should be carried out
- laws (including common law, or case law) which provide legal defences or justifications such as ‘reasonable chastisement’, ‘the use of force for purposes of correction’, ‘moderate correction’, etc.
- laws which are ‘silent’, neither explicitly authorising nor prohibiting corporal punishment.

#### **Examples of laws authorising corporal punishment**

*‘The Court may order the child, if a male, to be whipped with not more than ten strokes of a light cane – (i) within the Court premises; and (ii) in the presence, if he desires to be present, of the parent or guardian of the child.’*

*‘Firm discipline shall be maintained and enforced in all schools, but all degrading and injurious punishments are prohibited, and no child shall receive corporal punishment of any form save as is hereinafter in this regulation provided.’*

#### **Examples of legal defences and justifications**

*‘Parents are authorised to reprimand and adequately and moderately correct their children.’*

*‘Discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moder-*

*ate in degree and does not constitute physical or psychological injury as defined herein.'*

Where legal defences allow 'reasonable' or 'moderate' punishment, it is left to the courts to decide what is and is not reasonable. This contributes to a confused overall message about hitting or assaulting children in the name of 'discipline', confirming only that at least some level of violence is acceptable.

### **Examples of common laws allowing corporal punishment**

The old English common law defence of 'reasonable chastisement' is used in many countries. In 1860, a judgment was made in a case where a teacher had beaten a boy to death. The teacher was convicted of manslaughter, but the judge stated that English law allows 'moderate and reasonable chastisement'. This judgment has been cited around the world.

Ancient Roman law gave fathers the right to kill their child. When this right was removed, around 300 BC, it was replaced by permission for male relatives to inflict 'reasonable' physical punishment on their children.

### **'Silent' laws**

In some states, the law is completely silent on corporal punishment and there is no case law on the issue, but nevertheless there is a traditional, assumed 'right' of parents and others with parental authority to use it.

### **Law reform**

Law reform to prohibit all corporal punishment and other cruel or degrading punishment requires:

- removing all defences and authorisations of corporal punishment
- explicitly prohibiting corporal punishment and other cruel and degrading punishment.

Unless legislation explicitly prohibits corporal punishment, it leaves room for ambiguity and misinterpretation.

As the definition adopted by the Committee on the Rights of the Child makes clear, all forms and degrees of corporal punishment should be prohibited. States do not compromise over protecting other population groups – e.g. women or older people – from all forms of violence. Children have a right to equal protection.

In some countries, corporal punishment is prohibited in the constitution but this is not reflected in criminal and other legislation. Where the constitution goes so far as to explicitly prohibit corporal punishment, it is important that other legislation is amended to re-emphasise this. However, when prohibition is enacted in national legislation, it is not necessary to pursue explicit prohibition in the constitution. In general, constitutions deal with basic principles, such as respect for physical integrity and human dignity and equal protection under law. But the constitution *will* require reform if, as in some states represented at the workshop, it specifically permits corporal punishment of children.

### **Repeal is not enough**

Prohibition of corporal punishment of children in all settings requires the removal of any legal defences and justifications, wherever they exist in common (case) law or legislation. All laws authorising or regulating the administration of corporal punishment, e.g. in laws applying to education or to care or penal systems, must be removed.

However, simply repealing (removing) a defence or authorisation from written law is a 'silent' reform. It does not send a clear educational message to society that corporal punishment is no longer lawful. But when the repeal of the defence is accompanied by the insertion of a statement which makes it clear that assault can no longer be justified as punishment or correction, explicit prohibition is achieved.

*The law needs to be clear and explicit so that adults and courts cannot misinterpret it.*

### Examples of explicit prohibition

*‘Children are entitled to care, security and a good upbringing. Children are to be treated with respect for their person and individuality and may not be subjected to corporal punishment or any other humiliating treatment.’*

*‘Parental authority confers rights and imposes the duty to educate, care, watch over and discipline children, excluding physical punishment or any other form of mistreatment or degrading treatment.’*

### Guidance or statements of policy are not enough

It is not enough for states to advise parents and others that corporal punishment should not be used – it must be written into the law. Otherwise, the idea persists that breaching a child’s human dignity and physical integrity is acceptable, normal or even – as some still suggest – ‘in their best interests’. This perpetuates children’s status as objects or property.

### Key elements of law reform and its implementation

- repeal of any legal defences and any laws or regulations authorising corporal punishment so as to ensure that the criminal law on assault applies equally to any assault on a child, wherever the child is and whoever the perpetrator
- explicit prohibition of corporal punishment and other cruel or degrading punishment in legislation applying in the various settings of children’s lives – home and family, schools, and care and justice systems
- establishment of a range of appropriate responses and sanctions to address the continued use of corporal punishment by parents and others
- clear direction and training to all providers of services for children and families to support and enforce prohibition
- public and professional education about the law change.

**The only way to ensure clear, uncompromising prohibition of all corporal punishment is to use clear, uncompromising language in legislation.**

### Use of ‘corporal/physical punishment’ and other terminology

The terms ‘corporal punishment’ and ‘physical punishment’ mean exactly the same and are interchangeable. The phrase ‘physical and humiliating punishment’ misleadingly suggests that physical punishment is not itself humiliating. It is preferable to spell out that law reform is aimed at prohibiting ‘corporal/physical punishment and all other forms of cruel or degrading punishment’. This reflects the language in article 37 of the Convention on the Rights of the Child and in the Committee’s General Comment No. 8. Using an acronym like ‘PHP’ should be avoided because it does not communicate the reality of what we are seeking to prohibit and eliminate and the gravity of the issue.

Occasionally, it appears that a country may face the situation of not having words for ‘corporal punishment’ in the language. This does not mean, of course, that physical punishment itself is not used in childrearing. The challenge is to find a way to make explicitly clear in legislation that existing prohibitions of, for example, violence, assault, and humiliation, do apply in the context of disciplining children.

### Portable rights for children

There is an irrational logic behind banning corporal punishment first in penal systems, then in schools, and lastly in homes. The home is where the child spends the majority of his or her time, yet national laws largely avoid prohibition in this setting because it is believed to be a ‘private’ sphere. Furthermore, many teachers are also parents, and carry their attitudes about corporal punishment from the home into school.

Children really need ‘portable’ rights, including the right to protection from all forms of violence including all corporal punishment, which they carry with them wherever they are – home, school, workplace, institutions. Once all authorisations and defences for corporal punishment are removed, the basic criminal law on assault will apply to children. This means that any assault, whether in the context of punishment or ‘discipline’, will be unlawful. Children, like adults, will be protected by the criminal law wherever they are and whoever the perpetrator.

But to send a clear message, in addition the prohibition of corporal punishment needs to be stated in relevant sectoral legislation, applicable in the penal system, schools, and all forms of alternative care, whether provided by the state or by private bodies.

**Legitimate use of reasonable force – to protect children**

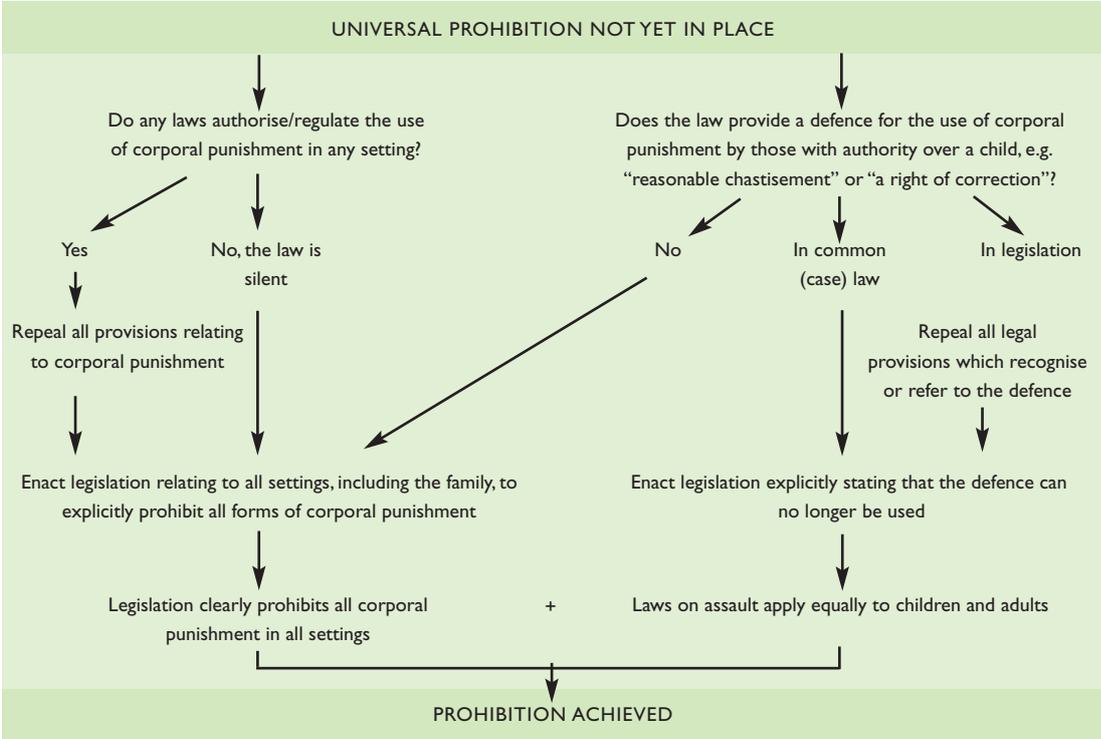
Parents and other carers often need to use some degree of physical force to protect or restrain children, especially babies and young children.

Although not strictly necessary, some States have found that parents and others are reassured if the legislation which prohibits all corporal punishment also confirms that reasonable force may be used for protective purposes.

As the Committee states in General Comment No. 8 (para. 14):

*‘The Committee recognises that parenting and caring for children, especially babies and young children, demand frequent physical actions and interventions to protect them. This is quite distinct from the deliberate and punitive use of force to cause some degree of pain, discomfort or humiliation. As adults, we know for ourselves the difference between a protective physical action and a punitive assault; it is no more difficult to make a distinction in relation to actions involving children. The law in all States, explicitly or implicitly, allows for the use of non-punitive and necessary force to protect people.’*

The following diagram summarises the process of law reform to achieve explicit prohibition of all corporal punishment and other cruel or degrading punishment of children.



## 2.2 Facilitating legal changes: Save the Children and partners' progress across the world

Sharon Owen

### Eliminating corporal punishment – focusing on law reform

Corporal punishment, and the task of addressing it, is a wide-ranging issue. It affects children of all ages, in all settings. It takes many forms. The overarching 'problem' is the fact that corporal punishment happens. The 'solution' is to reduce and ultimately to end it. Law reform is one of many measures undertaken to achieve this. Within this 'big picture' framework, the key question in planning and evaluation is: How do the measures taken contribute to ending corporal punishment of children?

But achieving prohibition requires that the issue is re-framed, so that the 'problem' is recognised as corporal punishment being lawful, and the 'solution' is to prohibit it. The way to do this is through the law reform process. The key question in planning and evaluation becomes: How do the measures taken help to realise children's right to equal protection from assault in law?

|                             | Eliminating corporal punishment   | Prohibiting corporal punishment   |
|-----------------------------|---|---|
| <b>Problem</b>              | Corporal punishment of children   | Corporal punishment is lawful   |
| <b>Solution</b>             | Eliminate it  | Prohibit it   |
| <b>Necessary measure(s)</b> | Law reform, awareness raising and education, research                             | Law reform  |
| <b>Key question</b>         | How do the measures we take contribute to ending corporal punishment of children? | How do the measures we take help to realise children's right to equal protection from assault in law? |

These two ways of thinking are not synonymous. The development of positive parenting programmes for new parents, or the adoption of an anti-corporal punishment policy by a government education ministry, will both help to reduce the prevalence of corporal punishment. However, neither comes any closer to explicit prohibition in law and to equal legal protection for children from assault. In fact, both the positive parenting programmes and the anti-corporal punishment policy would be undermined by the absence of laws clearly stating that hitting children in the name of discipline is wrong.

Law reform to give children equal protection from assault is an immediate obligation. Delaying prohibition until sufficient public education and awareness raising has taken place is unjustifiable. Organisations need to believe in their own ability to pursue proper legal reform. They need a re-evaluation of what needs to be done in light of this, including:

- looking at how research can be used to support law reform
- aiming to ensure that media debates give a clear message that corporal punishment should be prohibited. Some debates question whether prohibition is *desirable*, but children's right to equal protection is non-negotiable
- promoting positive discipline not only to convince people that bringing children up without hitting them is possible, but to educate them about what life will be like when prohibition is achieved (e.g. parents will not have to choose between being prosecuted or having unruly children, but will be made aware of a range of non-violent ways to

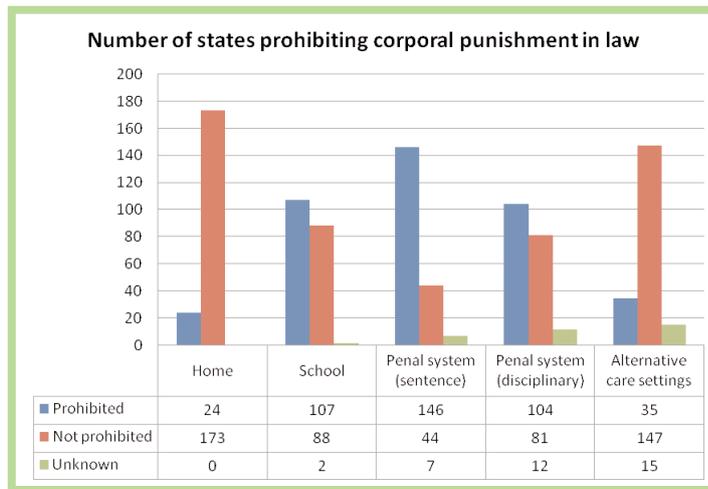
teach discipline, and there will be all kinds of support when things go wrong).

*The starting point for legal reform has got to be the recognition that existing law does not explicitly prohibit corporal punishment.*

This recognition and the actions taken as a result, account for global progress so far towards achieving universal prohibition.

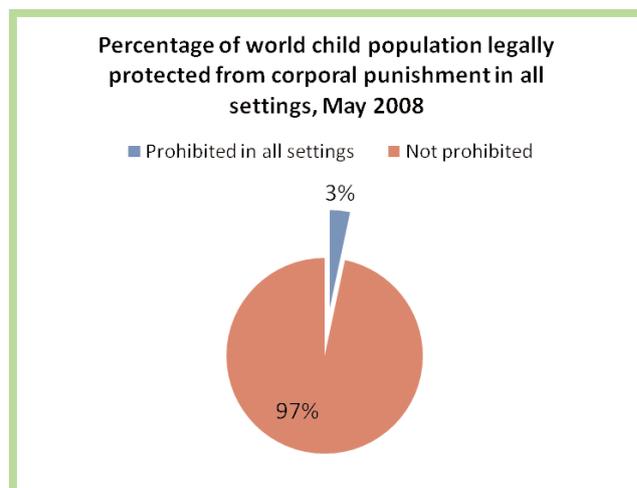
## Progress across the world

In 24 states, the law clearly prohibits all corporal punishment of children, including in the family home and by parents. In a further 25 states, governments have made public commitments to full prohibition and/or legislation has been drafted which includes explicit prohibition and is being discussed. Over 100 states have prohibited corporal punishment in schools and in penal institutions, 146 as a sentence of the courts, and 35 in all alternative care settings (see Annex 6).



This means that currently only 3.4 per cent of the world child population is fully protected in law from assault. This would increase to 18.6 per cent if those who have made commitments or begun the process of reform were to follow it

through to enacting legislation. If every state represented at the workshop achieved prohibition, the figure would be 54.2 per cent, significantly tipping the balance.



## Facilitating legal reform

### 1. Recognising the gap between the existing and the ideal law

The foundation for pursuing legal reform is a clear understanding of what the law says now, and what it should say to achieve prohibition.

It is important to establish definitively whether or not corporal punishment has been prohibited in the home, in schools, in the juvenile justice system and in alternative care settings. If it is prohibited, it is not enough simply to assert this – the legislation should be specifically identified and the exact wording of the relevant provisions should be examined. If it has not been prohibited, the legal provisions which make corporal punishment lawful should be identified, including references to a parental ‘right to administer reasonable punishment’ and similar provisions relating to discipline of children, provisions stating how corporal punishment in schools and other institutions should be carried out, and sentencing options available to the courts. Once this information is gathered, it is a simple step to identify which laws to target in pursuing legal reform.

The next step is to identify what is needed in the place of the laws allowing corporal punishment. The ultimate aim is for the law to explicitly prohibit corporal punishment in all settings. This is not difficult to imagine. The ideal law would simply state that ‘all corporal punishment and other cruel or degrading punishment of children is prohibited’. This statement would be found in legislation relating to children in all settings and applicable to all adults with any kind of authority over children. There may also be a need to repeal defences such as ‘reasonable punishment’ or ‘use of force by way of correction’ from common law or legislation, and to repeal laws explicitly authorising and regulating corporal punishment in education, care and justice systems.

#### Reforming the law

| Before  | After                           |
|---|---------------------------------|
| Absence of prohibition in existing law                                | Explicit prohibition in new law |
| Recognition of a ‘right to discipline’ etc. (including in common law) | These provisions repealed       |
| Authorisation to use corporal punishment                              |                                 |
| Regulation of how it should be administered                           |                                 |

The issue of prohibiting corporal punishment is often overcomplicated. For example, many people believe that corporal punishment is already unlawful under legislation which prohibits ‘violence’ or ‘inhuman or degrading treatment’, or which protects ‘physical integrity’ or ‘personal honour and dignity’. These phrases are included in draft legislation in the belief that they do the job of prohibiting all corporal punishment.

But the problem is that nearly the world over, corporal punishment is socially and culturally accepted as a disciplinary measure in childrearing. For this reason, it has never been viewed as harmful, abusive or even violent. On the contrary, it is viewed as necessary and for a child’s ‘own good’. Society has long deluded itself in this way. There is a danger that those pursuing prohibition can similarly delude themselves to believe that they are achieving legal reform when they are not. In order to explicitly prohibit corporal punishment, the law must refer to ‘corporal punishment’.

Another mistake is to draft legislation that prohibits only corporal punishment that causes harm. This falls short of complete prohibition again, because it misleadingly implies that there is a form of corporal punishment that does not cause harm. In this way, it supports the common belief that a certain degree

of corporal punishment in childrearing is ultimately for a child's own 'good'.

### *Learning from the pre-workshop questionnaires<sup>8</sup>*

It was clear from the responses to the questionnaires circulated to all participants in advance of the workshop that moves towards reform have been under way in many countries. But it was less easy to see a clear recognition of the gap between existing legislation and how that should be changed to achieve prohibition. For example, a number of states indicated that prohibition had already been achieved in one or more settings, but when asked for the detail of the law this could not be verified.

As already stated, it is crucial to have a clear understanding of existing law, because knowing the law makes it easier to change it. From the detailed communication with individuals, following up information provided in the questionnaire responses, three principles emerged in establishing the current legality of corporal punishment with a view to prohibiting it:

1. See the law for yourself. Do not be satisfied with assertions that corporal punishment is already prohibited but look for the evidence. If the law does not clearly say that corporal punishment is prohibited, then it almost certainly is not.
2. Keep asking questions. Continue researching the law until you can pinpoint exactly what the law says and where it says it.
3. Monitor reviews and revisions of legislation. These present opportunities to enact prohibition or, if this already exists, to ensure that the prohibition is maintained in the new law.

This rigour in interrogating existing law should also be applied in drafting prohibiting

legislation. Many of the pre-workshop questionnaire responses indicated that legislation had been drafted which would prohibit corporal punishment in the home and other settings, but closer scrutiny revealed this was not the case. For example, in one state where the government has long been committed to prohibition, the draft legislation prohibits only corporal punishment that causes harm. In another similarly committed state, a great deal of good work has been done on legal reform but this is currently let down by a draft law that does not explicitly refer to corporal punishment, only to 'violence' and 'physical violence'. Further work is needed to get the law that will really achieve prohibition.

### *Examples of draft laws that do not achieve full prohibition*

*'Corporal punishment which leads to physical and mental harm may not be used.'*

*'The use of all physical and mental violence is prohibited.'*

*'The child has a right to protection from all kinds of degrading and inhuman treatment or punishment.'*

*'Discipline of a child shall not affect his/her human dignity and personal integrity.'*

*'Every child has the right to be protected from torture, cruel, inhuman or degrading treatment or punishment, and in particular ... no child shall be subjected to corporal punishment by chiefs, police; teachers, prison guards or any other person in any place or institution, including schools, prisons and reformatories; ...'*

*'The Government shall engage all sectors of society and undertake all necessary legislative, administrative and other measures to expeditiously implement the rights in the present Bill and shall, in particular undertake to ... ensure*

*that corporal punishment is abolished and that school or parental disciplining is undertaken in a manner that is consistent with the inherent dignity of the child.'*

All of these drafts fall short of explicit prohibition.

### **Example of a draft law that does achieve full prohibition**

Parents and guardians have the right and responsibility to *'discipline their children, as well as any child or adolescent under their care without causing harm to their health, physical and psychological integrity, and personal dignity, therefore excluding the use of physical and humiliating punishment, even if it seems to be light'*.

The pre-workshop questionnaires explored other issues relevant to legal reform, including advocacy within government, parliamentary debate, media debate, high-level support for prohibition and opportunities for reform. These will be considered below.

## **2. Advocacy within government**

Just over two-thirds of those who responded to the questionnaire had advocated prohibition of corporal punishment with their governments, with varying degrees of success. In many cases, the advocacy was clearly focused on the need for explicit prohibition in law. In others, it seemed more about raising awareness of the issue. These differences in focus seem to be reflected in the different outcomes of the advocacy.

Most significantly, advocacy resulted in writing initial draft bills and subsequent involvement in the drafting process. This is a crucial element of reform.

Sometimes, advocacy resulted in non-legislative bans on corporal punishment. Advocacy

resulting in minimum 'standards' or 'policies' that ban corporal punishment, or the development of training manuals – while important in eliminating corporal punishment – needs to be evaluated carefully in terms of legal reform. The question to ask of non-legislative bans are:

- How far do they really help towards equal protection in law?
- How far are they undermined or limited by the absence of prohibition in law?
- How far do they hinder further advocacy for prohibition? For example, does the development of minimum standards fuel the common argument that there are enough safeguards in place to protect children, and therefore that the law does not need to be changed?

Other outcomes of advocacy were identified:

- the formation of children's rights committees and other influential groups with a potential influence on law affecting children
- involvement of government officials
- statements endorsed by high officials
- research on corporal punishment
- attention to implementation of existing prohibition
- workshops and sensitisation sessions.

For each of these, organisations need to return to the key questions of legal reform, and ask to what extent they contributed to legal reform, or were they more broadly related to elimination.

Remember – children have a *right* to equal protection.

### **3. Parliamentary debate**

A few states indicated that there has been some parliamentary debate. The ideal situation would be where a government had made a public commitment to prohibition, with debate centred on *how* to enact prohibition. But debate about *whether* to prohibit cannot be avoided. It is vital to prepare for this as much as possible by ensuring that there are ready answers to people's misgivings about prohibition which key parliamentary supporters of prohibition have been primed to use. Once it is accepted that prohibition is the *only* way to achieve equal protection for children, debate can move on to look at ensuring that the new law is explicit and that it leaves no legal loopholes, and at issues of implementation and monitoring, etc.

Sometimes it is reported that partial prohibition has been obtained 'on the quiet side', with little apparent debate. The attraction of this is clear, but again the question should be asked how far it marks progress towards achieving equal protection. How far is it a missed opportunity for addressing equal protection for children in all settings? Partial prohibition in schools or some alternative care settings does not address the issue of equal protection for children under the law.

### **4. Media debate**

There was an understanding in many of the responses to this question that media coverage is not the same as serious debate. There was also a recognition that debate without a consistent clear message was of limited use in moving towards prohibition. Media publicity highlighting the problem of corporal punishment and its negative effects is undoubtedly important in reducing corporal punishment. However, it may not in itself represent progress towards equal protection in law. The most effective debate is strategic, and occurs within the context of media campaigns advo-

cating law reform to achieve equal protection for children. Again, preparation is the key, including ready responses to frequently asked questions and objections to reform.<sup>9</sup>

Sometimes a high profile case of severe corporal punishment, or the publication of a report or a research study, can provide a media opportunity to push for prohibition. Other opportunities are presented in connection with special days. Some of those mentioned at the workshop were the annual 'No hitting day' initiated in the US,<sup>10</sup> and the African Day of the Child.

### **5. Identification of high level supporters**

The support of high profile and influential people can form a crucial support for reform. Some questionnaire responses indicated that high level supporters had been identified, but for the most part few specific people or institutions were named.

In some countries, the task of prohibiting corporal punishment is impeded by politicians and other powerful people speaking out in support of corporal punishment. Persistence is crucial. Prominent leaders in society and relevant professions (e.g. paediatricians) should be identified, who will speak out about the dangers of corporal punishment and about positive discipline and parenting experiences. Publicly 'mocking' those politicians who support corporal punishment may provide an opportunity to expose the hypocrisy behind their arguments and to make the reasoned case for prohibition, emphasising the obligation on governments to prohibit corporal punishment under the UNCRC.

No country that has achieved full prohibition has done so in the context of majority public support for law reform. Rather, prohibition has been enacted because governments can no longer avoid their human rights obligations.

## 6. Opportunities for reform

To maximise efforts towards law reform, opportunities for influencing the law should be identified and acted upon. These include predictable opportunities, ad hoc opportunities and opportunities created by those who want the law changed:

- Predictable opportunities. Universal opportunities, common to varying degrees in all states, include those provided by the reporting process under the Convention on the Rights of the Child and other treaties (e.g. the Convention Against Torture and the International Covenant on Economic, Social and Cultural Rights), the Universal Periodic Review Process at the Human Rights Council, and regional mechanisms.<sup>11</sup> State specific opportunities include reviews of legislation and efforts to harmonise laws with the Convention on the Rights of the Child.
- Ad hoc opportunities. Calls for prohibition can be introduced into media coverage of news related to child protection, violence against children, domestic violence and other related issues, as well as at launches of reports and research.
- Created opportunities. Through lobbying and advocacy, those working towards prohibition should create opportunities to influence legal change.

In some countries, prohibition of corporal punishment has been discussed without significant progress for several years, and organisations feel the need to move on to new issues. But the campaign for law reform is not over until the law has been reformed to explicitly prohibit *all* corporal punishment, including in the home. And after that, implementation of the law must be monitored, etc.

Regular discussion on global strategies and the leadership of people experienced in this area will help to keep up momentum. Save the

Children (SC) should co-ordinate with the Global Initiative and other international organisations, e.g. UNICEF and Plan International, to build collaborative networks and avoid duplicating work. Regular meetings between Save the Children and UNICEF should be organised to discuss the issue.

At the national level, NGOs need to develop a single, unified position to present to the government. Save the Children Sweden has played a leading role so far. This would be strengthened by greater involvement of regional representatives. Learning from the experience of reform in other countries can be encouraging to those working in particularly challenging situations.

State authorities must be compelled by NGOs to pass bills because of international and national pressure. Bills pending before parliaments provide opportunities to ensure that explicit prohibition is enacted, in specific situations (care institutions, schools, etc.) or, ideally, in comprehensive legislation relating to children wherever they are.

In conclusion, in all efforts to prohibit corporal punishment it is important to remember that nothing short of explicit prohibition in law will be sufficient. In every action, the key question is: Do these measures help to realise children's right to equal protection from assault in law?

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8. A questionnaire on moves already taken towards legal reform was sent in advance of the workshop to each participant by the Global Initiative to End All Corporal Punishment of Children in collaboration with Save the Children. Responses were received from 27 participants covering 35 states (some participants represented more than one state).

9. See Annex 4 for Frequently Asked Questions about prohibition

10. See [www.stophitting.com/spankOut/](http://www.stophitting.com/spankOut/)

11. See section chapter 7

## 3 Getting laws into and through parliament

### 3.1 How to lobby government and parliament

**Peter Newell**

In seeking law reform to ban all corporal punishment, parliament is the key target because it is parliament that must accept new legislation and/or make changes to existing legislation. Developing knowledge and skills relevant to lobbying parliament is essential for advocacy of this and other children's rights issues. This chapter aims to provide practical advice and some examples of work with parliaments/governments.

#### **Parliament and government – where to start**

It is parliament that has to accept new legislation or make changes to existing legislation. Explicit prohibition has to be the ultimate aim of law reform. If the government has a majority in parliament, then the government is the first target for lobbying, because if the government introduces legislation to parliament, it is likely to be passed. Government policy on the issue should be clarified. Organisations may have to lobby a number of departments, depending on where relevant responsibilities lie.

#### **Government**

Identify which government departments have responsibility for legislation on corporal punishment, and if there is a particular department, for example the Ministry of Justice, which takes the lead. A number of departments may be responsible if corporal punish-

ment is still legal in the home, alternative care, schools and the penal system for young people.

If there is one department with overall responsibility for children's policy and implementation of the Convention on the Rights of the Child, this may be the best department to start with.

If the issue of prohibiting all corporal punishment has not been raised with government, the first step may be to identify one or more responsible ministers and senior officials, and write to them. The first approach to government should come from an organisation or an alliance of organisations that have as much influence as possible with government, such as a human rights commissioner, ex-politician or someone involved with the UN Study, and not necessarily an NGO person, who may have less influence.

Involving well-informed children and young people in the approaches to government and meetings is likely to have a big influential impact.

#### **Raising the issue with governments**

A first approach to government could be to raise the recommendations of the Committee on the Rights of the Child and the more recent context provided by the UN Study recommendation for universal prohibition. Relevant new national research is also useful, as well as a summary of the current legal status

of corporal punishment in all settings (home, school, penal system, alternative care settings) and the reforms needed to achieve full prohibition. A meeting should be requested to discuss the issues raised.

Lobbying can be a long-drawn out process. It is important to keep following up letters, calls, requests, etc.

## **Parliament**

Because parliament has to pass the necessary legislation, it is important to start gaining interest and support in parliament as early as possible.

It is important to identify members of parliament who are sympathetic to prohibition – as senior as possible. Strategies should be discussed with them for increasing support *before* encouraging open debate in parliament. This will help to avoid provoking opposition too early on in the process.

Before taking the issue to parliament, consider whether you want this to be a large public issue, as it can result in a huge and not necessarily positive debate and can become uncontrollable. Sometimes, minority groups supportive of corporal punishment come in and take over the debate and this can scare parliamentarians.

## **Raising the issue in Parliament**

### *Using parliamentary questions*

Most parliaments have procedures enabling members to ask both ‘written’ and ‘oral’ questions. ‘Written’ questions are those that the relevant minister has to answer in writing within a time limit. The answers are then published in the formal record of parliament. ‘Oral’ questions are those where the minister answers them in person in parliament, and there is sometimes a short debate with follow-up questions allowed.

Request a member of parliament to ask questions to the government about:

- the law on corporal punishment in different settings
- what is known about the prevalence of corporal punishment
- what action the government will take to fulfil its human rights obligations to prohibit and eliminate corporal punishment.

Or:

- find some topical peg – a case of corporal punishment in the media, a new research report, new human rights recommendations, etc.

### *Organising meetings/inquiries*

Ask a member or a group of members of parliament or an appropriate parliamentary committee (e.g. a committee on children, human rights, education or health) to:

- call a meeting and bring in representatives of NGOs, human rights institutions and children to discuss prohibiting and eliminating corporal punishment
- initiate an inquiry into corporal punishment, or into violence against children including corporal punishment, calling evidence from NGOs, children and others
- initiate a debate in parliament on ending corporal punishment.

Or:

- approach the headquarters of political parties, find out who is responsible for policy on children’s issues and find ways to get the issue raised within the political party structure – then members of the party may raise it in parliament. Start with the party(ies) most likely to be sympathetic.

## **Ways of getting prohibitionist legislation introduced into Parliament**

There are various routes for getting legislation into parliament to prohibit all corporal punishment:

- Government introduces a bill to achieve prohibition – this is an ideal situation.
- Government introduces a more general bill (e.g. child protection, child rights, domestic violence), which includes a provision to prohibit corporal punishment, or a bill to amend the Penal and/or Civil Code so as to prohibit corporal punishment.
- Government introduces a ‘sectoral’ bill – applicable to family, education, care, juvenile justice, employment, etc. – which includes a provision to prohibit corporal punishment in the particular setting.
- An individual or group of members puts down for debate (tables) a prohibitionist amendment to a government bill which is being debated in parliament, e.g. adding a provision to prohibit corporal punishment in the home to a child rights, child protection, family or domestic violence bill, or adding a provision to prohibit school corporal punishment to an education bill.
- An individual or group of members of parliament introduce a bill (as in the above points). Most parliaments allow ‘private member’s’ bills (this is how the 2007 New Zealand law reform was introduced<sup>12</sup>). Generally, it is more difficult to get a bill introduced to parliament by a member than to use a government bill.

## **The passage of a bill through parliament**

Some parliaments have just one ‘chamber’ which debates and accepts or rejects bills by voting; others have two chambers. The process

of considering a bill differs from one parliament to another. Most parliaments have libraries which will provide briefings on parliamentary procedure.

For example, in the UK Parliament there are two chambers, the House of Commons (made up of elected members of parliament) and the House of Lords (appointed not elected). Bills start in one House or the other and normally proceed through the following stages:

1. First (formal) Reading: presentation of the bill to the House – no debate.
2. Second Reading: debate in the full House on the whole bill – no amendments.
3. Committee Stage: a committee considers the bill in detail, clause by clause, considering and voting on amendments proposed by members. Sometimes there is additional examination of the bill by a different sort of Committee, which can hear evidence from NGOs etc. about it, and then report back to Parliament.
4. Report Stage: the bill, as amended in Committee, is reported back to the full house; more amendments can be proposed.
5. Third Reading: normally no amendments.
6. Bill transferred to the other House and goes through similar stages. Any amendments made in the second House are then reported back to the first House for debate. The bill may go backwards and forwards several times before final agreement. It is then sent to the Queen for ‘Royal Assent’.

## **How to brief parliamentarians**

- Ensure you are really well-informed and understand the existing law and the changes that are needed to achieve clear prohibition. You need to be ahead in understanding of the law.
- Ensure you are aware of any possible opportunities for reform. Avoid missed opportunities.

- Ensure you understand how parliament works, and how bills proceed through it, or that you have a readily-available adviser who does.
- Develop a set of strong arguments for prohibition, and test them among sympathisers.
- Consider developing a set of ‘frequently asked questions/answers’ about the issue and why prohibition is necessary.<sup>13</sup>
- Draft clear briefings, as short as possible (you can always send parliamentarians more detail if they ask for it).
- Try the briefings out on some sympathetic parliamentarians and/or their staff – parliamentarians often have research assistants or other staff who work with them – and revise as necessary.
- Develop a good understanding of the views of the government and the various opposition political parties on the issue, and as far as possible of the views of individual members.
- Develop a database of members, including all contact details for them and their staff (research assistants, secretaries, etc.), so that you are able to e-mail, fax and/or deliver hard copies of briefings to them quickly and efficiently. It may be important to use hard copies as well as e-mails as parliamentarians often receive too many e-mails to open and read.
- Avoid briefing known opponents of law reform who are unlikely to be converted, as this may just provoke more active opposition.

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12. See section 3.2

13. See Annex 4

## 3.2 Getting laws into and through Parliament: Lessons from New Zealand

### **Beth Wood**

In June 2007, it became illegal to use force to correct children in New Zealand.

The Crimes (Substituted Section 59) Amendment Act 2007 removes the old statutory defence and:

- explicitly prohibits the use of force to correct children
- ambiguously allows the use of force to restrain or control children
- reminds police they can choose not to prosecute minor assaults
- allows for review of how the law is working.

The bill generated more submissions than any other bills in New Zealand's history. In 2007, more than half the New Zealand population was opposed to prohibition. Today, people are increasingly aware that it is illegal to hit a child, and the new law seems to be working well.

### **Background**

Support for positive parenting in New Zealand has grown steadily since the 1960s. In the 1980s, groups started campaigning for the repeal of section 59 of the Crimes Act, which was seen as legitimising physical punishment. The issue intensified when the first Commissioner for Children spoke out in 1993, and remained public thereafter. Campaigners worked directly with politicians, constantly drawing their attention to the recommendations of the Committee on the Rights of the Child and New Zealand's international human rights obligations. There was growing public support.

In 2005, Green MP Sue Bradford proposed a private bill to remove the statutory defence that permitted the use of physical correction. The bill was drawn from a parliamentary ballot. The campaign escalated, and pressure was put on politicians for action. A network of organisations developed, which prepared regular briefing sheets for politicians providing information on the issues being debated publicly. Supportive politicians began quoting from them in speeches and used the information provided in discussions with their constituents. The Select Committee and submission process enabled supporters to present their views to the politicians responsible for making recommendations on the bill, with several strong submissions in favour of change.

### **Key aspects of the New Zealand context**

Various aspects of the New Zealand context provided a favourable backdrop for law reform:

- New Zealand is a small country with a diverse population, making it easier to create relationships and engage with people nationwide.
- Politicians are accessible. Any individual can make an appointment to meet with a politician. Political lobbying is relatively easy.
- The parliamentary process is fairly simple, with only one House of Parliament.
- Corporal punishment was already illegal in settings outside the home.
- The debate was intensely public. The media is always in Parliament. Although

not always advocating prohibition, the media promoted debate which helped change public opinion.

- Individual Members of Parliament can propose legislation. Private Members' Bills can be tabled by politicians from any party. The Crimes Amendment Act 2007 was the result of Sue Bradford's bill.

### **Key forces for change**

The major positive forces for change included:

- political support from principled and sympathetic politicians. The Act was initially actively supported by Sue Bradford and Prime Minister Helen Clark. Support increased over time
- community support led by active advocates and leaders
- concerns about escalating family violence, including child abuse, among politicians and the public. Many could see the incongruity between trying to reduce child abuse on the one hand, and having a law that permitted children to be hit on the other
- convincing research. Well-documented international studies detailing the effects of corporal punishment were presented in New Zealand
- existing focus on positive non-violent discipline. A government project was under way which encouraged the use of positive non-violent discipline, in response to the recommendation of the UN Committee on the Rights of the Child that corporal punishment be banned. The existing law was incongruent with this programme
- international pressure on New Zealand to fulfil its international human rights obligations.

### **Key forces against change**

The forces against change included:

- a long tradition of physical punishment.

Many people felt threatened, and were defensive about their own or their parents' behaviour when it was suggested that children should not be hit

- resentment and resistance to change. People were angry, and passionate in their opposition to change. Advocates were threatened, sometimes with violence
- well-organised, well-funded opposition to change. Several groups, mostly of fundamentalist Christian beliefs, waged an effective media campaign against change. They organised meetings between politicians and so-called overseas experts to prove that children benefited from corporal punishment
- political risk-avoidance. Several politicians shied away from the issue, fearing a decline in their popularity
- media treatment of the issue. At times, the issue was badly reported by the media, who dubbed it 'the anti-smacking debate'.

### **Challenges**

A number of challenges had to be met to achieve law reform. Firstly, prohibition had to be enacted while reducing public fears about prosecution for minor offences. A key opposition message was that 'good parents' would be criminalised if the law as changed. This was countered by emphasising that responses to those using physical punishment would be in the best interests of the child. This included not intervening in their families in ways that lead to huge stress and disruption.

Other messages from the opposition were that "Sweden has gone to the dogs since the law changed" and that "carefully and reasonably administered smacking benefits children". Again, these had to be countered by reasoned argument and education about the purpose of law reform, making use of credible research and experts.

The biggest challenge – to politicians and sup-

porters alike – was to prohibit corporal punishment completely, and not merely make an amendment to *limit* physical discipline. This challenge was not altogether satisfactorily solved.

There was considerable support within and outside parliament for amending the law to define how children could be hit safely, e.g. only with an open hand and not on the head. One major party initially supported this approach. But the sponsor of the bill opposed this, and EPOCH (End Physical Punishment of Children) resisted this approach.

The final result was a compromise law that bans the use of force to correct children. It also attempts to allay public fears that parents will be prosecuted for restraining children to keep them or others safe. In doing this, it introduces some ambiguity.

Further compromises were introduced to get enough support in the final readings in parliament. A review was recommended in two years' time to assess how the law is working, implying that politicians did not want the law to result in prosecution for minor assaults. Existing police prosecution guidelines were reiterated, allowing police to use discretion about what is prosecuted.

According to the law's supporter, these changes seem to muddy the message. However, many politicians would not have supported law change without them. The essential part was that the law explicitly states that force cannot be used for correction of children, as well as repealing the statutory defense. Eventually, an overwhelming number of politicians supported the compromise changes, which advocates reluctantly accepted as well.

## **Other elements of the campaign**

### *Children's involvement in raising the issue*

When submissions on the bill were made,

some were from children. Some children appeared before the Select Committee.

### *Communication with government and recommendations from EPOCH*

In communication with politicians, EPOCH made reference to several UN recommendations.<sup>14</sup> There was also support from Action for Children and Youth, the NGO that coordinates the alternative report to the UN Committee on the Rights of the Child. EPOCH members regularly visited government departments and ministers responsible for the bill.

The opposition comprised mainly churches who worked with politicians to impart negative messages. They recruited a lawyer and a psychologist to lobby politicians and challenge the bill. EPOCH prepared comprehensive media kits about these people, sent briefing sheets to politicians on them, and tried to give the other side of the story.

### *The necessity of group backing for the issue*

Two organisations supported the total ban in New Zealand – the Children's Commissioner and EPOCH. Initially EPOCH worked for the ban by itself, but gradually gained support from other organisations. Today, 161 organisations support EPOCH in its work. The combined effort was very important and effective.

### *Dealing with fundamentalist groups*

Family rights groups are the main opponents to this issue as they want to control family life. Opposition also came from Catholic groups with close connections to fundamentalist groups in the US, which are suspected to have had a lot of money. The opposition was extremely ferocious, especially the right-wing groups. EPOCH crucially engaged the support of many faith leaders, and there was eventually strong support from Christian churches. Once

the debate became very public, some leaders gave it support to ride on the publicity.

### **Funding**

EPOCH received no money from the government. Most philanthropic agencies avoided EPOCH because the issue of the ban was so controversial. Other organisations such as UNICEF, Children's Health NGO, and SC gave monetary support.

### **Monitoring public support**

EPOCH had no money to commission a poll. Polls were conducted by newspapers, which were very unreliable, not scientifically valid, and asked loaded questions. In the absence of anything else, politicians used the media to measure public opinion, and information was not very accurate. According to recent polls, people are slowly changing their opinions on the issue of prohibition of corporal punishment.

### **Tools for change**

The most useful tools were:

- MP briefing sheets, distributed electronically and in hard copy<sup>15</sup>
- maintaining relationships with supportive politicians, particularly with Sue Bradford, the MP putting the bill through Parliament
- an alliance of active organisations
- a network of supportive organisations, which could be shown to politicians to prove majority support
- informed submissions
- a website to facilitate lobbying, which connected supporters with politicians.

### **Lessons learned**

1. Law reform is an intensely political issue, involving politicians who are sensitive to public support. They need tremendous per-

sonal conviction to back an issue and go against perceived lack of public support.

2. Law reform is a highly politicised issue, which can be played for political gain. Some politicians used the issues to strengthen public support for themselves and their parties. This is still a risk as we try to secure the place of the new law in New Zealand.
3. Engaging widespread public support is a huge challenge. It was never going to be possible to move public opinion fast enough to have majority public support, as we did not have the resources or the means.
4. The media is powerful but unreliable. It is a formidable force that influences politicians. In the absence of any other regular measures, MPs and others used media comment and polls to read the public mood. Our ability to manage the media grew with time.
5. Demonstrating informed support was critical. EPOCH highlighted the support of credible individuals and organisations for change, even though a majority of the public opposed it. This was very useful in garnering public support.
6. Making it easy for supporters to express their views made a big difference. Supporters could visit the website to send their views to all politicians, which tilted the balance in favour of change.
7. Active advocates and leaders from within different sectors – ethnic, religious, academic leaders – are vital. They act as a voice for the cause and help convince opponents and politicians.
8. Supportive MPs benefit from being given consistent and credible information.

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14. The communications to MPs are available at [http://epochnz.org.nz/index.php?option=com\\_content&task=view&id=92&Itemid=22](http://epochnz.org.nz/index.php?option=com_content&task=view&id=92&Itemid=22)

15. These are available at [http://epochnz.org.nz/index.php?option=com\\_content&task=view&id=92&Itemid=22](http://epochnz.org.nz/index.php?option=com_content&task=view&id=92&Itemid=22)

## 3.3 Getting laws into and through Parliament: Lessons from Costa Rica

### **Milena Grillo**

In June 2008, Costa Rica achieved full prohibition of corporal punishment of children, including in the home. The process of law reform took five years of campaigning by Fundación Paniamor – and seven minutes for the legislation to be voted on and passed!

### **Background to Paniamor**

Complete prohibition of corporal punishment was an organisational aim of Fundación Paniamor, in keeping with the organisation's fundamental values. Paniamor has been working for over 20 years on the prevention of violence and abuse affecting children and adolescents, in partnership with key national and international actors. A strategic alliance with Save the Children Sweden (SCS) was established in early 2000, seeking to increase the effectiveness and sustainability of initiatives of common interest concerning children's and adolescents' rights.

There is a history of mutual co-operation and political support between Paniamor and the Office of the Ombudsperson of Costa Rica. The Office of the Ombudsperson presented the law reform project to the Legislative Assembly, with Paniamor acting as co-sponsor. Paniamor has started a programme within other organisations to promote positive non-violent parenting, sending out a message of zero-tolerance of corporal punishment.

### **Approaches to law reform**

Three inter-related approaches were taken to law reform – the child rights approach, the

gender-sensitive approach, and the contextual approach. Each of these recognised distinct challenges that had to be met to achieve prohibition.

#### **1. The child rights approach**

This fundamental approach recognises that corporal punishment is:

- a violation of the basic human rights to which all persons are entitled
- an expression of legalised, age-based discrimination, giving children a lower status than adults
- an expression of instrumental violence, with the perceived purpose of educating rather than harming the child.

The challenge here was the correct framing of the issue. Paniamor sought to end corporal punishment because it is the right thing to do, not just because it is useful for society.

#### **2. The gender-sensitive approach**

This approach recognised that corporal punishment occurring within families is associated with patriarchal notions about the effectiveness of corporal punishment in childrearing. Corporal punishment is regarded as necessary to be a good father or mother. The 'life-saving spanked-childhood' syndrome is common; most Costa Ricans were grateful to have spanked their children, otherwise they would have been lost. They also felt that being spanked in their own childhood was the best thing that could have happened to them.

The challenge here was to present change as legitimate and inevitable, at the same time as validating people’s personal life histories. Paniamor had to work with people to explain that the intention was not to criticise or be unkind to their parents, but that banning corporal punishment was the right thing to do. As Costa Rica is a small country with approachable politicians, Paniamor researched the childhood of every politician in the country in order to gauge their stand on the ban based on their childhood experiences of spanking and discipline.

**3. The contextual approach**

This involved:

- identifying the main social representations – ideas deeply ingrained in the minds of Costa Ricans – affecting the issue in the country
- documenting solid legal, scientific and cul-

tural arguments to address the social representations identified

- enlisting possible allies and identifying known and potential opponents.

The challenge was to make the case for the law reform, while being sensitive to the social representations and life histories underlying personal perceptions, attitudes and actions.

Paniamor prepared dossiers with information giving legal, religious and social reasons why the ban was necessary. These briefings were short and highlighted the main points of the argument. They were given to politicians’ personal assistants, who would read them and pass them to politicians if they felt they were relevant.

**Making the case for the ban**

Paniamor had to counter several social representations and ideas that had long existed in Costa Rica.

| Social representation  | Counter argument and sources  |  |
|--|---|--|
|  | International   | National   |
| The use of corporal punishment is not only harmless to children but contributes to their growth and adequate development                                 | Opinion of the American Academy of Paediatrics (1995) stating that corporal punishment is not effective as an educational tool  | Support of the Costa Rican Minister of Health and other key political and institutional actors as spokespersons for the campaign   |
| Corporal punishment as a correctional method is not only a right but a duty of parents, abundantly referred to and substantiated in the Holy Scriptures. | Resolution adopted by the United Methodist Church (2004)  | <ul style="list-style-type: none"> <li>- Public forum of leaders with dissenting views on interpretation of scriptures</li> <li>- Ongoing theoretical and practical work, with representatives from diverse faith denominations with informed opinions opposing this social representation.</li> </ul>       |
| It is the legal right and duty of parents to use spanking and other forms of corporal punishment to correct their children.                              | <ul style="list-style-type: none"> <li>- Peter Newell’s writings giving effective counter arguments</li> <li>- Committee on the Rights of the Child (2006), General Comment No. 8</li> <li>- SCS publications and reports concerning other countries.</li> <li>- the example of prohibition in Uruguay</li> </ul> | <ul style="list-style-type: none"> <li>- Revised version of the law reform project, moving from a ‘project to abolish physical punishment and degrading treatment’ to a ‘project on the rights of children and adolescents to a discipline free from corporal punishment or degrading treatment’.</li> </ul> |

## Other elements of the campaign

### Funding

Paniamor prefers to link with ongoing universal programmes that do not end when the budgetary period is over, so that programmes are sustainable. For this campaign, Paniamor linked with the Ministries of Education and Health to promote recognition of children's rights and prohibition of corporal punishment, and received funds from the ministries. The programme was operated in the Ministry of Health's Centres for Integral Attention (day care centres for infants), and the Ministry of Education's pre-school regional network. Staff at the day care centres said that integrating the corporal punishment contents into their programmes with families has made a tremendous contribution to them and has been appreciated by families. These partnerships have helped Paniamor meet its goal of achieving sustainability over five years. Now Paniamor is looking for additional funds to work in community involvement, which should be accessible because of the publicity the organisation has received.

### Working with children's rights networks

Children's NGOs have resisted addressing corporal punishment and its prohibition in Costa Rica. They have said it is not an issue of real relevance, and feel it will take away from the issues they address. Paniamor has joined human rights networks, as have other countries in Latin America who share the same experience.

### The achievement of prohibition

As a result of Paniamor's campaign, prohibition was achieved by two significant legislative changes.

1. A new article was added to the Code of Children and Adolescents, under Chapter II (The Rights of Personality). Article 24

bis – entitled 'The right to discipline free from corporal punishment and other degrading forms of treatment' – which states:

*'Children and adolescents have a right to receive counselling, education, care and discipline from their mother, father or tutor, as well as from their caretakers or the personnel from educational and health centres, shelters, youth detention or any other type of centres, that in no way represents an authorisation of any sort to these parties for the use of corporal punishment or degrading treatment.*

*The Patronato Nacional de la Infancia shall coordinate with the institutions conforming to the National Integral Protection System and NGOs, for the implementation of educational campaigns and programmes directed to parents and other adults in custodial or caring roles.'*

All individuals and situations are covered, leaving no room for misinterpretation.

2. Article 143 of the Family Code (on 'Parental authority – rights and duties') is amended to state:

*'The parental authority confers the rights and imposes the duties to orient, educate, care, supervise and discipline the children, which in no case authorises the use of corporal punishment or any other form of degrading treatment against the minors.'*

A unanimous affirmative report (File No. 15.34) issued by the Legislative Ad-hoc Sub-commission states:

*'It is important to state that the amendments hereby addressed are the result of a consensus reached by and between the various organisations promoting the project and those congressmen and congresswomen who initially opposed such initiative, since the final text takes into consideration and incorporates their points of view.*

## ***Lessons learned***

1. Organisations must be flexible enough to modify their initial proposal. At the same time, they must be clear that complete prohibition of corporal punishment is non-negotiable.
2. Organisations should not see the approval of the law as a final step. Paniamor is already thinking of a second stage of campaigning involving work with health and social systems to work in families and promote child participation.
3. Children's participation in the campaign was limited to research, not action.
4. It made it easier to indicate that Paniamor was part of a global initiative.
5. Campaigns take persistence and time, and need continuous support from global organisations.

### 3.4 Getting laws into and through Parliament: Lessons from the Philippines

**Wilma Banaga**

#### Context

The Philippines is a Catholic country. It has a presidential system of government that serves for a fixed term of six years, a bicameral Congress comprising the Senate (24) and the House of Representatives (240), and a multi-party system with provisions for marginalised groups to be represented. It is currently on the 14th Congress (2007-2010).

Prohibition of corporal punishment in the home has not yet been achieved in the Philippines, though it is prohibited outside the home. Several bills have been filed which aim to prohibit corporal punishment in all settings. This section is based on the experience of drafting a new, improved bill.

#### Legislative process: Opportunities for engagement and influencing

Several NGOs have navigated through the legislative process and influenced the passing of important legislation.

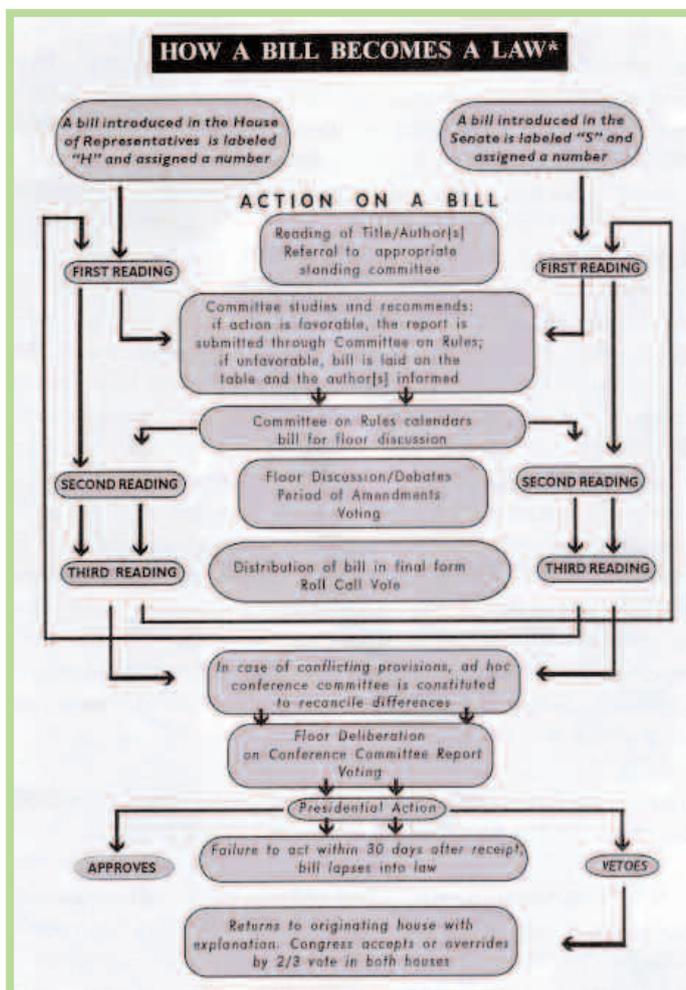
#### Preparing the Bill

This is a very important process.

- The Legislator or the Bill Drafting Division of the Reference and Research Bureau prepares and drafts the bill upon the Legislator's request. NGOs can draft their own proposed bill and have this sponsored by a particular legislator.
- In drafting the bill, it is important that it

is supported by evidence/data based on research and programmes being implemented in communities. The bill should follow a clear framework and use appropriate technical language.

- The selection of the sponsor is crucial. Credibility, genuine interest in learning about the issue, and a capacity to engage in debates are among the required criteria.



Note: A joint resolution having the force and effect of a law goes through the same process.<sup>16</sup>

## **Progress in preparing the bill**

Three bills which would prohibit all corporal punishment have already been filed in the Senate and House of Representatives, and referred to appropriate Committees. Progress here refers to the preparation of a new, improved bill.

### **(i) Evidence building**

SC has started by building the evidence that would support a ban on corporal punishment, including:

- research on children's and adults' perspectives (attitudes, experiences, and recommendations)
- review of existing laws and policies (provisions and gaps)
- consultations with stakeholders (including key people in government, NGOs, academia, and children and young people) on the information gaps and needs to be addressed to effectively carry out advocacy.

The review of laws and policies covered national laws and government policies, local ordinances, religious documents, and biblical texts, as well as guidelines, manuals and handbooks used by private academic institutions. Several gaps in the law were identified, including the ambiguity of the definition of corporal punishment, and the emphasis on severe punishment or those resulting in severe physical injuries. The review also showed that laws are fairly explicit about banning corporal punishment in schools and institutions, but silent concerning discipline in the home. The review's recommendations included legal reform to strengthen provisions for child protection in accordance with international human rights instruments, and particularly in the context of the home.

### **(ii) Bill formulation**

- The prohibiting bills already filed were analysed. They all propose amendments to existing laws and are punitive in approach.
- A new, comprehensive bill has been drafted.

The new version of the bill includes a definition of corporal punishment and a statement explicitly prohibiting it, remedies for violations of the prohibition, identification of who may file a complaint, how to report corporal punishment and who will respond, budget appropriation, and a clause to repeal/amend all laws and policies inconsistent with the proposed law.

### **(iii) Bill status**

- The new bill has been subjected to an initial round of commenting and revision and was due to be finalised by the end of May 2008. It will then be presented to target legislators for filing and subjected further to wider consultations.
- SC Philippines is scheduled to meet with the author of the existing bill in the House of Representatives to explore the possibility of her filing the new bill as a substitute bill or as a separate bill. In the Senate, SC is considering a particular Senator but a meeting is yet to be arranged.

## **The Committee Level**

The Committee the bill is referred to evaluates it to determine the necessity of conducting public hearings. If necessary, a public hearing is scheduled, public notices issued, and resource persons from the public and private sectors are invited. If a public hearing is not needed, the bill is scheduled for Committee discussion.

Following the public hearings or Committee discussions, the Committee may introduce amendments, consolidate bills on the same subject matter, or propose a substitute bill. It then prepares the corresponding committee report, which is

transmitted to the Plenary Affairs Bureau.

While the bill is at the Committee stage, a number of important activities will help the progress of the bill:

- getting invited as resource persons and offering technical support to the authors (e.g. public hearings and technical working groups)
- getting the support of key Committee members and staff
- creating strong public opinion and mobilising support from various groups in different parts of the country
- monitoring every step of the process to enable advocates to keep up with debate and quickly intervene as necessary
- being clear on the non-negotiable provisions of the bill
- lobbying the Committee on Rules to calendar the bill for floor discussion.

### **Progress during Committee stage**

#### **(i) Lobbying**

- creation of the Committee on the Welfare of Children in the House of Representatives, chaired by one of the authors of the bill. The Committee has jurisdiction on all matters relating to the needs, education and overall welfare of Filipino children. Previously these matters were distributed among a number of committees. The new Committee is responsible for all actions to ensure availability and continuing access to affordable and appropriate programmes and resources for children's welfare.
- Meetings with individual Committee members and with Committee staff.

#### **(ii) Awareness raising**

- distribution of information and advocacy materials and a position paper on corporal punishment to legislators/Committee

members

- joint activity with the Lady Legislators of the Philippines (Oct 2007)
- scheduling of forums and plans to issue briefings in Congress to educate legislators on the issue and law (from July 2008).

#### **(iii) Strengthening civil society support**

- creation of new networks/alliances, including Mindanao Convenors against Corporal Punishment of Children, in collaboration with TdH Germany – an alliance of seven NGOs based in four key cities in Mindanao
- influencing the agenda of existing networks/alliances. For example, SC is leading the legislative advocacy work on corporal punishment in the Philippines within the Child Rights Network.<sup>17</sup> It is closely assisted in lobbying in Congress by the Philippine Legislators Committee on Population and Development.<sup>18</sup> SC is also promoting prohibition with the Central Visayas Cluster for Child Protection and Restorative Justice<sup>19</sup> and other networks
- capacity building of partner organisations and networks.

#### **(iv) Public education and media advocacy**

- a media briefing and press conference associated with the opening of the 2nd session of Congress in July 2008 and the President's State of the Nation Address. It will include a report on the state of the Philippines' children, highlighting corporal punishment
- TV/Radio guest appearances, news and feature articles in papers and magazines
- forthcoming publications/materials – *Exploring Positive Discipline in Filipino Families*, an information pack on corporal punishment, and a video *Time for Change: Filipino Children and Parents Speaking against Corporal Punishment of Children*.

SC has found that legislators and policy-makers are generally alert and sensitive to public opinion and media coverage. Elected officials cannot afford to alienate themselves from the public because acceptability is crucial in keeping themselves in position. Politicians also like media coverage, and SC should capitalise on this.

### **The Floor Level**

Before the bill is discussed on the floor, NGOs should already have gained the support of key legislators and provided them with enough information to use in the debates. Further opportunities for influencing progress include:

- providing technical support to authors and Committee staff
- lobbying for support among individual legislators
- monitoring amendments being proposed on the floor
- mobilising the support of networks and allies all over the country, including key people from government, children and young people, and the media.

### **Lessons learned**

It is important that the following elements of the campaign for prohibition are sustained throughout the process of law reform:

- evidence building – SC should continue gathering relevant information, and support the development of models of community mechanisms for prevention and response to cases of corporal punishment
- capacity building – SC should continue to support networks and coalitions (including groups of children and young people) and to build their capacity as advocates. Numbers are important to legislators, and the existence of networks, alliances and coalitions that are supportive of the bill carries weight in pushing for legislation and demanding public accountability from legislators

- public education and awareness raising – SC should continue to raise the awareness of stakeholders (including people in relevant government agencies and local government) to build their support and stir public debate
- mobilisation – people’s support needs to be visible. SC should mobilise partners, networks and allies to show legislators the extent of support for the bill. This can be done by taking advantage of special events such as Children’s Month and Human Rights Day
- resources – the work requires enormous resources (human, time, funds), which SC needs to sustain. Lobbying takes a lot of time and effort. Consultations and public education (necessary to strengthen the support base) also require a lot of resources. Networks can contribute staff, time and effort to the work but not all members can set aside funds for activities
- being prepared for the long-haul – based on previous experiences, the Bill may not pass into law during this Congress (2007-2010). However, this Congress provides an opportunity to educate legislators and policy-makers, networks and the general public on the issues, and to stir public debate. This will help to determine the level of support and to strategise on future actions. The 2010 general elections (presidential, legislative and local) will also provide an opportunity to promote the inclusion of the corporal punishment ban in the electoral agenda of candidates.

16. Source: <http://www.congress.gov.ph/legis/index.php?l=process>

17. The Child Rights Network (CRN) is a network of NGOs and a government agency (CWC) working on legal reform for children’s rights. It currently has four priority bills, including the ban on corporal punishment. Members include the Philippine Legislators’ Committee on Population and Development (PLCPD), Save the Children Sweden, UNICEF, Christian Children’s Fund, World Vision, Plan Philippines, Council for the Welfare of Children, and Lunduyan.

18. The PLCPD is an NGO (with legislators as board members) that helps other NGOs in understanding and in engaging in the legislative process.

19. The Central Visayas Cluster for Child Protection and Restorative Justice is a network of NGOs and government agencies based in Cebu City.

## 3.5 Getting laws into and through Parliament: Lessons from Romania

**Gabriela Alexandrescu**

### Background

In 2000 and 2001, Romania was in transition, with huge problems of violence, crime, sexual abuse, etc. Save the Children Romania enjoyed high standing in the community and was perceived as a serious organisation. In 2001, it became the first Romanian NGO to sign up to the aims of the Global Initiative to End All Corporal Punishment of Children.

### The case for prohibition

- In 2001, the Romanian legal framework regarding corporal punishment of children was vague; the words ‘violence against children’ and ‘corporal punishment’ were not included in any law.
- There was no provision in the Family Law regarding the means of education that should be used, and only extreme physical violence was considered an offence.
- Sanctions and penalties stipulated in the Law on Child Protection and the Criminal Law applied only to ‘abusive behaviour’ and ‘severe neglect’ that would affect the child’s development.
- The international human rights framework required the Romanian government to explicitly ban all corporal punishments in all settings.

### Prevalence of Corporal Punishment

Several research studies carried out between 2000 and 2003 showed evidence of corporal punishment in Romania.

| Year | Study   | Evidence  |
|------|---|---|
| 2000 | <i>Child Abuse and Neglect by Save the Children Romania</i>         | 75 per cent of children said they had suffered physical abuse   |
| 2001 | <i>Child Abuse and Neglect in partnership with NACPA and UNICEF</i> | 84 per cent of children said they were physically punished by their parents<br>47.2 per cent of parents said they use beating as a disciplinary method                                  |
| 2002 | <i>Survey by Save the Children Romania</i>                          | 97.7 per cent of children said they need to be corrected when they are wrong using ways that do not involve beating<br>82.3 per cent of children said beating must be prohibited by law |
| 2002 | <i>The Abuse of Children in Romanian Care Institutions</i>          | 48.1 per cent of children from care institutions said the staff punished them by beating  |
| 2003 | <i>Do we know how to educate our children?</i>                      | 29 per cent of respondents said they were punished in their family  |

### Children’s Voices

*“You feel angry, like you don’t mean a thing.”*  
– Girl, 13 years old

*“There are people who see violence as a way to resolve problems.”*  
– Girl, 14 years old

*“Maybe a kid does not always understand what she is being punished for, but she learns that power and authority can be proved through violence.”*

– Girl, 15 years old

*“A big man should not beat a small man.”*  
– Boy, 8 years old

## **The campaign to prohibit corporal punishment**

The campaign targeted the main stakeholders:

- Members of Parliament and Government were given briefings and study materials. A letter was drafted by SC asking them to support the ban. It included research on corporal punishment in Romania and how children see this situation, and information about the international movement on this issue. A total of 750 letters and brochures were sent to parliamentarians and government.
- Professionals who work with and for children were given a good practice guide on how not to use violence with children.
- The good practice guide was adapted for parents. Research demonstrated that parents wanted to have better relationships with their children but did not know how to go about it.
- Children and youth were involved in peer education and in research.

### **2002 – the ‘Beating is NOT from Heaven!’ campaign**

The slogan ‘*Beating is NOT from Heaven!*’ was adopted because it directly opposed the Romanian saying ‘beating is from heaven’, commonly used to support the use of corporal punishment. The belief is that if your mother is hitting you, you will grow. The campaign used the image of a beaten angel.

#### **Aims of the campaign**

- legislative prohibition of corporal punishment of children by adults
- changing public opinion on corporal punishment
- promoting educational methods that do not involve physical punishment.

#### **Objectives of the campaign**

- sustaining legal reform
- promoting positive relations between parents and children
- offering information on non-violent educational alternatives.

#### **Actions**

Campaign events included:

- a press conference to launch the campaign (May 2002)
- debate in Parliament Palace on *Legislative initiatives referring to domestic violence* (May 2002). The draft domestic law under discussion included a specific article prohibiting corporal punishment of children. To encourage all parties to work together on this issue, SC chose a well-respected parliamentarian to support prohibition. SC launched the bill in Parliament and invited politicians, young people and media to the launch
- a street campaign (June 2002). Almost 100 volunteers distributed informative materials at 11 locations in Bucharest
- Non-violence Day (June 2002). Debates were held in schools and childcare institutions on the subjects of violence (in which 1,500 children participated) and positive discipline (in which 115 parents participated)

During the discussions of the proposed domestic violence legislation, it became clear that this law would not explicitly prohibit all corporal punishment of children. Firstly, it would not apply to settings outside the home. Secondly, its implementation would be coordinated by the newly-formed National Authority for the Protection of the Family – but child protection was the responsibility of the National Authority for Child Protection.

But at the same time, debate on a new child

protection law was beginning. Save the Children Romania decide to pursue prohibition of corporal punishment in this new law.

### **Informative materials used**

Brochure for parents     *You can make it without beating*

Brochure for authorities: leaflet and flyer     *For those who still believe beating is from Heaven*

Posters     *For those who still believe beating is from Heaven*  
The posters stated: "It's not just about hurting someone. Violence is not a virtue. Punches are not educative. Kids can only be raised and taught with kind words, patience and love. And something really worth fighting for is banning corporal punishment against children by law. Because hitting a child is like hitting an angel."

### **2003 – Continuing the Campaign**

The domestic violence law (Law no. 217/2003) was approved, without prohibition of corporal punishment. Nevertheless, debate had begun on the issue and legal attention had been given to the need to protect children from violence within the home. Save the Children Romania conducted a mass media campaign on this domestic violence law, focusing on the violence experienced by children in the home.

### **2004 – Continuing the Campaign**

The campaign now focused on including prohibition of corporal punishment in the new child protection law. Local consultations and debates were held, and the conclusions sent to the relevant institutions. The draft legislation was amended to explicitly prohibit all corporal punishment of children, wherever they are.

Prohibition was achieved when Law 272 on the protection and promotion of children's rights was passed in 2004. It entered into force on 1 January 2005.

### **Law 272 on the protection and promotion of children's rights:**

Art. 28–(1):  
'The child has the right to be shown respect for his or her personality and individuality and may not be subject to physical punishments or to other humiliating or degrading treatments.'

Art. 28–(2):  
'Disciplinary measures concerning the child can only be taken in accordance with the child's dignity, and under no circumstances are physical punishments allowed, or punishments which relate to the child's physical and mental development, which may affect the child's emotional status.'

Art 90:  
'It is forbidden to enforce physical punishments of any kind or to deprive the child of his or her rights, which may result in the endangerment of the life, physical, mental, spiritual, moral and social development, the bodily integrity, and the physical and mental health of the child, both within the family, as well as in any institution which ensures the protection, care and education of children.'

## **Lessons learned**

1. You have to feel passionately about the campaign.
2. The media need interesting information and good stories. They are interested in case stories, situations in families, and children's views on what they feel and want, and on how corporal punishment affects them.
3. It is important to give alternatives to corporal punishment (positive discipline).
4. NGOs need to be proactive. One way is to regularly study the agenda of parliament for opportunities to push the corporal punishment ban.
5. Build relationships with supporters in parliament.
6. It is important to have well-documented material because governments can ask a lot of questions.
7. Campaigners need to produce primary data on children that is specific to the region.
8. Parliamentarians and government officials need to be given clear requests, even providing them with the actual words to use.
9. Build relationships with specialists, young people, etc.
10. Be visible.
11. Be thick-skinned. Be ready to resist people who oppose you but prepared also to help them understand more about the cause.

## 4 Child participation in law reform

### 4.1 Child participation in law reform

Children have a right to participate in matters affecting them – and law reform is no exception. Children can make a unique contribution to the process of reform. However, their involvement must be managed sensitively and responsibly. The vulnerability and dependency that makes children too often the victims of corporal punishment can also heighten the negative effects of exposure to the harsh world of politics and law.

The following sections provide important examples of child participation in law reform, with the lessons learned in each case. The introduction to the sessions, and discussion within them, emphasised the following:

#### **Preparation for participation**

It is the responsibility of NGOs to ensure that children who are selected as spokespersons for the campaign share the values of the campaign. It is critical that children communicate their own words and feelings when they speak out for law reform. It is also important that children are given feedback following their participation, and informed of the progress made on the issue after expressing their opinion.

Adults need to be prepared to listen, and respond appropriately, to children's voices – and children must be prepared to cope with less than desirable reactions from adults. It is incredibly frustrating for children to work towards speaking up for what they believe in, only to be considered 'cute' or to encounter resistance to their participation in the form of accusations that they have been 'coached' in what to say.

Many societies are not educated in participation. Adults must be very clear on what to ask and expect from children. Children have to know that the campaign might fail, and that they may not receive feedback from politicians or even be involved in the process beyond a certain point.

#### **Taking account of how children's views are formed**

Children are compelling advocates on the issue of prohibiting corporal punishment. But their opinions should be treated sensitively because of the influence of their parents' views in the formation of their own opinions. Governments resisting prohibition will use the views of children who profess to support the use of corporal punishment as an excuse for continuing to breach their rights. Ways must be found to talk clearly to children, and to explain why the ban should happen and what it would mean to them, within the context of raising awareness of their rights as human beings; the right to freedom from violence is an inalienable right.

#### **Ensuring advocacy is rights-based**

Children who express their views and experiences about being hit by adults are emphasising their vulnerability, and can elicit a response of pity. Law reform should happen because children have a *right* to full legal protection, not because adults feel sorry for them.

### ***The extent of participation***

Ideally, children should participate throughout the process of legal reform, including in conferences and forums. When their physical presence is not possible, other ways should be found of ensuring they are not excluded from what is happening. It can be particularly disheartening when children are enthusiastically included up to a point and then abruptly dropped from the process.

### ***Very young children***

Research indicates that those most often exposed to corporal punishment at the hands of parents and carers are, in fact, the youngest and most vulnerable of all – babies and infants. The challenge remains: how can organisations bring out the voices and experiences of these children?

## 4.2 *Child participation in law reform: Lessons from Venezuela*

**Fernando Pereira Verano**

### **Background**

Centros Comunitarios de Aprendizaje (CECODAP) believes that children's participation is an integral part of children's rights. Working with adults, other NGOs, children and adolescents is a fundamental aspect of the organisation's agenda.

### **The campaign to abolish corporal punishment**

CECODAP started with discussions about the concept, and effects, of corporal and other cruel and degrading punishment, which were then shared with other social activists and associated organisations. A workshop was organised in the city of Caracas in January 2006, in the context of the World Social Forum, supported by Save the Children Sweden and the Regional Office for Latin America and the Caribbean. The workshop focused on:

- inter-generational participation – children, adolescents and adults participated from the beginning
- discussions about corporal punishment, aimed at determining priority topics of public interest
- the introduction of corporal punishment into the public agenda, not as a private matter. People were intrigued.

The National Meeting of Adolescents in the Social Comptroller took place. Adolescents from different regions of the country participated. They learned that corporal and other cruel and degrading punishment is a form of

violence, and were informed about its implications. They were invited to participate in an incidence campaign.

The overarching framework of the campaign was to make boys, girls and adolescents a priority in the public agenda. CECODAP incorporated corporal punishment as the central topic.

### **Achievements**

- The incidence campaign involved developing an incidence map to show the extent of corporal punishment in Venezuela, and lobbying the National Parliament of the Republic.
- The Adolescent Organised Groups created Linking Commissions in different regions to discuss, agree and organise their participation in the incidence campaign for the abolition of corporal punishment.
- CECODAP, allied organisations, and Linking Commissions of Organised Adolescents from different regions worked together to draft an article recognising the right of children to good treatment. This includes explicit prohibition of corporal punishment. The article was to be included in the Law for the Protection of Children and Adolescents.
- The Chairwoman of the Permanent Committee for the Family, Women and Youth attended the meeting of Organised Adolescents, where she listened to the arguments for law reform. She expressed her commitment to enacting a law to prohibit corporal punishment, and stated that she

was ready to receive proposals.

- An alliance was created between the National Parliament and the Permanent Committee for the Family, Women and Youth. Both parties agreed to plan a social conference to bring about a debate on corporal punishment between citizens and deputies. This was organised by CECODAP, the Linking Commissions of Organised Adolescents and other allied organisations, together with the Parliament Committee.
- Representatives of the organisations allied to CECODAP and the Adolescents of the Linking Commission participated in the social conference, which took place in the National Assembly. Adolescents delivered

the law proposal to the deputies. They acted as spokespersons of the proposal and were interviewed by the media. This enabled the issue to be carried forward, and not stopped by the political polarisation in Venezuela.

- The article prohibiting all corporal punishment was adopted into the proposed reforms of the Law for the Protection of Children and Adolescents, approved by the National Parliament on 23 March 2007. The entire reform of the law, which included a number of articles, was sanctioned by the Parliament on 10 July 2007. The amendments were enacted in December 2007.

### **Organic Law for the Protection of Children and Adolescents**

The new article 32-A, which prohibits all corporal punishment, states:

*'All children (boys and girls) and adolescents have the right to have good treatment. This right implies non-violent raising and education based on love, affection, mutual understanding, mutual respect and solidarity.*

*'The fathers, mothers, representatives, persons in charge, guardians, relatives and educators must use non-violent methods in the raising, formation, education and teaching of good manners to boys, girls and adolescents. In consequence, any kind of physical and humiliating punishment is forbidden. The State, with the active participation of the society, must guarantee policies, programmes and protection measures for the abolition of any form of physical or humiliating punishment imposed on children (boys and girls) and adolescents.*

*'Physical punishment is understood as the use of force by legal authorities in charge of the raising or education of children (boys and girls) and adolescents, with the intention of causing some pain or corporal discomfort in order to correct, control or change the behaviour of a child, girl or teenager providing that this action does not constitute a punishable act.*

## After prohibition...

After achieving the legislative change prohibiting corporal punishment, the organisations allied to CECODAP which had participated in the incidence campaign from the beginning, together with newly-allied organisations, created the Alliance for Good Treatment. The National Action Movement for Childhood and Adolescence (MANIA, Movimiento de Acción Nacional de la Niñez y Adolescencia) has adopted corporal and other cruel and degrading punishment of children as its incidence topic for 2008 and 2009.

To meet the challenge of changing attitudes

towards corporal punishment, CECODAP is developing the 'Passport for Good Treatment' Campaign, which aims to:

- create educational guides for educators and schools, to promote good treatment in educational communities
- organise conferences to raise awareness about corporal punishment and the law in associated schools
- design workshops on positive discipline for families
- place corporal punishment on the public agenda, taking into account the elections of mayors and governors scheduled for 2008.

## Achievements and Lessons learned

| Achievements   | Lessons learned   |
|--|---|
| Acknowledgement of children's right to good treatment  | Using a common language related to corporal punishment of children allowed connections to be made between political agendas and the need to build new relations based on respect.   |
| Prohibition of corporal punishment   | Identifying incidence targets and key activists, and recognising legal reforms in other countries were important.   |
| Participation of boys, girls and teenagers in the creation and discussion of the proposal  | Child participation was crucial for legal change. It required careful selection, organisation and monitoring. The strategy in discussions included proposals which were change-oriented and non-threatening. The coherence of the proposal was evident when all party representatives discussed the subject without resistance. |
| Political will for prohibiting corporal punishment   | The principles of equality and non-discrimination were crucial in seeing corporal punishment as politically incorrect. They helped to convey what was wanted in a language understood by a government interested in social change, justice and equity.  |
| Co-ordination between organisations  | In building social networks it is essential to include the opinions of boys, girls, adolescents and their families from different regions.  |
| Promoting participation in the development of non-violent childrearing guidelines  | Lobbying activities provide opportunities to update understanding of human rights.  |
| Progressive positioning of the topic   | It is important to use imaginative ways to create an impact, and to take advantage of different media to express an effective message   |
| Additional lessons:  |   |
| <ul style="list-style-type: none"><li>• It is very important to see the idea of corporal punishment as a social, political public issue;</li><li>• Adolescents have to be trained and prepared for public participation. In research carried out by CECODAP in 2005, children were tolerant of corporal punishment. These views cannot be expressed before Parliament or the Government.</li></ul> |   |

## 4.3 *Child participation in law reform: Lessons from Kenya*

**Tina B. Ojuka**

### **Background**

Kenya is in East Africa and is surrounded by Tanzania, Uganda, Sudan, Ethiopia and Somalia. Save the Children Sweden has programmes in Kenya, Ethiopia and Sudan. Kenya has a population of 34.5 million, with 54% being children.<sup>20</sup>

Kenya ratified the UNCRC in 1990 and the African Charter on the Rights and Welfare of the Child (ACRWC) in 2006. It does not have a total ban on corporal punishment, but has made progress towards it. The Criminal Law Amendment Act (2003) prohibits corporal punishment in the judicial system. Under the Education Act, as amended through legal notice no. 56 (2001), and corporal punishment is prohibited in schools. The Draft Constitution of Kenya prohibits corporal punishment of children in schools and other institutions.

### **Involving children and young people in the Constitution of Kenya Review Process**

The Constitution Review Process in Kenya has been under way since 1997. It is a highly political process, with many vested interests, and the public felt their interests were not being considered. In 2001, the Constitution Review Commission Kenya (CKRC) was established to collect public opinions. Civil society organisations working with children responded by forming a 'Children's Caucus' to ensure child participation in the review process.

### **Selection of children**

Children aged between 12 and 17 years were selected from children's rights clubs, schools and the wider community. There was an equal number of girls and boys, and disabled children were included.

### **Sensitisation of children**

Children were sensitised on children's rights, and particularly on the provisions of the UNCRC and the ACRWC. They were informed about the importance of the Constitution as the supreme law of the land, the provisions of the existing Kenyan Constitution and its gaps (significantly, that it did not provide for children), and how those gaps could be filled. Child-friendly materials were developed and disseminated. Children's understanding of the issues was tested through debate.

### **Children's submissions on proposals to the new Constitution**

Children participated in the review of the Constitution in a number of ways:

- They presented their views to the CKRC on the need for their inclusion in the review process.
- Provincial children's forums were held where they created their own memoranda on issues to be included in the Constitution. These were submitted to community leaders, members of parliament and the CKRC.

- Children's views were publicised on TV and radio through talk shows. The shows were mainly aired on the national broadcasting station with the widest geographical coverage.
- A national essay competition on 'What the Constitution should say about children' allowed children from across the country to express their views.
- A National Children's Forum consolidated the exchange of information and produced a joint national submission by children from all provinces. Reader-friendly submissions were given to all parliamentarians.

However, children were unable to participate in the final national constitutional conference, where proposals were endorsed, because by law only persons over 18 years could participate.

## **Achievements**

- Ninety-five per cent of all the recommendations made by children were incorporated in the draft Constitution, including those on corporal punishment (see box).
- The capacities of children and children's rights organisations were enhanced through knowledge about Constitutional matters.
- Interest in children's rights was generated among the general public and among legislators.
- Children participated in the UNCRC state reporting process, which highlighted the need to harmonise all legislation on children with the Convention.

### **Draft Constitution**

Article 45:

*'Every person has the right to freedom and security of the person, which includes the right: (c) to be free from all forms of violence from either public or private sources; (e) not to be subjected to corporal punishment or to be treated or punished in a cruel, inhuman or degrading manner.'*

The enactment of the draft constitution of Kenya is a current priority in parliament. The provisions on corporal punishment need to be strengthened.

## **Lessons learned**

1. Law reform is not too complex for children to participate in. They can make valuable contributions if sensitised well.
2. Children need forums of their own in order to effectively participate.
3. Although children were given more responsibility, adults make the final decisions.
4. Incorporation of children's views is often frustrated by adults who do not understand child rights.
5. Child participation can be impeded by negative perceptions, e.g. that children have been coached in their views, or that participation is donor-driven or tokenistic.
6. Children do not always comply with adults' expectations about how they should participate.
7. The constitutional stalemate due to the political climate has created a set-back in the strides that had already been made.

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20. Kenya National Bureau of Statistics

## 4.4 *Child participation in law reform: Lessons from South Africa*

**Daksha Kassan**

### **Background**

South Africa has had a series of child participatory processes since 1992, before it ratified the UNCRC, including consultation with children during law reform. These initiatives have been on an ad hoc basis, primarily launched by civil society organisations, rather than as part of a coherent plan to implement children's right to participation.

Children's participation in law reform relating to the Child Justice Bill and the Children Act is particularly important. In both cases, a children's participation/consultation study was commissioned by the South African Law Reform Commission (SALRC), the body responsible for the renewal and improvement of laws in South Africa. In both cases, following consultation during the early stages of preparing the Draft Bill for parliament, further consultation was instigated by civil society to ensure that children's involvement continued.

### **The SALRC Law Reform Process**

1. Once an investigation on a particular issue is included in SALRC's programme, a project committee is appointed to lead the investigation and undertake necessary consultations.
2. An Issue Paper is published to initiate and stimulate debate, announcing the investigation and why it is needed, and the options available.
3. Following analysis of submission on the

issue paper, a Discussion Paper is published, which includes a summary of preliminary proposals and a proposed Draft Bill. This allows a second chance for public comment. Workshops and seminars are also held to obtain comment and stimulate debate.

4. Once comments are analysed, a Report containing the SALRC's final recommendations and the Draft Bill is handed over to the relevant government department for consideration and tabling in parliament.

### **Child Consultations on the Child Justice Bill**

#### **The first child consultation (SALRC)**

The first child consultation on the Child Justice Bill took place in 1999, when the Bill was still in the form of a Discussion Paper. The SALRC commissioned the National Institute for Crime and Rehabilitation of Offenders (NICRO), an organisation working with children in conflict with the law, to consult with children on the Bill.

#### **Who participated**

A study was undertaken at institutions in two provinces. Participants were mainly children who had had some contact with the juvenile justice system. They were recruited by staff at the institution, on the basis that they were able to read and write and were willing to participate, but not in relation to the crimes alleged/committed or to the children's home

language. School children who had never had prior contact with the criminal justice system were also involved.

### *What happened*

Children were formed into groups of 10 according to the various stages of the criminal justice system they had reached (pre-trial, serving a sentence, etc.). They participated in a series of interactive workshops in which the details of the Bill were debated. During the workshops:

- children were asked to comment on key themes of the Draft Bill
- they took part in role-play and small group discussions, gave individual written feedback and completed worksheets
- there was less formality and more role-play and story telling for children under 12
- feedback from participants was largely verbal and anecdotal, and responses were recorded by the facilitator
- children's responses were collected and compiled by NICRO for submission to the SALRC.

The SALRC made extensive and explicit use of the children's contributions in its report for government. What the children said was also reflected in the draft Bill published by the project committee.

### ***The second child consultation (civil society)***

The second consultation took place after the Draft Child Justice Bill 2000 had been presented by SALRC to the government but before it was submitted to parliament. It was again carried out by NICRO, but this time commissioned by the Child Justice Alliance, a civil society network formed to build on the success of the first consultation to ensure that children's participation continued as the Bill

went to parliament. In addition to giving their views on the Bill, children were asked about their experiences of the criminal justice system and how they thought the Bill would improve the situation.

### *Who participated*

Again, participants included children at differing stages of the criminal justice system, and included those who had not been in conflict with the law. They were selected from institutions and schools in four provinces, and were recruited by staff members. Participation was voluntary. The age range was 12 to 21 years.

### *What happened*

A series of workshops was organised. Trained NICRO facilitators used worksheets as guides for obtaining information through role-play and individual and group discussion.

When all the information was collected, NICRO compiled a report for the Child Justice Alliance. The children's views were then included in the written submissions made by civil society to parliament.

## ***Child consultation on the Children's Act***

### ***The first consultation (SALRC)***

As part of the comprehensive review of the Child Care Act, the SALRC consulted children on what they thought should be included in the proposed new law. The consultation took place in the early stages of law reform, after publication of the Issue Paper.

The consultation process was designed by members of the SALRC Project Committee for the Review of the Child Care Act, in consultation with representatives of relevant government departments, NGOs and an international technical advisor from Save the Children UK. This differed from the consultation

process relating to the Child Justice Bill, which had been designed by NICRO, the service provider.

### *Who participated*

Children were drawn from seven provinces and ranged in age between 4 and 18 years. Children participated who had experienced various forms of care, including foster care, residential care, secure care, after-school care. The groups included children who were disabled, who had suffered abuse and neglect, who lived on the street, and who were from a school of religion.

### *What happened*

Focus groups were facilitated by persons affiliated to each participating institution, and held in the respective institutions. This allowed a wider range of children to be involved, and enabled them to participate in a familiar setting with familiar adults. The facilitators undertook training prior to the consultation.

Each consultation comprised four sections:

1. a group session where the children were introduced to children's rights, the law and the role of the government
2. an interview of each child by another child to explore opinions in greater depth
3. discussion of a range of questions identified by the SALRC
4. a follow-up group session to give feedback to the children.

A reporter was present at all workshops to record children's opinions. The responses were compiled into a report for the SALRC, who used them in drafting the discussion paper and the proposed Draft Children's Bill. But although children had identified abuse and neglect by their parents as the main thing they needed protection from, there was no explicit reference to corporal punishment.

### **Further child participation (civil society) – the Children's Bill Working Group**

With the release of the Draft Children's Bill by the SALRC, the Children's Institute, an NGO, initiated a project to explore children's participation in the legislative process as the Bill was being debated by government and parliament. The aim was to facilitate child participation in the debates and decision-making that would inform the final provisions in the Bill. The specific objectives were to:

- understand the challenges faced by children
- inform the children about the provisions of the Children's Bill
- equip the children with skills to become advocates in their own lives
- implement an advocacy strategy to enable the children's views to be heard in the deliberations around the Children's Bill.

### *Who participated*

Twelve children aged between 12 and 16 years were selected from partner organisations working with children in four provinces. They were selected through detailed procedures that took into account ethical issues such as consent from the children and their guardians, anonymity, confidentiality, and the responsibilities and support available for the children from the Children's Institute. They formed the Children's Bill Working Group – Dikwankwetla.

### *What happened*

The project ran over a period of four years. The children attended a number of workshops where they learned about the provisions of the Bill, so that they could tell members of parliament and other duty bearers what they liked and did not like about the Bill. They also participated in workshops which aimed to develop their legislative literacy, and to support

them to articulate their opinions on the proposed Bill and to become advocates on it.

As a result of this project, the children continuously engaged with their communities and decision-makers, made presentations in different forums, appeared on radio shows, and made submissions to parliament. They particularly spoke about the need to increase awareness of child abuse and neglect, and to protect children from it. They gave the example of children being beaten with broomsticks for not finishing all their jobs, stating that this was not right. They recommended that abused children have access to counselling and that perpetrators be removed and jailed. These children were seen as championing children's rights.

### ***Other child participation***

Other organisations also enabled children to make their opinions and voices heard in parliament. For example, Molo Songololo, a children's organisation focusing on child participation, brought a group of children to provincial parliamentary hearings and made a huge impact on parliamentarians. The views of children obtained through child participation studies, not necessarily directly linked to the law reform process, were also included in written submissions made by civil society organisations.

### ***Lessons learned***

#### ***Law reform consultation processes***

1. Serious attention should be given to the language(s) used in the consultation. Requiring children to engage in English, when this is not their preferred language, has implications for translation and the gathering and reporting of children's real views.
2. The ability of facilitators to distil the information gathered, interpret the questions,

and ask those questions in a child-friendly way impacts on the quality of the consultation.

3. Training of facilitators and briefing them on the aims and objectives of the consultation before embarking on it is extremely important.
4. In focus group discussions, it is necessary to have at least two facilitators – one to facilitate the group discussion, and one to record the information.
5. It is vital that once the information is collected, facilitators correctly interpret what the children say and do not put words in their mouths.
6. Participation of children should be voluntary. Article 12 of the UNCRC says that children should be able to freely express their views.
7. The choice of service provider carrying out the consultation is important. For example, using a provider with existing relationships relevant to the consultation (e.g. with relevant organisations, institutions, children) can facilitate access.

#### ***Children's oral submissions in Parliament***

1. NGOs facilitating children's oral submissions to parliament need to make informed decisions before asking them to do so. They need to consider the consequences for children, and take responsibility for providing a supportive environment in which children can participate appropriately and with dignity. For example, in 2003 when children were brought to parliament to speak on their experiences, the chair of the committee was not very child friendly. This proved to be a daunting experience for the children, who were cross-questioned. One child even felt that he was in court. Today, some of the parliamentary committees are more receptive to children.

2. Decision-makers and parliamentarians must be told that children are an important group to consult when legislation concerning them is being developed. They must be educated about child participation, and understand that children can make invaluable contributions to decisions about aspects of life that affect them.
3. Parliamentarians have questioned the validity of children's views, suggesting they might have been coached. NGOs need to guard against putting words in the mouths of children. Children who are advocating the prohibition of corporal punishment need to be convinced of it for themselves, and not merely following adults' instructions.
4. Development of child-friendly documents is invaluable when facilitating children's participation during the legislative processes.

#### *Children engaging in their communities*

1. Children face resistance from adults who cannot accept the idea of children having influence or who simply do not agree with the notion of children's rights.
2. NGOs should carefully consider the consequences of putting children in the position of advocates, and the possibility that children would promote messages that might be unfamiliar to their community. These have the potential to alienate children from their communities and cultures. Facilitators must ensure that this does not happen and that children are supported throughout.

## 5 *Global progress in gaining faith-based support for law reform*

**Chris Dodd**

### ***The influence of religion***

It is estimated that almost five of the six billion people in the world are members of religious groups or have some affiliation with a faith-based community. In many countries, religions have had a very powerful influence on local customs, culture, and traditions.

Religious organisations are multi-generational and have the capacity to reach individuals, institutions, and sectors that other organisations cannot reach. Religion also affects those who do not profess allegiance to a particular faith.

Historically, religions have been involved in social justice and care but they have also failed to protect people from violence. In some countries, the introduction of corporal punishment goes back to the arrival of Christian missionaries in the nineteenth century. It has become deeply entrenched across the world, both in different faith-based groups and in secular society.

The Bible and other sacred texts have been used to justify corporal punishment by those who believe the scriptures to be the word of God. Although these interpretations are increasingly being challenged within different faiths, some groups continue to use the practice despite evidence of the harm it causes. In some parts of the world juvenile offenders are still being sentenced under Shariah law to cruel and degrading treatment including flogging, stoning, whipping and amputation. Interpretations of the law depend on local judges and courts.

### ***Opportunities for changing attitudes***

Recent global events such as the World Council of Churches (WCC) Decade for Non-violence, which put violence against children on its agenda for the first time, the UN Study on Violence against Children, and the World Conference of Religions for Peace (WCRP) World Assembly in Kyoto have provided a platform to address the issue of corporal punishment within religious groups. The UN Study has had a profound influence on religious thought. Religious leaders have admitted to a lack of contemporary theology about children and have been examining their spiritual teachings, focusing on how children are treated in society and in their own religious communities.

The level of respect and compassion given to children in the religious community is key to the level of involvement of religious groups in addressing violence against children and in becoming actively engaged in child advocacy and law reform.

### ***Religious principles and values as a basis for change***

Most of the world's religions say they regard the child as a person with inherent human dignity. Some believe children are created in the likeness and image of God. In Islam the child is placed on trust to the parents, by God. Jains practice non-violence in action, thoughts

and speech. The basic tenets of Buddhism are completely against imposing pain on others. In the Hindu tradition there is no greater good than a child: children should be allowed to develop without being hurt physically, emotionally or psychologically.

Some religions see themselves as having a prophetic role that challenges them to work for change for the vulnerable in society. These beliefs, together with the religious imperative to protect children from harm, can form a strong basis for engaging with faith-based groups and working collaboratively to address violence against children. All the world religions have in their scriptures a version of the golden rule: “Do to others as you would have them do to you.”

#### World religions say ...

|   |  |
|---|--|
| Islam   | The child is placed on trust to parents by God                       |
| Jainism   | Religion and culture have deep-rooted relevance to human development |
| Buddhism  | The basic tenets are completely against imposing pain on others      |
| Hinduism  | There is no greater good than a child                                |
| Christianity  | Children are created in the likeness and image of God                |
| All religions: “Do to others as you would have them do to you.” |  |

## **A global commitment by religious leaders – the Kyoto declaration**

### **Global consultation of religious leaders**

Recognising the pivotal role religions can play in addressing violence against children, WCRP and UNICEF convened a multi-religious consultation, ‘A Global Commitment to Confront Violence against Children’, in Toledo, Spain in May 2006. Fifty representatives of all the world’s religions, from 30 countries, took part.

The aim of the consultation was to develop a multi-religious response to the UN Study on

Violence against Children. Participants were asked to confront the reality and effects of violence against children, to think deeply about the causes of violence, and to find solutions and immediate responses to protect children. They also looked at how faith communities could come together to take leadership in their societies to protect children. The meeting pledged to help mobilise the international community and work in partnership with governments, UN agencies and others to implement the UN Study recommendations.

The success of the consultation relied on the sacred respect with which children are regarded by all religions and a strong consensus about the inherent dignity of the child. The meeting rejected all forms of violence against children and named the principles of compassion, justice, love and solidarity as strengths in addressing violence against children. This consensus enabled the group to address different cultural interpretations about what constitutes ‘violence’ and ‘discipline’, and to clarify them in a collaborative environment. The belief held by some that corporal punishment must not be used as a disciplinary tool in schools but is acceptable in the home, was resolved by a Muslim scholar who stated clearly that corporal punishment was unacceptable in all settings. There were instances throughout the meeting when differences were respected and put aside in the shared concern for children.

“Religion does not accept any form of violence against humans, especially against children. All Muslims are duty bound to raise awareness, but for religious leaders it is their job. We should highlight the role of religion regarding this issue.”

– Ayatollah Sayed Mousavi Bonjnourdi, Head of Law at the Khomainsi Research Institute, speaking at a press conference in Tehran on his return from the consultation

*A key action during the consultation was the confession and acknowledgement of the past failures of religious groups to protect children from violence and to be advocates for them.*

Religious leaders admitted that the suffering of children, and their vulnerability, had been increased through the silence, omission and failure of religious leaders to listen to children and take measures to protect them.

It was agreed that religion, once seen as part of the problem, must now be part of the solution to eliminating all violence against children, including corporal punishment. A declaration was made, which went on to become the Kyoto Declaration.

### **World Council of Religions for Peace (WCRP) 8th World Assembly, Kyoto 2006**

The declaration made in Toledo was endorsed at the eighth WCRP World Assembly in

Kyoto, which was attended by over 800 religious leaders. The Kyoto Declaration includes the call for prohibition of all forms of violence, including corporal punishment, and a multi-religious commitment to support prohibition and its implementation (see box on pages ...).

Follow-up activities have continued with the appointment of a multi-faith reference group to develop a resource guide to encourage active involvement of religious leaders and communities in addressing violence against children, including corporal punishment. The guide will look at how religious leaders can be advocates for children, changing attitudes and supporting law reform through their existing roles as pastors, leaders of religious organisations, teachers and scholars, leaders of worship, and community leaders and activists.

## **The Kyoto Declaration**

### **A Multi-Religious Commitment to Confront Violence against Children August 2006**

As representatives of various religious communities gathered at the Religions for Peace VIII World Assembly in Kyoto, Japan, we are committed to confront the reality of violence that affects children in our societies. We offer our support to mobilizing the international community through the United Nations Study on Violence against Children to address these critical issues, and we are ready to work in partnership with governments, UN agencies, and other civil society actors to implement the recommendations of this study.

We find strong consensus across our religious traditions about the inherent dignity of every person, including children. This requires that we reject all forms of violence against children and protect and promote the sanctity of life in every stage of a child's development. Our religions share principles of compassion, justice, love and solidarity that are great strengths in dealing with the difficult presence of violence in human society.

Our faith traditions take a holistic view of a child's life, and thus seek to uphold all the rights of the child in the context of its family, community and the broader social, economic and political environment. All children hold these rights equally and we must ensure that boys and girls have

equal opportunities to enjoy these rights, particularly education, protection, health, social development and participation. Our religious communities are blessed to be multi-generational, and we must use this to support the active participation of children in their own development and to address issues of violence.

We must acknowledge that our religious communities have not fully upheld their obligations to protect our children from violence. Through omission, denial and silence, we have at times tolerated, perpetuated and ignored the reality of violence against children in homes, families, institutions and communities, and not actively confronted the suffering that this violence causes. Even as we have not fully lived up to our responsibilities in this regard, we believe that religious communities must be part of the solution to eradicating violence against children, and we commit ourselves to take leadership in our religious communities and the broader society.

None of us can address this problem alone. It requires partnerships, solidarity, and building alliances. Even as our religions have much to offer, we also are open to learning more about the development and well being of children from other sectors, so that we can each maximize our strengths. We are strongly committed to fostering effective mechanisms for inter-religious cooperation to more effectively combat violence against children.

Based on these principles and guided by the power of the Divine as it is understood in each of our traditions, we make the following recommendations and commitments, speaking to our religious communities, governments, the United Nations, civil society and to all throughout the world who have held a child in love – with tears for its pain, with joy for its life:

1. We will create greater awareness in our communities about the impact of all forms of violence against children, and work actively to change attitudes and practices that perpetuate violence in homes, families, institutions and communities, including corporal punishment, emotional and sexual violence.
2. We will promote the child as a person with rights and dignity, using our religious texts to provide good examples that can help adults to stop using violence in dealing with children.
3. We have an important obligation to teach and train our children, which involves discipline and helping children understand their responsibilities. We will educate and train parents, teachers, religious leaders and others who work with children to find non-violent forms of discipline and education that will ensure their proper upbringing and protect them from violent actions.
4. We will develop curriculum to use in theological training and in parental education to raise awareness about child rights and ways to eliminate the use of violence.
5. We are committed to inter-religious cooperation to address violence and will make use of the synergies among our religious communities to promote methodologies, experiences and practices in preventing violence against children.
6. We call upon our governments to adopt legislation to prohibit all forms of violence against children, including corporal punishment, and to ensure the full rights of children, consistent with the Convention on the Rights of the Child and other international and regional agreements. We urge them to establish appropriate mechanisms to ensure the effective implementation of

these laws and to ensure that religious communities participate formally in these mechanisms. Our religious communities are ready to serve as monitors of implementation, making use of national and international bodies to maintain accountability.

7. We encourage religious communities and other public actors to use special days, such as the International Day of the Child, to bring public and media attention to child rights issues, particularly violence against children.
8. We call on UNICEF and the World Conference of Religions for Peace to facilitate the sharing of information and developing of resources to assist our communities to more effectively address violence against children.

Kyoto, Japan  
28 August 2006

## **Examples of building faith-based support for prohibition**

### **Investing in work with religious scholars – Islam**

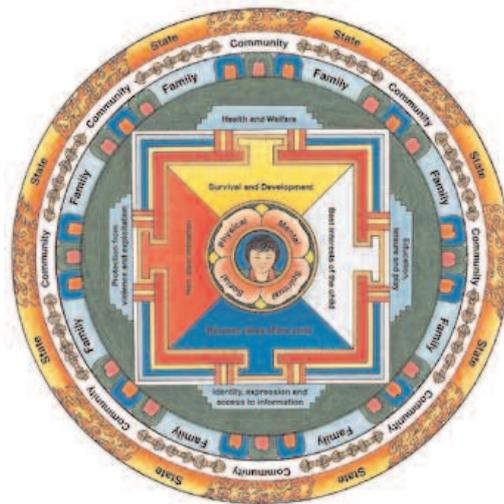
‘Children in Islam’, a study published by UNICEF in collaboration with Al-Azhar University, Cairo, is an example of how religious scholars have helped to change attitudes about children.<sup>21</sup> The study is used in the region as a resource tool to promote the rights of the child and to eliminate harmful traditional practices. Future plans include extending the scope of the study to include other religions and regions.

As a result of the study, prominent religious leaders, including Sayyed Mohammed Tanta-wi, Grand Sheikh of Cairo’s Al-Azhar mosque, and Coptic Pope Shenouda 111, have publicly declared that neither Islamic nor Christian religious texts support harmful practices.

### **Building on existing religious symbolism – Buddhism**

An understanding of the religious symbolism and the spiritual practice of a particular faith can sometimes be used in work to change attitudes towards children and promote children’s human rights. For example, in one Bhutan workshop,

the principles of the UNCRC were translated into a mandala – blending the Buddhist approach with the basic framework of the CRC:



Traditionally the mandala is a vehicle for concentrating the thoughts and mind more precisely on valued concepts towards enlightenment. In this example, the mind was concentrated on children’s rights.

Significantly, the child has been placed in the centre of the mandala which is the usual abode of the deity. The child is surrounded by a series of circles and squares symbolising the principles of the UNCRC and emphasising their

symmetry, interdependence and inter-relatedness. The cardinal points are the four main provisions and principles of the UNCRC. As a ripple in a pond, each idea builds upon the next as it grows larger and flows outward.

### **Revisiting religious texts – Christianity**

Many Christians agree that the UNCRC reflects the principles of Christianity, particularly in light of the recorded encounters between Jesus and children, where he places the child in the centre (Matthew 18) and when he insists on listening to children.

Most Christians read the Bible through the prism of the teachings of Jesus, which were about treating children with respect and compassion. He not only taught how to make an adult world more compassionate and just for children; he taught about a social world in part defined by children.

Changing the attitudes of Christians who use the Bible to justify the use of corporal punishment presents a huge challenge. They often quote selective texts from the Old Testament Book of Proverbs in this regard.

#### **Spare the rod...**

‘Those who spare the rod hate their children, but those who love them are diligent to discipline them’ (Proverbs 13:24, NRSV1), or its modern version, ‘Spare the rod, spoil the child’ has been used universally to justify hitting children, by interpreting the word ‘rod’ to mean an instrument for hitting.

But the word ‘rod’ comes from the Hebrew word ‘shebet’, which in translation means ‘sceptre’ or ‘staff’. A ‘shebet’ is a shepherd’s staff and tool for guiding sheep. A shepherd cares for sheep and guides them through the wilderness and leads them to safety. This does not include hitting them.

The problem with literal interpretation of selected texts is that other texts are ignored. For example, the purpose of ‘discipline’ can be found at the beginning of the Book of Proverbs (Proverbs 1:2). Here ‘discipline’ means learning about wisdom and instruction, understanding words of insight, righteousness, justice and equity. The Hebrew word used in this context defines discipline as ‘teaching’ not beating.

Generations of parents have misinterpreted the ancient texts and used them to justify physical punishment and to break a child’s spirit. They have confused the fear caused by corporal punishment with respect, and failed to see that fear drives out respect.

Religious groups recognise the urgent need for scholars to use religious texts to promote non-violence. This is particularly important in challenging Christians who use the Bible as justification for hitting children.

#### **Bishops’ Conference of Norway**

In January 2008, the Bishops’ Conference of Norway agreed that outdated language used to justify corporal punishment of children should be replaced in new translations of the Bible in Norway. Church leaders agreed to the proposal by the Norwegian Ombudsman for Children, to replace the word ‘chastisement’ in the Bible with more appropriate language, reflecting its original and intended meaning. This was because children, who had contacted his office saying they had been subjected to physical harm, believed the violence may have been authorised by the Bible.

‘While Holy Scripture is the basis by which we undertake this work, the United Nations Convention on the Rights of the Child will serve as a guiding framework in our advocacy.’

– Archbishop Njongonkulu Ndungane, former Primate of Southern Africa and supporter of the Global Initiative, addressing TEAM (Towards Effective Anglican Mission)

### **South African Council of Churches**

During 2007, the South African Council of Churches (SAAC) insisted there can be no Biblical justification for corporal punishment of children in the 21st century. SAAC, supported by Save the Children, produced a document explaining the religious arguments against corporal punishment entitled 'Religions, the Promotion of Positive Discipline and the Abolition of Corporal Punishment: Frequently Asked Questions'.<sup>22</sup>

### **New Zealand**

One of the most important examples of direct involvement of religious groups in pursuing law reform is illustrated in the work of Beth Wood and colleagues from EPOCH with Christian denominations in New Zealand.<sup>23</sup>

In the face of opposition from a group of Biblical literalists, religious leaders presented a Christian perspective in declaring their support for the repeal of Section 59 of the Crimes Act, and a signed statement in support of repeal, to Prime Minister Helen Clark.<sup>24</sup>

### **Ways forward**

- Build good relations with religious leaders.
- Develop religious support through the existing roles and functions of religious leaders – leaders of religious organisations, leaders of worship, teachers and scholars, pastors, community leaders and activists.
- Invest in religious scholarship. Disseminate readable documents, e.g. countering the arguments supporting corporal punishment under Shariah law.
- Develop regional, national and local multi-religious reference groups.
- Develop a system for sharing information and resources.<sup>25</sup>
- Use the Kyoto Declaration as a model for action.

- Understand the status of children in religious communities. Ask:

- (1) What is the status of children in the religious and wider community?
- (2) Is there support for the UNCRC?
- (3) How is child development understood in the culture of the community?
- (4) How is 'discipline' understood?
- (5) How do the cultural and religious values, traditional practices and beliefs affect the protection of children?
- (6) How can religious communities be mobilised to work together to eliminate corporal punishment?
- (7) What resources are needed?

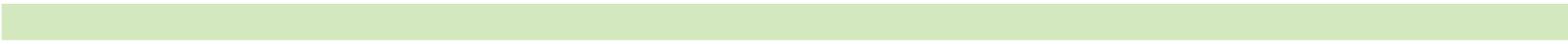
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21. See [http://www.churchesfornon-violence.org/Egy-home-page-childreninislamengsum\(1\).pdf](http://www.churchesfornon-violence.org/Egy-home-page-childreninislamengsum(1).pdf) Available at [www.churchesfornon-violence.org/links.html](http://www.churchesfornon-violence.org/links.html)

22. See chapter 5 of Wood, B., Hassall, I. & Hook, G. (2008), *Unreasonable Force – New Zealand's journey towards banning physical punishment of children*, Save the Children, New Zealand, and sections 3.2 and 6.2 of this report

24. The full statement is available at [www.churchesfornon-violence.org/links.html](http://www.churchesfornon-violence.org/links.html)

25. For further information on resources, see Annex 8 and the website of the Churches' Network for Non-Violence at [www.churchesfornon-violence.org](http://www.churchesfornon-violence.org)



## 6 Implementation of prohibition in the home and other settings

### 6.1 Lessons from Sweden

**Monika Sarajärvi**

#### ***The history of legislative reform in Sweden***

At the end of the 19th century, legislation slowly started to change to demonstrate that the child is an individual with his or her own rights. Only decades earlier it had been perfectly acceptable for a husband to beat his own servants, wife and children – provided they didn't die from their injuries. In 1920, a law was passed giving priority to the best interests of the child. But at that time, 'a good spank' was still considered to be in the child's best interests, and was expressly permitted in the law.

The first law explicitly regulating the relationship between parents and children was introduced in 1949. The law referred to 'reprimand' instead of 'punish', indicating that parents should avoid the 'more violent forms of physical violence'. But corporal punishment was still permitted.

In 1957, the legal defence for the use of corporal punishment was removed from the Penal Code. This meant that it was no longer lawful for a parent or guardian to beat a child if this caused injury. And soon after, corporal punishment in schools and in social, including penal, institutions was prohibited. But the Parenthood and Guardianship Code still allowed for corporal punishment by parents.

In the mid-1960s, an investigation revealed

that many children were still subject to assault in their homes. The Ministry of Justice wanted to introduce legislation saying that chastisement was no longer allowed, but the Swedish parliament was not ready to take this step. However, they agreed to remove the provision from the Parenthood and Guardianship Code which said that parents could use 'convenient means' of bringing up children, commonly used to justify the use of corporal punishment. In theory, this meant that children in Sweden had the same right under criminal law to be protected from violence at the hands of their parents as did adults and other people's children.

But the long history of social and legal acceptance of corporal punishment in childrearing meant that this was insufficient in itself to protect children from being hit by their parents. This was highlighted by a number of cases of child abuse in the early 1970s.

Following one case, where a father was acquitted even though his daughter had been taken to hospital covered in bruises, parliament in 1977 appointed a Children's Rights Committee to investigate how many people knew that since 1966 it had been unlawful to beat children. The Committee also considered whether stronger legislation was necessary to protect children. Public awareness of the law was found to be poor, and experts testified that physical chastisement and humiliating,

insulting and degrading treatment was endangering children's development. The Committee proposed explicit prohibition in law, which was enacted in the Parenthood and Guardianship Code in 1979.

#### Summary of legal reform in Sweden

|      |   |
|------|---|
| 1949 | Parenthood and Guardianship Code – regulated the parent-child relationship, and referred to 'reprimand' not 'punish', but permitted corporal punishment |
| 1957 | Penal Code – amended to remove the legal defence available to parents who assaulted their children in the name of punishment                            |
| 1958 | Corporal punishment forbidden in schools  |
| 1960 | Corporal punishment forbidden in social, including penal, institutions  |
| 1966 | Parenthood and Guardianship Code – amended to remove the legal defence for parental corporal punishment   |
| 1975 | Acquittal of the father of a 3-year-old, despite causing extensive bruising, prompted parliamentary concern   |
| 1977 | Children's Rights Committee appointed by parliament to investigate effectiveness of the 1966 legal change   |
| 1978 | Children's Rights Committee recommended explicit prohibition  |
| 1979 | Parenthood and Guardianship Code – amended to explicitly prohibit corporal punishment   |

#### Parenthood and Guardianship Code (amended 1979)

*'Children are entitled to care, security and a good upbringing. Children are to be treated with respect for their person and individuality and may not be subjected to corporal punishment or any other humiliating treatment.'*

#### The purpose of prohibition

The Swedish ban on corporal punishment had, and still has, three objectives:

#### 1. To change attitudes

The ban was intended to alter attitudes towards the use of physical force against children. The law was expected to produce a shift in social pressure, so that a 'good' parent would be seen as one who does not use physical punishment.

#### 2. To set guidelines

The ban was intended to set a clear guideline for parents and professionals working with children, ending debates about 'acceptable' and 'unacceptable' forms of physical punishment. Nurses, social workers, teachers and other professionals could now state clearly that physical force was simply not permitted.

#### 3. Earlier identification, intervention and prevention

Earlier identification was expected to result in earlier intervention and prevention. Professionals could now feel comfortable in recommending alternative disciplinary strategies, providing supportive and educational materials to families, and acting quickly when they identified families at risk.

An obligation to report suspected child abuse, on professionals and authorities such as child-care, school, health and social services, accompanied the law. This made it clear that violence is never a private matter.

#### Public education

The Ministry of Justice in Sweden understood that although the new law enjoyed broad domestic support they would need to take strong action to make it known to the wider public.

A massive information campaign was launched in the media, but information efforts were also targeted directly at families, including:

- a 16-page pamphlet distributed to all families with children. It was printed in many languages and was the most expensive pamphlet distribution ever carried out by the Ministry of Justice
- information on milk cartons. For two months, information about the law was printed on milk cartons, ensuring that the campaign landed in practically every Swedish kitchen, giving children and their parents a topic to discuss.

In 1981, two years after the law had entered into force, a survey showed that 99 per cent of the Swedish population was familiar with the law.

### Impact

At the time, the ban on physical punishment was considered a radical measure outside of Sweden. Many international commentators ridiculed it or viewed it as an intrusion into private life – a threat against the liberty of parents in bringing up their children.

In Sweden, very few people accused the government of meddling in family affairs by imposing the law. However, a small group of parents did complain to the European Court of Human Rights, claiming that their rights as parents were being violated. Their complaint was turned down and instead the Council of Europe promoted the Swedish initiative and expressed their wish for more countries to follow this example.

From the legal point of view all loopholes in the law had now been closed in such a way that the use of violence could no longer be justified by claiming that it was necessary or reasonable. However, publicising the law and influencing attitudes, as well as offering parents support on positive parenting, is a continuous process.

### Evaluating the effect of prohibition on attitudes and behaviour

Attitudes towards physical punishment do not necessarily reflect what is actually happening, so evaluation of prohibition must measure both.

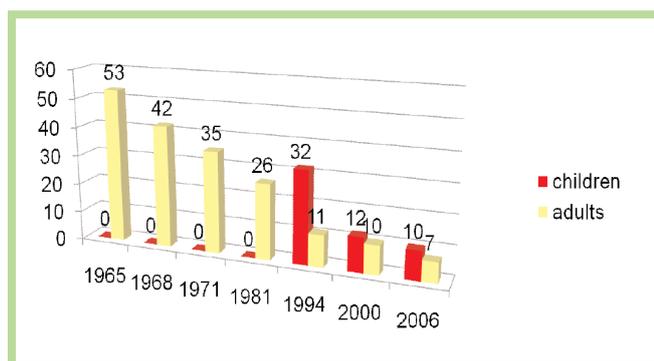
In 1999, the Swedish Government established the Committee on Child Abuse and related issues, to evaluate the impact of the ban on corporal punishment. The long-term objective was to create:

- better conditions for the prevention of child abuse
- better co-operation between authorities
- better knowledge among professionals
- better opportunities to provide support and assistance to abused children.

The creation of the Committee was also part of the Swedish strategy to implement the UNCRC.

The investigation found a significant and steady decrease in support among adults for the use of corporal punishment, from 53% in 1965 to 7% in 2006.

### Percentage of people in favour of corporal punishment



The research revealed that certain groups are more likely to be in favour of corporal punishment than others:

- Men and boys view corporal punishment more positively than women and girls.
- Parents of whom one or both are born outside of Sweden, and children born outside of Sweden, are more in favour of corporal punishment than parents and children born in Sweden.
- Parents and children who have themselves been corporally punished have a much more favourable attitude toward corporal punishment than parents and children who have never experienced it.

As well as the clear change in public attitudes towards corporal punishment, there has been a clear change in behaviour, with a steady decline in the infliction of corporal punishment on children by parents. In 1994, 65 per cent of children had never experienced corporal punishment: by 2000, this figure had grown to 86 per cent. In 1980, 51 per cent of adults said they had used corporal punishment during the previous year: in 2000 the figure was 8 per cent.

### **Challenges and Opportunities**

- The prohibition of ‘other forms of humiliating treatment/punishment’ needs to be elaborated.
- In Sweden, people from many cultures live side by side and do not get the same information. Approaching the issue of the ban on corporal punishment from the rights perspective can create suspicion. SC needs to approach new parents and explain the issue to them.
- There needs to be a shift from a discourse of ‘discipline’, ‘boundaries’, and ‘manage-the-child’, etc. to one of ‘parents knowing

their own boundaries’, ‘interaction-with-the-child’, ‘relationship’. Discipline is linked to punishment, and is associated with boundaries and parents needing tools to ‘manage’ the child rather than ‘interacting’ with the child. It is better to promote an approach that is not method based and focus instead on the relationships parents can have with children, to explore the people they are and who they will become.

- There is a need for child-friendly reporting and support systems. It is most important for children to know what action will or will not be taken so they can seek support.

## 6.2 Implementation of prohibition: Lessons from New Zealand

### **Beth Wood**

Following the passing of the total ban on corporal punishment in New Zealand,<sup>26</sup> there was a brief period of excitement, co-operation between organisations and government, and hope for a complete change in people's views on corporal punishment. However, the period following the ban has not been entirely positive and the campaign is by no means over.

### **The journey continues**

The climate following prohibition has been characterised by:

- political caution. Following the law reform, the country was weary of the debate, advocates were exhausted and politicians just wanted it all to go quiet so that they were not put further at risk from angry voters
- a failure to publicise the new law. Since the new law had not been sponsored by a government politician,<sup>27</sup> the government seems to take little responsibility for its implementation. There has been no government-led public education campaign about the new law and no resources about it produced by the government. Some NGOs and the Children's Commissioner have produced materials
- a failure to gauge understanding and support. Public knowledge about, and understanding of, the new law remains unknown. Research is needed
- a failure to establish monitoring mechanisms
- media publicity about cases investigated/prosecuted under the new law
- highly organised and well-funded opposi-

tion. The organised forces against the new law have been very active. There is a petition before parliament to force a referendum to overturn the new law. The results of a referendum would be non-binding but would put pressure on politicians. The petitioners have managed to collect approximately 300,000 signatures (roughly 10 per cent of registered voters), many of which were gathered before the law change. Other informal polls suggest that the law change is not popular.

### **More positively ...**

- Advocates of the new law are still active, for all the above reasons, e.g. producing leaflets on the new law, media information kits on why a referendum is unnecessary, briefings, etc.<sup>28</sup>
- So far, politicians of most parties, including the two main ones, have tried to stay out of the debate and have not answered calls for the law to be overturned. This is despite the fact that there is a general election later in 2008 and some politicians might be tempted to win votes by promising to revisit the law.
- Well-informed commentators, such as newspaper editors are becoming impatient with the petitioners, and calling for people to get on with living with the new law.
- There is no significant increase in prosecutions under the new law. Other interventions that are more in children's best interests are available. Cases that do reach court are those where there is an increased risk to children's safety and/or the assault is heavy handed. Sentences in the few cases that have

been heard have been supportive of family functioning, as the courts have dealt with the cases compassionately and sensibly.

### In summary:

|                                   |   |
|-----------------------------------|---|
| Do the public know about the law? | Probably  |
| Are the public well informed?     | Probably not  |
| Do the public resent the new law? | Some do, but no figures available                   |
| What about the politicians?       | Supporting the law so far                           |
| View of informed commentators     | Get over it and get on with living with the new law |

## The case being made against the new law

Opponents of the new law are arguing that:

- New Zealand has become a ‘Nanny State’, and government has no right to interfere in the way families raise their children
- child abuse has not stopped. There were never any claims that it would – though in time, child abuse rates are likely to drop as attitudes change
- investigations are intrusive and there are unnecessary prosecutions. In fact, the investigations that have taken place have been entirely appropriate
- smacking is effective and essential.

EPOCH is constantly on the lookout for opportunities to challenge these claims, but they are sometimes hard to find. EPOCH has prepared material for the media in the form of an information kit, and for politicians in the form of a briefing sheet, and tries to ensure that positive views of the prohibition get as much media attention as the opposition.<sup>29</sup>

## Advocacy activities

Advocacy activities since the law was passed

include:

- reactivating the alliance
- being responsive to the media
- lobbying politicians to stay strong on the new law
- informing politicians
- challenging opposition
- preparing to mount a public campaign in the event there is a referendum
- organising research.

The following media release is one example of continuing leadership and advocacy. Dr Hone Kaa is an Anglican Bishop and a leader in the Maori Community. He and others have recently formed an alliance, Te Kahui Mana Ririki, to work to reduce child abuse among the Maori, the indigenous people of New Zealand.

### Media release

*Maori must maintain opposition to smacking*  
Thursday, 15 May 2008, 1:08 pm

Maori must continue to maintain a commitment to non-violent parenting, Dr Hone Kaa said this morning as pressure to revisit the legislation around smacking continues.

“Maori children are twice as likely to be abused as other groups. We must stop using smacking as disciplinary technique. It sits on a continuum of family violence that has become epidemic within our *whanau* [family].”

Dr Kaa has called a cross-party meeting with Maori politicians next week to talk about strategies to reduce Maori Child Abuse. Maintaining the repeal of Section 59 is high on the agenda for the *hui* [meeting].

“The Children’s Commissioner Dr Cindy Kiro is one of the few Maori leaders who have shown a continual commitment to this issue. We must stand with the Commissioner and be unified.”

## Hope for the future

- The petitioners may not collect enough signatures to force a referendum.
- The referendum, if it takes place, is non-binding.
- Politicians and many commentators do not want a re-run of the debate.
- Over time, the worst fears about the new law will prove to be without substance.
- Over time, the new law can be promoted positively.
- Over time, more parents will learn about positive parenting.

The new law is likely to be retained and, in time, to increase respect for children's rights in New Zealand. The public are likely to become more supportive when they find that children's best interests are not only being served by the new law protecting children's rights, but also in the sensitive way in which the law is applied.

Efforts to promote positive non-violent parenting are ongoing, through a government initiative called *Strategies with Kids: Information for Parents* (SKIP) and many NGO projects – though promoting the positive benefits of the new law and explaining its provisions will probably remain a task for NGOs.

The Children's Commissioner launched a revised edition of a popular positive parenting booklet called *Choose to Hug* in June 2008. It explains the provisions of the new law.<sup>30</sup>

Children in New Zealand are taught how to handle fighting and bullying in schools. If another child hits them, they are taught to put out their hand and say, "Stop it! I don't like it!" One day a mother came to her child's teacher and told her that she was so angry with her child, she smacked him. He put out his hand and said "Stop it! I don't like it!" The mother

was shocked at her own action and very upset. She swore never to slap her child again.

## Lessons learned

1. Law change is not the whole story. The new law is not exactly what was hoped for, and the question has to be asked whether it would have been better to have refused to support the compromise law. But it seems to be working well so far.<sup>31</sup>
2. There are risks associated with political compromise and limited support. With an election in the near future, some political parties may hint at revising the law in order to get votes, though there is little sign of this so far.
3. There is a risk that political expediency will dominate over the best interests of children.
4. Maintaining the energy of supporters is a challenge. Advocates are sometimes worn out. The excitement of the challenge has gone. It would be difficult to engage the necessary help to influence a referendum outcome.
5. Conservative forces are determined, powerful, and very well funded. In New Zealand, the issue of the perceived right to smack is part of a bigger political agenda to overthrow a government that has been in power for nine years and has introduced some socially progressive legislation, including legal unions for same-sex partners, de-criminalisation of prostitution, banning smoking in bars and cafes, etc. The same people opposed some of these laws that oppose the child discipline law.
6. Children are the focal point of the issue, and it is vital to address their right to know about the new law.

## 6.3 Implementation of prohibition: Lessons from South Africa

### Samantha Waterhouse

This chapter examines implementation of prohibition in schools in South Africa.

#### The legal context

##### South African Constitution

The South African Constitution includes a number of provisions that protect children's rights, including:

- freedom and security of the person – rights to protection from all forms of violence from either public or private sources, and not to be treated or punished in a cruel, inhuman or degrading way (section 12)
- equality – rights to equal protection and benefit from the law, and non-discrimination on the basis of age (section 9)
- right to respect for human dignity (section 10)
- right to protection from maltreatment, neglect, abuse and degradation (section 28).

##### Legality of corporal punishment

Corporal punishment is lawful in the home, under the common law defence of 'moderate and reasonable chastisement' in cases of assault. It is prohibited in all other settings. In schools, corporal punishment was abolished by the South African Schools Act 1996 and the National Education Policy Act 1996. Prohibition was partly initiated by government with a civil society force, immediately after corporal punishment in penal settings became unlawful.

Article 10 of the South African Schools Act 1996 states:

##### *Prohibition of Corporal Punishment*

*(1) No person may administer corporal punishment at a school to a learner*

*(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence which could be imposed for assault.'*

Article 8 states that a school must develop a code of conduct with learners, parents and educators, to establish a disciplined school environment.

The National Education Policy Act, No. 27 of 1996 requires that the Minister of Education determine the national education policy on a range of issues including on 'control and discipline of students at education institutions: Provided that no person shall administer corporal punishment, or subject a student to psychological or physical abuse at any education institution' (article 3).

##### Legal challenge

The prohibition of corporal punishment in schools has been challenged in the courts. In *Christian Education South Africa v Minister of Education* (Constitutional Court, Judgment – August 2000), 196 Christian independent schools argued that 'corporal correction' was integral to their Christian ethos, and that prohibition limited the right of parents to consent to 'corporal correction' of their children at independent schools.

The Court dismissed the appeal and held that:

- corporal punishment infringes on the child's rights to dignity and to be free from all forms of violence

- corporal punishment had no place in schools, based on history and the issue of institutionalised violence and humiliation of children, and the impact of this on society
- Christian schools form part of broader society and children in Christian schools form part of society
- Christian parents may not authorise teachers to inflict corporal punishment on the grounds of religious freedom.

### **Department of Education strategy**

Corporal punishment was banned in the context of efforts to move from apartheid education. There was no initial Departmental strategy for implementing the ban. It was implemented at the same time as classroom sizes increased and the curriculum was changed, both changes which teachers felt ill-equipped to manage.

Guidelines for *Alternatives for Corporal Punishment* were developed in 2000 and 2001, but there was no strategy for dissemination. Many educators still have not seen this document.<sup>32</sup> NGOs have been involved in implementing Alternatives training programmes in schools. Their interventions tend to be ad hoc and many target individual schools, though there is some work at the district and provincial level.

The legal requirement for codes of conduct was poorly implemented. Codes have been developed in a number of schools, but many are still without, and few have been developed with the genuine participation of learners.

In 2007, the Department of Education undertook radio and television advocacy campaigns on classroom management and discipline.

There is a strategy to improve leadership and management at schools, which includes the issue of classroom management and discipline of educators and learners. But essentially there was, and is, no dedicated or comprehensive strategy by the Department to address discipline in schools.

### **Prevalence of corporal punishment**

In spite of legal abolition, corporal punishment is widely practiced in South African schools. The Department of Education estimates that 60 per cent of schools were using corporal punishment in 2006. Research in schools by the University of the Free State showed that in 2005, 58 per cent of teachers believed corporal punishment should be reinstated, with 28 per cent admitting to still using it.

In the National Youth Victimization Survey in 2005, involving 3,247 children and youth, 51 per cent reported experiencing caning and spankings at school, with the highest rates being experienced by black youth, 12 to 14-year-olds, and learners in poor rural areas.

In a survey by the University of Witwatersrand survey in 2005/2006, of 1,700 learners in 15 schools, 80 per cent noted that teachers used corporal punishment at least once a week, with about 20 per cent using it daily. Over half (53 per cent) believed corporal punishment is still lawful.

### **Corporal punishment in the context of violent communities**

The issue of discipline in classrooms is often divorced from broader violence at schools and in the surrounding communities. This is in spite of the obvious link between schools experiencing the most serious levels of violence being located in communities with high rates of violence.

South Africa is one of the most violent societies in the world. Children experience high rates of violence in general, and this is reflected in violence at schools. This violence includes physical violence, sexual violence and psychological abuse including:

- violence perpetrated by educators on children

- violence perpetrated by community members on children and educators
- violence perpetrated by children on children
- violence perpetrated by children on educators.

In spite of the continued use of corporal punishment in schools, its prohibition is often cited as the reason for high levels of violence in schools and in society. This is then cited as a reason not to prohibit corporal punishment in the home. MPs often use the example of the Columbine and other shoot-outs in the US.

The Department of Education repeatedly notes that problems with school discipline can be addressed by better discipline by parents in the home. But the Department fails to see a role for itself in strengthening the capacity of parents and providing space for them to engage with issues of parenting.

### **Children perceived as the problem**

Children are seen as the problem in society, rather than being recognised as victims of violence:

- Violence committed by children is emphasised, while other actors are downplayed or ignored by the public and the media.
- Adults do not see children's behaviour as a reflection of adults' behaviour.
- Debates on school discipline generally ignore the wide range of unacceptable behaviour of teachers. In a focus group discussion with RAPCAN (Resources Aimed at the Prevention of Child Abuse and Neglect), learners indicated that in addition to corporal punishment, educators regularly swear at learners, are drunk or hung over at school, lie, arrive at school late or are frequently absent.
- The recent Education Laws Amendment Act enables largely unregulated searching and drug testing of learners by educators,

which would exacerbate sexual violence.

- The Bill of Responsibilities for learners is to be introduced with no similar Bill for teachers.

### **Successful strategies in schools**

Successful strategies by RAPCAN include:

- capacity building for the Department of Education and NGOs through training instructors
- *The Tree by the River* story and workbook
- work at provincial and district levels
- access to certain schools at local level as part of community-based violence prevention programmes
- teacher training programmes at universities.

#### **Comments on the RAPCAN programme**

*"When I do something wrong, my teacher tells me what I do wrong. She is very kind and I love my teacher."* Learner

*"I like that school because there is a culture of respect that is visible from the teacher to the children."* Parent

Successful Management, Systems and Training Programmes (MSTP) include:

- approaching positive discipline through broader school leadership programmes
- the 'seven steps' methodology, developed from pilot research
- teacher training and school management training at universities.

### **Comments on MSTP Programme**

*"The school has benefited from having a Code of Conduct for Learners that takes into consideration learners' circumstances. There is now a sense of family in the school."*

School management

*"Learners now enjoy coming to school."*

Learner

*"I don't fear my teachers anymore because they don't beat us. I now listen to what they say in class. Teachers and learners are proud of our school."*

Learner

Other NGOs (e.g. the Quaker Peace Centre) engage at school and community levels.

### **Successful strategies are characterised by:**

- an inclusive approach to the development of codes of conduct, in which all school staff, governing bodies, parents, learners and educators participate, and which all are bound by
  - recognition of the context and experiences of learners and the impact of this on their behaviour
  - strengthening the methods of positive discipline, using problem solving, testing and adjustment
  - not relying heavily on financial resources at school level, taking impoverished contexts into account
  - strengthening the links between the school, families and the community to address issues and facilitate learning
- utilising educators who use positive discipline successfully to educate others
  - continuous intervention – one-off workshops give ideas but do not address mind-sets or stressors
  - school leadership in the process
  - organised and structured participation of learners
  - formal engagement of parents.

### **Lessons learned**

1. It is essential that prohibition of corporal punishment be accompanied by a government strategy for implementation at the outset.
2. NGOs have limited reach. The state must take responsibility for implementation.
3. Resources and time must be allocated to district level to facilitate and support implementation at schools. This must be addressed in provincial budgets.
4. NGOs should develop and test material and pilot programmes to enhance classroom management.
5. NGOs must help build the capacity of the Department through training the trainers and developing materials
6. NGOs must ensure the quality of programmes delivered, through support to, and monitoring of, state initiatives
7. Advocacy should be undertaken at national and local levels. It must continue to:
  - challenge and correct inaccurate messages and beliefs relating to discipline and school violence
  - maintain pressure on the National and Provincial Departments as well as on School Districts and schools to implement the prohibition
  - insist on quality programmes, including adequate time and resource allocation for training and delivery

- take a whole-school approach to the issue
- advocate for resource allocation for capacity building in schools to address contextual issues
- consider legal action against the Department
- ensure NGO collaboration.

## 6.4 Implementation of prohibition: Lessons from Romania

**Gabriela Alexandrescu**

### **Key elements in advocating for children's right to protection from violence**

Following the complete ban on corporal punishment in 2005,<sup>33</sup> SC Romania carried out several campaigns to advocate protection of children from corporal punishment. Key elements in this advocacy were:

Preventive measures:

- information campaigns in schools, health units, care institutions
- training for professionals and parents.

Children's participation:

- public debates with children, Save the Children volunteers, public authorities and personalities on children's rights and eliminating violence against children
- events with children in schools
- children's forums
- children's clubs
- a play illustrating children's right to protection from violence being violated
- a National Hearing spreading the message, 'Children say NO to violence'
- street campaigns.

Assistance and counselling:

- setting up of five counselling and rehabilitation centres for children and families, with 36 professionals available
- three extended training sessions for profes-

sionals on specific therapies for children and families

- establishment of five resource centres for parents to attend training sessions on positive discipline methods.

### **Initiatives based on the UN Study**

SC Romania needed to promote the law and raise awareness, as well as educating parents and professionals about positive ways of disciplining children. Using the launch of the UN study as a base, a number of activities were conducted.

#### **National seminar on Violence against Children (2005)**

SC was the first organisation in Romania to arrange such an event, which the media was invited to cover. A manifesto against corporal punishment, signed by prominent personalities, was launched. Statements by children, media celebrities, parents and teachers were recorded and broadcast on television. The launch attracted a lot of attention and helped spread awareness about the new law.

The objectives of the seminar were to:

- provide information on the UN Study
- identify future actions
- stimulate children's participation
- prepare for Romania's participation in the regional consultation.

Participants came from international organisations (UNICEF, WHO, ILO-IPEC), ministries and other central public institutions, local authorities, and NGOs.

### **Open letters**

These were sent to remind the government to answer the country questionnaire within the UN Study. The questionnaire requested, among other things, detailed information on the legality of corporal punishment and on measures taken to eliminate it.

### **Participation in the regional consultation**

SC's participation in the regional consultation in the UN Study process included working with a group of school children to design and answer questionnaires to learn about their opinions on the ban. A publication, *Children Say NO to Violence!* was the result of these consultations. Children participated in the regional consultation and meetings for designing child-friendly materials in Ljubljana in July 2005, and in New York in May 2006.

### **Children's Forums**

National Children's Forums were held in 2005 and 2006. The theme for 2005 was 'Children say NO to violence!', for 2006 'Fighting Violence against Children'. In 2006, a National Meeting of Children was held to inform children about the progress of the UN Study, and to consult them on the form and content of the child-friendly materials developed.

### **Launch of the Study**

Following the launch of the UN Study report in New York, in October 2006, SC Romania issued a press release informing the public about the Study, together with a summary of the Study.

## **Building a Europe for and with Children**

In April 2006, in Monaco, the Council of Europe launched its three-year programme to combat violence against children. Eliminating corporal punishment throughout Europe is an important element of this programme.<sup>34</sup> SC Romania was involved in the children's preparation meeting and in the conference, and developed an electronic newsletter entitled *Info-Children's Rights*, informing the public and children's rights specialists about the programme.

### **Achievements**

The significant outcomes of SC's work following the legislative prohibition of corporal punishment include:

- the adoption of 5 June as the Day against Violence on Children, with a focus on public and professional training on positive, non-violent discipline and education about the negative consequences of corporal punishment and other violence against children
- publication of a handbook and several booklets on positive parenting, and translation of existing resources into Romanian
- counselling, rehabilitation and assistance for child victims of violence and their parents within the children's counselling and rehabilitation centres
- a large scale media campaign ('Violence breeds violence'), with a video spot broadcast on TV and in cinemas, a radio spot broadcast on 8 radio stations, the campaign promoted on 33 websites, and wide distribution of information materials, including 98,000 flyers and posters and 50 million stickers
- a website aimed at parents – [www.educatiefaraviolenta.ro](http://www.educatiefaraviolenta.ro)

- wide media coverage, including published articles in specialty reviews and in national and local newspapers, appearances in TV shows and feature reports within national and local news broadcasts, and radio broadcasts on national and local stations
- collaboration with the Ministry of Education to reduce violence in schools, based on materials developed by SC Romania including a training course on positive discipline.



26. See section 3.2

27. It had been introduced as a Private Members' Bill by Green MP Sue Bradford. See section 3.2.

28. These are available on the website of EPOCH New Zealand (<http://epochnz.org.nz>), together with all materials relating to the law reform process itself

29. The materials are available at [http://epochnz.org.nz/index.php?option=com\\_content&task=view&cid=92&Itemid=22](http://epochnz.org.nz/index.php?option=com_content&task=view&cid=92&Itemid=22)

30. The booklet is available at [www.occ.org.nz/childcomm/resources\\_links/reports\\_publications/choose\\_to\\_hug](http://www.occ.org.nz/childcomm/resources_links/reports_publications/choose_to_hug)

31. See section 3.2 for a discussion of the compromises involved

32. It is available on the Global Initiative website [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org) (in the 'Useful Publications' section of the 'Reform' pages)

33. See section 3.5

34. For further details of the programme, see [www.coe.int/T/TransversalProjects/Children/default\\_EN.asp](http://www.coe.int/T/TransversalProjects/Children/default_EN.asp). For details of the Europe-wide initiative against corporal punishment launched in June 2008, see [www.coe.int/t/transversal-projects/children/violence/corporalPunishment\\_en.asp](http://www.coe.int/t/transversal-projects/children/violence/corporalPunishment_en.asp).



## 7 The use of legal action and regional and international human rights mechanisms

### **Peter Newell**

In countries where governments are refusing to introduce law reform or are actively opposing it, both international human rights law and national law can be used to ‘force’ them to accept their obligations to realise children’s rights. The idea of using the law frightens some people, but it should not. *The law should not be a mystique, however much lawyers want to make it so.*

When states are examined on their implementation of the UNCRC by the Committee on the Rights of the Child, the Committee, where necessary, recommends explicit prohibition of all corporal punishment. If states do not comply, the recommendation is repeated at the next examination. While no court can make states obey the Committee, there is pressure and international embarrassment if they do not do so.

Organisations can add to this pressure, e.g. by producing an annual report to show what action the government has taken or failed to take to fulfil the recommendations of the Committee on the Rights of the Child and other relevant treaty monitoring bodies. But the most effective pressure comes from making full use of the UNCRC as a legal instrument.

### **Using national legal systems**

#### **Incorporation of the UNCRC**

International human rights law is made up of various international human rights instruments: the Convention on the Rights of the

Child is a legal instrument. When states ratify the UNCRC, they take on legal obligations to implement it fully. This means, among other things, that they must prohibit all corporal punishment of children, by law.

States have different ways of treating international instruments when they ratify them. In some states, on ratification the instrument automatically becomes part of (is incorporated into) national domestic law, and takes precedence over domestic law. It can therefore be used in courts to claim rights guaranteed by the instrument. In other states, incorporation is not automatic and requires some action of parliament. In some states, the question of the status of the UNCRC has never been answered; it will be answered only when someone takes a case to court.

In states where instruments do not become part of domestic law on ratification, the domestic law should be reviewed and reformed to bring it into line with the instrument.

In all cases, governments need to be reminded that the UNCRC imposes legal obligations, under international law. There is an overarching instrument, the Vienna Convention on the Law on Treaties,<sup>35</sup> which emphasises that accepting human rights instruments means taking on legal obligations. It states that the existence of domestic law which is in conflict with the obligations, cannot be used as an excuse for not complying fully.

## **Constitutional and other domestic laws**

Most states have some provisions in constitutions or other basic laws that conflict with laws authorising or justifying corporal punishment. Most constitutions include rights to protection of ‘everyone’s’ human dignity and physical integrity, to protection from cruel or degrading punishment or treatment, and to equal protection under the law. These provisions may also be reflected in child protection or child rights laws.

These national legal provisions can be used to challenge corporal punishment in all or some settings, in addition to using the international instruments which the state has accepted.

In taking legal action to challenge the legality of corporal punishment, the complaint is against the state. The final authority in the case depends on the national legal system. In some states, cases start at low-level courts and work upwards. For example, in the UK system of judicial review, a case is first heard at the high court, then the appeals court and then the Supreme Court.

### **Getting a legal opinion**

An expert legal opinion is an extremely useful tool in cases where progress towards prohibition is not happening, or is being resisted. It is essential in challenging the legality of corporal punishment in the courts. Should this fail, it provides a firm foundation for using international and/or regional human rights mechanisms (see below). It is also useful, in any state, to support the campaign for prohibition.

A lawyer who believes in children’s rights, and is fully supportive of the human rights imperative to prohibit all corporal punishment of children in law, should be commissioned to write the opinion. Experiences has shown that these shared values are important if the collaboration is to be successful.

The legal opinion should address, in detail:

- whether the law which allows corporal punishment in one or more settings is in conflict with: (i) the international human rights instruments which the state has ratified, including the UNCRC, and (ii) provisions in the Constitution and other domestic law
- how this conflict can be challenged in the national legal system and, if necessary, by using regional or international human rights mechanisms (see below). In some states, the incompatibility of domestic law with the Constitution, or with ratified international instruments, can be challenged in the abstract, without the need to identify a particular victim or victims of corporal punishment. In other states, it is necessary to bring the challenge on behalf of an individual or group whose rights have been breached as a result of provisions in domestic law which conflict with the Constitution and/or international law.

The opinion can usefully cite the many important and clear judgments made in high-level national courts in other states, which support the case for full prohibition. Most of these refer only to penal or school corporal punishment, but some also refer to the family home. Relevant judgments have been made in Italy, Fiji, Nepal, Costa Rica, Kenya, South Africa and other states.

### **Using the legal opinion**

The primary purpose of a legal opinion is to enable legislation allowing corporal punishment to be challenged in the courts. However, in some cases, merely *threatening* to take legal action may be enough – and much less costly in terms of money and time than actually going to court.

The decision to take the challenge all the way to the courts should follow a careful assess-

ment of the risks of such action. In particular, what is the chance of losing the case and creating a bad precedent? Judges are usually quite old, and often very conservative in their views. Some are adept at using tortuous logic to try and justify corporal punishment, for the usual personal reasons. Bad judgments can be challenged, but it is critical to ensure that the advocates are very good and are using all the right arguments.

Legal action, or threatening it, should never be seen as an isolated strategy. It should be linked to other strategies, such as community involvement and children's participation. This may include the development of a child-friendly version of the legal opinion, use of the media, etc.

### **Using international and regional human rights mechanisms**

International and regional mechanisms (complaints/communications mechanisms) provide a means to appeal to, and bring pressure on, national governments.<sup>37</sup> Generally, these mechanisms require that any possible use of national legal systems has been tried and has failed – the process known as 'exhausting domestic remedies'. They nearly always require an actual victim(s) to make a case.<sup>38</sup>

#### **International complaints/communications mechanisms**

There are complaints/communications mechanisms linked to the following international human rights instruments:

- International Covenant on Civil and Political Rights (Human Rights Committee)
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Committee Against Torture)

- UN Convention on the Elimination of All Forms of Racial Discrimination (Committee on the Elimination of Racial Discrimination)
- UN Convention on the Elimination of All Forms of Discrimination against Women (Committee to End Discrimination against Women)

There is now a campaign to have a complaints system under the UNCRC, by drafting a new Optional Protocol.<sup>39</sup>

#### **Regional complaints/communications mechanisms**

Some regional human rights instruments also have associated complaints/communications mechanisms:

- American Convention on Human Rights and the American Declaration of the Rights and Duties of Man (Inter-American Commission on Human Rights and Court, Inter-American Court of Human Rights)
- African Charter on Human and People's Rights (African Commission on Human and People's Rights, African Court on Human and People's Rights)
- African Charter on the Rights and Welfare of the Child (African Committee of Experts on the Rights and Welfare of the Child)
- European Convention on Human Rights (European Court of Human Rights)
- European Social Charter and Revised Social Charter (European Committee of Social Rights).

There has been some success at challenging the legality of corporal punishment through the complaints mechanisms of some regions. The African Commission has issued one decision against the whipping of students in

Sudan, declaring that the law which authorised it was not in compliance with the Charter. The European Court of Human Rights has issued a succession of decisions since 1973, progressively condemning corporal punishment in the UK. Under the 'collective complaints' system, which allows complaints to be submitted without the need to identify an individual victim, the European Committee of Social Rights has found five states to be 'not in conformity' with the Charter because corporal punishment is not prohibited in all settings.

## **Conclusion**

There is general consensus at international and regional level that the Convention on the Rights of the Child sets the standard for assessing whether or not a child's rights have been violated. There is growing recognition of this in national high-level courts. Pursuing the use of the UNCRC as a legal instrument is perhaps the most important focus in the next stage of implementation of the Convention.

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35. See [www.worldtradelaw.net/misc/viennaconvention.pdf](http://www.worldtradelaw.net/misc/viennaconvention.pdf)

36. For further details, including the texts of some of the judgments, see [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)

37. The state must have ratified the relevant optional protocol or made the appropriate declaration on ratifying the main instrument. See Annex 7

38. For details on how to make a complaint using these mechanisms, see

[www2.ohchr.org/english/bodies/petitions/individual.htm](http://www2.ohchr.org/english/bodies/petitions/individual.htm) and [www.crin.org/law/index.asp#co](http://www.crin.org/law/index.asp#co)

39. Campaign details and petition is available on the Child Rights Information Network website at [www.crin.org/petitions/petition.asp?petID=1007](http://www.crin.org/petitions/petition.asp?petID=1007)

## 8 *International lobbying to promote prohibition and elimination of all corporal punishment*

*Peter Newell*

Lobbying by national NGOs and human rights institutions can help to increase international and regional pressure on states to prohibit and eliminate all corporal punishment and other cruel or degrading forms of punishment. The workshop discussed lobbying of states to get explicit commitments into UN General Assembly and Human Rights Council (HRC) resolutions, and briefing of international and regional human rights treaty bodies and the new Universal Periodic Review Process at the HRC.

### ***UN General Assembly resolution on the rights of the child***

Certain states have persisted in blocking any explicit commitment to prohibition of all corporal punishment. The NGO Advisory Council for follow-up to the UN Study is committed to pursuing an explicit commitment during the negotiation of the 2008 resolution, due to begin in the summer. The drafting starts traditionally in the European Union (EU) and Latin American and Caribbean (GRULAC) groups of states, before a draft agreed by the two groups is tabled and open to further amendment by other states. In 2008, the drafting will start with GRULAC, and Uruguay will initiate the process.<sup>40</sup>

A briefing will be prepared and circulated. Supporting organisations will be urged to lob-

by foreign affairs officials at the national level to support inclusion of an explicit commitment to prohibit and eliminate all corporal punishment in the resolution.

### ***Human Rights Council resolution***

The Human Rights Council also adopts a 'rights of the child' resolution each year. The section on violence against children in the March 2008 resolution strengthened the language of the 2007 General Assembly resolution. It also included explicit commitment to eliminating school corporal punishment. But it did not include a commitment to prohibition in all settings, including the home.<sup>41</sup> Further lobbying will be needed in the lead-up to March 2009.

### ***World Congress Third against Sexual Exploitation of Children and Adolescents***

The Congress to be held in Rio in November 2008 provides another opportunity to seek explicit commitment from states to prohibition, given the links between achieving full respect for children's human dignity and physical integrity through prohibition and the elimination of all other forms of violence and exploitation against children. The Global Ini-

tiative has prepared a briefing which will be circulated widely in the hope that the issue will be raised in preparatory meetings, and ultimately in the Congress outcome document.

### **International and regional human rights treaty bodies**

The Global Initiative systematically provides briefings on the legal status of corporal punishment to the following treaty bodies:<sup>42</sup>

- Committee on the Rights of the Child
- Human Rights Committee
- Committee Against Torture
- Committee on Economic, Social and Cultural Rights
- Committee on the Elimination of Discrimination Against Women.

The Committee on the Rights of the Child consistently raises the issue with states as necessary, and recommends prohibition. The other treaty bodies are increasingly considering the issue and making recommendations. The Global Initiative will aim to circulate its briefings to Save the Children and partner organisations in each state, to alert them to upcoming examination of the state, in the hope that some will consider submitting short supportive briefings.

Organisations should also consider briefing any regional human rights mechanisms which are examining states' reports (e.g. the African Commission on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, the Inter-American Commission on Human Rights, the European Committee of Social Rights, etc.).

### **Human Rights Council Universal Periodic Review (UPR)**

The new UPR process at the Human Rights Council provides another opportunity to raise concerns about the persisting legality of corporal punishment, and to seek recommendations to put further pressure on states.

During the first two sessions of the UPR, progress towards prohibiting all corporal punishment of children was a prominent focus of concern. The legality of corporal punishment was discussed during the examinations of Algeria, Argentina, Bahrain, Benin, France, Ghana, Guatemala, India, Netherlands, Philippines, Poland, Romania, South Africa, Switzerland, Tonga and the UK. Specific recommendations to explicitly prohibit all corporal punishment of children were made to Argentina, Gabon, Ghana, Guatemala, Japan, Mali, Republic of Korea, South Africa, Switzerland and the UK. (Corporal punishment is already prohibited in all settings in Netherlands and Romania.)<sup>43</sup>

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40. The resolution on the rights of the child adopted in December 2007 (A/RES/62/141) is available at [www.un.org/ga/62/resolutions.shtml](http://www.un.org/ga/62/resolutions.shtml).

41. As at July 2008, the draft report of the 7th session of the HRC (A/HRC/7/L.11/Add.1), including the 'rights of the child' resolution, is available only on the HRC extranet page, accessed via <http://www2.ohchr.org/english/bodies/hrcouncil/>

42. The briefings are available on the Global Initiative website [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)

43. All documents relating to the examination of these states, including the final reports of the working group, are available at [www.ohchr.org/EN/HRBodies/UPR/Pages/search.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/search.aspx)

## 9 Conclusion

The global workshop on achieving legal reform to prohibit all physical punishment and other cruel and degrading punishment of children marks a significant step in the accelerating progress towards achieving universal prohibition. The first workshop of its kind, it brought people together from almost 30 countries, to sharpen their understanding of what law reform means, to grapple with the challenges it presents, and to learn from countries where it has been achieved.

By the end of four intensive days, participants had drafted detailed national strategies to pursue legal reform, building on their past experience of working on the issue, and reflecting their new confidence and understanding gained during the workshop (see Annex 5). This is a remarkable achievement – and a credit to the commitment and determination of the participants to take seriously the recommendation of the UN Study to prohibit all corporal punishment, in all settings, by 2009.

When law reform is achieved in all the countries represented at the workshop, significant progress will have been made towards realising the rights of millions of children all over the world to respect for their human dignity and physical integrity, and to equal protection from assault under the law. The strength of the campaign and the momentum of progress towards universal prohibition is already a powerful sign that there can be no looking back. Governments can no longer hide from facing their obligations to children.

# Annexes

## *Annex I – Facilitators’ and speakers’ biographies*

### **Gabriela Alexandrescu**

Gabriela Alexandrescu has degrees in Management, Economics and International Humanitarian Law. She has been Chief Executive Officer of Save the Children Romania since 1993. Between 2005 and 2008, she was an elected member of the board of the International Save the Children Alliance. She also co-ordinates the campaign on banning corporal punishment and promoting positive discipline. She is part of the national governmental body that works on child labour, child abuse, trafficking and other child-related issues in Romania.

### **Wilma T. Bañaga**

Wilma T. Bañaga is the Programme Co-ordinator for Child Protection of Save the Children Sweden in the Philippines. Before joining Save the Children, she worked with various local NGOs involved in legislative advocacy work, such as the Anti-Rape Law of 1997, the Anti-Violence against Women and their Children Act of 2004, the Reproductive Health Bill and the National Land Use Act Bill.

### **David Ruiz Coronado**

David Ruiz Coronado was appointed Global Advocacy Advisor on child protection in non-emergency situations in January 2008, at Save the Children Sweden’s Head Office in Stockholm. Previously, he served for four years in the Mexican Ministry of Foreign Affairs as Child Protection Legal Advisor. He has also worked as Junior Professional Officer at the UN Committee on the Rights of the Child in Geneva and as Consular Officer on Child Protection at the General Consulate of Mexico in San Diego, California. In Europe, he served in the President’s Cabinet of the European Parliament and the Swedish Agency for Development Evaluation (SADEV). He is currently responsible for ensuring that the UN Study recommendations are followed up, including the prohibition of corporal punishment in all settings. He carries out advocacy with governments, the UN and the European Union to continue to build capacity, and works on programmes to address violence against children to maintain the momentum of the UN Study. He is a member of SC Alliance Task Group on Violence against Children as an advocate for children’s rights.

### **Chris Dodd**

Chris Dodd is Co-ordinator of the Churches’ Network for Non-violence & Inter-Faith Liaison. She has worked in early childhood services, family therapy, and community development, and as a health promotion adviser focusing on the effects of family violence on mental health and the development of programmes to prevent violence against children.

## **Milena Grillo**

Milena Grillo is the Executive Director of Fundación Paniamor, a Costa Rican private, non-profit, independent organisation, created in 1987. The organisation works in the field of children and adolescents' rights, with a special focus on preventing violence and overcoming social exclusion affecting this population.

She is a law graduate specialised in human rights, with a Masters degree in social and family violence. She has acted as a consultant and programme leading officer for governmental and non governmental international co-operation agencies in the field of public policy, violence prevention and children and adolescents' rights, including the European Commission, ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes), the UN Inter-regional Crime and Justice Research Institute, the UN World Tourism Organisation, Save the Children Sweden, the UN International Labour Office, UNICEF Costa Rica, the International Children Catholic Bureau, the NGO Group for the Convention on the Rights of the Child, and the Pan American Health Organisation.

She is the recipient of the 1992 Leadership Award granted by the US Child Assault Prevention Programme. She was awarded the Latin Trade Bravo Award as Humanitarian of the Year, in recognition of her work in political and social incidence in the Latin American Region.

## **Daksha Kassan**

Daksha Kassan is a Senior Researcher in the Children's Rights Project at the Community Law Centre, University of the Western Cape. She is involved in issues relating to child justice, children used by adults to commit crime, and the welfare and protection of children in general, with a particular focus on corporal and humiliating punishment of children. She holds BA (Law), LLB and LLM (in constitutional litigation) degrees from the University of the Western Cape and is currently embarking on her LLD in law, focusing on the constitutionality of the common law rule authorising reasonable and moderate chastisement of children. She has published in the area of children's rights and presented many papers at national and international conferences. She is co-editor of *Article 19*, a publication that focuses on working towards the promotion of positive discipline and banning all forms of corporal punishment of children.

She is an Admitted Attorney of the High Court of South Africa, and has worked as an Assistant Legal Officer in the Legal Unit at the Regional Land Claims Commission of the Western Cape, at a Human Rights and Constitutional litigation law practice and at the Truth and Reconciliation Commission as an Information Analyst.

## **Peter Newell**

Peter Newell is an advocate for children's rights in the UK and internationally. He has chaired the NGO Children's Rights Alliance for England and is Co-ordinator of the UK Children Are Unbeatable! Alliance, campaigning for abolition of all corporal punishment. In the 1990s he was Research Co-ordinator for the Commission on Children and Violence in the UK. Internationally, he is Co-ordinator of the Global Initiative to End All Corporal Punishment of Children. Together with his partner, Rachel Hodgkin, he prepared UNICEF's Implementation Handbook on the Convention on the Rights of the Child. He has worked frequently as a consultant for UNICEF, in particular

advising on general measures for implementation of the Convention of the Rights of the Child and on establishment of independent human rights institutions for children. He is also Adviser to the European Network of Ombudspersons for Children, and co-chair of the International NGO Advisory Council for follow-up to the UN Secretary General's Study on Violence against Children.

### **Tina Ojuka**

Tina is the Regional Programme Officer on violence and adult support in the Save the Children Sweden East and Central Africa Regional Office in Nairobi, Kenya. She is an advocate by profession, and has eight years experience working in the children's sector in Kenya. She has previously worked at the Kenya National Commission on Human Rights, the Kenya Alliance for Advancement of Children, and the Children's Legal Action Network. She also co-developed the Policy on Orphans and Vulnerable Children for the Office of the Vice-President and Ministry of Home Affairs in Kenya.

### **Sharon Owen**

Dr Sharon Owen works as a freelance writer/researcher on children's rights, with a particular focus on their rights to protection from all forms of violence and to education. For the past six years she has been the research co-ordinator for the Global Initiative to End All Corporal Punishment of Children and has undertaken various commissions from UNICEF, Save the Children and others.

### **Dominique Pierre Plateau**

Dominique Pierre Plateau is a communications and advocacy specialist, who has been based in Southeast Asia since 1988, working on refugee, child labour, children and human rights, and development issues. He is currently Regional Manager for Child Protection for Save the Children Sweden Regional Office for Southeast Asia and the Pacific.

From 1998 until mid-2003, he was Co-ordinator of the Regional Working Group on Child Labour (RWG-CL), managing projects in South, Southeast and East Asia and the Pacific. After beginning his career in Geneva at the Headquarters of the UN High Commissioner for Refugees (UNHCR), he began working in Southeast Asia, initially with the UNHCR Delegation in Hanoi (Vietnam) [Vietnamese Boat People Voluntary Repatriation Program] and the Office of the Special Representative of the UN Secretary General (OSRSG) in Aranyaprathet (Thailand) [Land Mine Awareness Program], prior to joining the UNHCR-United Nations Transitional Authority in Cambodia (UNTAC) [Cambodian Repatriation Operation].

Among recent publications, he co-authored *How to research the physical and emotional punishment of children* (2004) and *Childrearing for peace: A search for solutions - Family life without corporal punishment in East Asia and the Pacific* (2005).

He is the International Save the Children Alliance focal point for Southeast Asia and the Pacific on Violence against Children, and a member of the East Asia Pacific Committee under the UN Study on Violence. He is also a member of the International Society for the Prevention of Child Abuse and Neglect (ISPCAN).

## **Monika Sarajärvi**

Monika Sarajärvi has a Masters degree in Political Science with a major in Eastern European studies. She has been working in the Save the Children Europe Programme since 2004, and is currently a child protection officer based in Sweden.

Monika is a member of the 'Friends Across Borders' project co-ordination team, which addresses violence in schools, especially bullying, and aims to demonstrate links between violence at school (including from teachers) and at home (including corporal punishment).

## **Fernando Pereira Verano**

Fernando Pereira Verano is an educator and activist for children's rights. He helped found Centros Comunitarios de Aprendizaje (CECODAP) in 1984, of which he is currently the General Co-ordinator. He is a member of the advisory team on the writing of the Organic Law for protecting children and adolescents, and a co-ordinator of the Annual Report on the situation of human rights related to children's rights in Venezuela. He is a founder member of the Venezuelan Coalition, a network for human rights of children and adolescents.

## **Samantha Waterhouse**

Samantha Waterhouse is the Advocacy Manager at Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN), where she co-ordinates advocacy on policy and legislative reform, as well as activities aimed at social reform to realise children's rights and prevent all forms of violence and discrimination against children. She is concerned with ensuring that appropriate and integrated state policy and legislation is in place and that programmes targeted at children's rights and the prevention of child abuse and neglect are implemented and appropriately resourced by government.

Previously, she was the Advocacy Co-ordinator at Rape Crisis Cape Town Trust, where she was responsible for advocacy on policy and legislative reform, training of criminal justice system members, and court preparation of adolescent and adult witnesses. She has volunteered as a lay counsellor of rape survivors and as a community facilitator on issues of gender and sexual violence.

## **Beth Wood**

Beth Wood has a background in social work with a particular interest in child protection. She became involved in child advocacy in the early 1990s, when working for New Zealand's first Children's Commissioner. Her last appointment before semi-retirement was as Advocacy Manager with UNICEF New Zealand. Currently, she works at the Office of the Children's Commissioner, among other things updating a parenting booklet to include information about the new law banning corporal punishment, and organising research on New Zealanders' knowledge about the new law and their information needs, including children's experience of physical punishment and knowledge of the law.

Beth co-founded EPOCH New Zealand in 1997. She co-authored *Unreasonable Force: New Zealand's journey towards banning physical punishment of children*, published in 2008 by Save the Children New Zealand.

## Annex 2 – List of participants

| Name                                     | Position                        | Address  | Email                                   | Telephone/Fax  |
|--|---------------------------------|--|---|--|
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## Annex 3 – Workshop agenda

### **DAY 1: 28 May 2008**

#### **Morning**

- 0800–0830 **Registrations**
- 0830–0900 **Welcome** by Inger Ostergren, SC Sweden Acting Regional Representative
- 0900–0930 **Introductions and review of the workshop agenda**  
by David Ruiz Coronado, SC Sweden, Global Advocacy Advisor
- 0930–1030 **Session 1:**  
**The physical and other humiliating punishment of children: Review of Save the Children’s involvement with the issue.**  
Plenary presentation by David Ruiz Coronado
- 1030–1100 **Break**
- 1100–1230 **Session 2:**  
**The imperative to prohibit all physical and other humiliating punishment of children: global progress towards universal prohibition.**  
Plenary presentation by Peter Newell, Coordinator, Global Initiative to End All Corporal Punishment Children
- 1230–1400 **Lunch**

#### **Afternoon**

- 1400–1530 **Session 3:**  
**The elements of legal reforms**  
Plenary presentation by Peter Newell and Dominique Pierre Plateau, Regional Child Protection Manager, SCS SEAP, followed by plenary discussion
- 1530–1600 **Break**
- 1600–1715 **Session 4:**  
**Facilitating legal changes: Save the Children’s and partners’ progress across the world**  
Presentation (based on participants updates) by Dr Sharon Owen, Research Coordinator, Global Initiative to End All Corporal Punishment Children, followed by discussions
- 1715–1730 **Introduction to Session 5**

## **DAY 2: 29 May 2008**

### **Morning**

0830–1130 **Session 5:**

Including break **Review current legislation and identify the reforms required**

Facilitated by Dominique Pierre Plateau

Individual/Group work building on preparatory work submitted by the participants before the workshop.

1130–1230 **Session 6:**

**Getting laws into and through Parliament: how to lobby Government and Parliament**

Session chaired by Monica Sarajarvi

Presentations by Peter Newell, followed by plenary discussion, and Beth Wood (New Zealand), followed by plenary discussion.

1230–1400 **Lunch**

### **Afternoon**

1400–1530 **Session 6 (continued):**

**Getting laws into and through Parliament: Lessons from recent parliamentary campaigns**

Presentations by Milena Grillo (Costa Rica), followed by plenary discussion; Wilma Banaga (Philippines), followed by plenary discussion, and Gabriela Alexandrescu (Romania) followed by plenary discussion.

1530–1600 **Break**

1600–1715 **Session 7:**

**Children's participation in law reform: positive examples**

Session chaired by Ulrika Sonesson

Presentations by Fernando Pereira (Venezuela), followed by plenary discussion; Tina Ojuka (Kenya), followed by plenary discussion; and Daksha Kassan (South Africa), followed by plenary discussion.

1715–1730 Introduction of evening task: review 'Frequently asked questions about prohibition' and the answers.

Propose additional questions and added arguments, to be discussed on Day 4.

## **DAY 3: Friday 30 May 2008**

### **Morning**

0830–1030

#### **Session 8:**

##### **Global progress in gaining faith-based support for law reform**

Session chaired by Ricardo de Paiva e Souza

Presentation by Chris Dodd, Churches Network for Non-violence, followed by plenary discussions.

1030–1100

#### **Break**

1100–1230

#### **Session 9:**

##### **Challenges to law reform**

Session chaired by Tina Ojuka

Presentation (based on participants updates) by Dr Sharon Owen, followed by group work/discussions

1230–1400

#### **Lunch**

### **Afternoon**

1400–1530

#### **Session 10:**

##### **Implementation of prohibition of physical and other humiliating punishment in the home and other settings**

Session chaired by Rana Noueiri

Presentations by Monica Sarajarvi (Sweden), followed by plenary discussion; Beth Wood (New Zealand), followed by plenary discussion; Samantha Waterhouse (South Africa), followed by plenary discussion; and Gabriela Alexandrescu (Romania) followed by plenary discussion.

1530–1600

#### **Break**

1600–1730

#### **Session 11:**

##### **The use of legal action and regional and international human rights mechanisms to pressure Governments to fulfil their commitments**

Introduction by Peter Newell, followed by discussions.

1900–2200

#### **Dinner reception**

## **DAY 4: Saturday 31 May 2008**

### **Morning**

- 0830–1000     **Session 12:**  
**What resources are available to promote the prohibition of all physical and other humiliating punishment globally and regionally?**  
Session facilitated by David Ruiz Coronado and Sharon Owen  
Plenary presentations/discussions and work in regional groups
- 1000–1030     **Break**
- 1030–1230     **Session 13:**  
**The way forward: National strategies for achieving the prohibition of all physical and other humiliating punishment**  
Country presentations
- 1230–1400     **Lunch**

### **Afternoon**

- 1400–1500     **Session 13 (continued):**
- 1500–1530     **Break**
- 1530–1700     **Session 14:**  
**The way forward: National lobbying of international bodies and events**
- 1700–1730     **Wrap-up and closing**

## Annex 4 – Frequently asked questions

**Note:** This is a work in progress, taking account of participants' comments during the workshop and with further revision planned. The Global Initiative intends to produce a number of versions, each targeted at a particular audience, including one for children. What follows is a basic document which we hope will be useful for adaptation as necessary. We welcome further suggestions and comments: email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).

### **“Does it really hurt?”**

Yes, of course it does! It hurts physically *and* emotionally. Causing physical pain to a child is itself a breach of their rights to equal protection from assault; adults often don't appreciate the impact on the dignity of the child, nor the emotional hurt that is also caused.

Under Article 12 of the UN Convention on the Rights of the Child, children have a right to express their views on all matters that concern them, and to have their views given due weight. And children are beginning to tell us how much corporal punishment hurts them physically and emotionally. As Paulo Sérgio Pinheiro explains in his report on the UN Study on Violence against Children, submitted to the UN General Assembly in October 2006: 'Throughout the study process, children have consistently expressed the urgent need to stop all this violence. Children testify to the hurt – not only physical, but 'the hurt inside' – which this violence causes them, compounded by adult acceptance, even approval, of it. Governments need to accept that this is indeed an emergency, although it is not a new emergency. Children have suffered violence at the hands of adults unseen and unheard for centuries. But now that the scale and impact of violence against children is becoming visible, they cannot be kept waiting any longer for the effective protection to which they have an unqualified right.'

And hurting and damaging children in this way hurts society too. There is a great volume of research into the effects of corporal punishment and it convincingly confirms its potential damage, short and long term. '*Corporal punishment by parents and associated child behaviours and experiences*', a meta-analysis of 88 research studies published in 2002, overwhelmingly testifies to the dangers (see [www.endcorporalpunishment.org/pages/pdfs/Gershoff-2002.pdf](http://www.endcorporalpunishment.org/pages/pdfs/Gershoff-2002.pdf)). But while the findings are unsurprising, they are also in a sense irrelevant. We would not look for research into the effects of hitting women or elderly people to justify prohibition: it is a matter of fundamental rights.

### **“Why is it so difficult to give up hitting children?”**

If adults, including politicians, found this issue easy, we would have accepted long ago that children have exactly the same rights as the rest of us to respect for their human dignity and physical integrity and to equal protection under the law. In fact we would be likely to accept that children, who start off very small and very fragile, have a right to *more* protection than adults.

It is difficult for adults to give up what they still perceive of as a 'right' to hit and hurt children in

the name of ‘discipline’ or control. This seems to stem from personal experience. Most people everywhere were hit as children by their parents. Most parents have hit their own children. None of us likes to think badly of our parents, or of our own parenting, and this makes it challenging for many people, including politicians and opinion leaders, and even those working in child protection, to perceive of corporal punishment as the fundamental issue of equality and human rights that it is. This is not a matter of blame – parents have acted in accordance with social expectations – but the time has come to move on to positive, non-violent relationships with children.

In aiming to eliminate corporal punishment, we are simply extending to children the full protection from assault and other cruel or degrading punishment which we as adults take for granted for ourselves.

Another reason for the difficulty is that adults often hit children because they are angry, or stressed, or at the end of their tether. Many adults know, in their heart of hearts, that the hitting is an emotional response to what is happening rather than a rational decision to ‘discipline’ the child. The more this happens, the more hitting a child becomes an automatic way of dealing with troublesome behaviour. It is not easy to change automatic behaviours. But the fact is that they can be changed, as governments invest in public education and awareness raising about positive, non-violent ways of bringing up children, parents will develop a whole range of ways to deal with behaviour they don’t like without feeling the need to assault their children.

A third reason adults find it difficult to give up hitting children, and to give up the idea that this is acceptable as a way of disciplining them, is lack of knowledge about alternatives. As mentioned above, law reform should be accompanied by education of parents, children and society generally about the very many positive and non-violent ways that adults can relate to children. But it is important to remember that we don’t have to wait until adults know how to bring up children without hitting them before prohibiting corporal punishment by law, any more than we have to wait until men know how to treat women properly before enacting legislation on domestic violence.

### ***“Opinion polls say that most people are against a formal ban on corporal punishment”***

The results of polls generally depend on how crudely questions are phrased and on how much information the respondents have. If people are fully informed about the issue, the existing inequality of protection for children and the purpose of a ban, they may well support prohibition. But in any case, on this issue like others – violence against women, race discrimination – politicians have to lead, not follow public opinion. They must emphasise the government’s absolute human rights obligation to ensure that the law provides children, like adults, with full protection of their human dignity.

Almost all the countries that have prohibited all corporal punishment have done so ahead of public opinion, but public opinion has quickly come round to support the change. In a few years time we will look back in wonder – and with shame – at the time when it was regarded as lawful and acceptable to hit children.

## ***“If parents are forced to give up using corporal punishment, won’t children end up spoilt and undisciplined?”***

No! Discipline is not the same as punishment. Real discipline is not based on force. It grows from understanding, mutual respect and tolerance. Babies start off completely dependent, and as they grow, they rely on adults – especially their parents – to guide and support them towards self-disciplined maturity. Corporal punishment tells children nothing about how they should behave. On the contrary, hitting children is a lesson in bad behaviour. It teaches children that their parents, whom they hopefully love and respect, find it acceptable to use violence to sort out problems or conflicts.

Hitting children – and doing so lawfully – also sends a confusing message to children that although they shouldn’t hit other children and adults shouldn’t hit other adults, it is OK for adults, who are bigger and stronger, to hit children, who are usually smaller and more vulnerable. Children learn from what their parents do, not just from what they say.

Corporal punishment and other cruel and degrading forms of punishment are no substitute for positive forms of discipline which, far from spoiling children, are designed to ensure that they learn to think about others and about the consequences of their actions. States have an obligation to support positive parenting. There are lots of materials available promoting positive parenting and education without violence, which can be adapted and translated for use in every country

## ***“I was hit as a child and it didn't do me any harm. In fact, I wouldn't be where I am today if it were not for my parents physically punishing me.”***

How do you know this? None of us knows how we would have turned out if our parents had never hit or humiliated us. And how many people, in saying it did them no harm, are denying the hurt they experienced when the adults closest to them thought they could only teach them by inflicting pain?

People usually start hitting children because they themselves were hit as children, though, according to research, they often feel guilty about it afterwards. But they continue to hit their children, especially when they are at the end of their tether. It is pointless to blame previous generations for hitting children, because they were acting in accordance with the pervasive culture of the time. At the same time, it is wrong to resist change because we are afraid of appearing to criticise our parents. Times change and societies move on. Recognition of children as rights holders requires action to end the legality and social acceptance of violence against children, just as societies have moved to end acceptance of violence against women.

A variant of this argument is: “I was hit as a child and I turned out OK.” There are people who have endured all kinds of bad experiences while growing up who have ‘turned out OK’ as adults, but nobody would say that what they experienced was good. Often it is the way they have dealt with their experiences and turned their lives around that has helped them to appreciate themselves as decent human beings.

Most children who have been involved in research into corporal punishment and have shared their own experiences of being corporally punished, even when they try and justify being hit as neces-

sary because of their behaviour, state that they will not use corporal punishment on their own children when they grow up.

**“Parents have a right to bring up their children as they see fit. They should be challenged only in extreme cases, such as child abuse.”**

Societies are moving on from seeing children as their parents’ property to seeing them as people in their own right. As human beings, children enjoy human rights – and these do not stop at the front door of their home. Children have the same right as all other family members to protection from being hit, and it is no more invasive to insist that the law protect children in the home than to insist that men stop beating their wives.

The UN Convention on the Rights of the Child upholds the importance of the family and promotes the concept of parental responsibilities, with children’s best interests as parents’ basic concern (article 18). Some people argue, perversely, that hitting a child in the name of discipline is, in fact, in the child’s best interests in the long term. But as the Committee on the Rights of the Child has stated (General Comment No. 8, para.26): ‘... interpretation of a child’s best interests must be consistent with the whole Convention, including the obligation to protect children from all forms of violence and the requirement to give due weight to the child’s views; it cannot be used to justify practices, including corporal punishment and other forms of cruel or degrading punishment, which conflict with the child’s human dignity and right to physical integrity.’

**“There is a big difference between beating a child and a loving smack.”**

One hurts physically more than the other, but both are on a continuum of violence and both breach a child’s equal right to respect and physical integrity. Societies do not draw lines and try to justify any level of violence when challenging violence against women, or against elderly people. So why should they when it comes to children?

And the dangers of making any connection between loving and hurting people should be obvious. A ‘loving smack’ is a contradiction of the worst kind. This seemingly harmless term is a veil behind which rights violations can hide.

One variation on this argument is that “there is a big difference between child abuse and a light smack”, focusing less on the ‘loving’ intention of the violence and more on the degree of violence used. But again, whatever the severity of the hitting, it breaches the child’s right to respect for his or her physical integrity, and *all* hitting that is regarded as lawful reflects a violation of children’s right to equal protection from assault under the law.

Law makers and governments have traditionally separated ‘child abuse’ and ‘corporal punishment’, but most abuse is corporal punishment – adults attacking children to punish them and gain control. There is no such threshold in the case of violence against women, where zero-tolerance clearly conveys the message that all violence is unacceptable. But for children, there is an arbitrary distinction between violence in the form of punishment, which is acceptable, and ‘abuse’, which is not. In reality, it is not possible to differentiate between child abuse and corporal punishment – all mistreatment of children comes in the form of correction, and all involves humiliation.

### ***“Why not define safe smacking, rather than prohibit all of it?”***

There is no such thing as ‘safe’ smacking. All smacking invades a child’s physical integrity and shows disrespect for their human dignity. A few countries have attempted to define acceptable ways of hitting children – at what age, on what parts of the body, with what implements and so on. This is a very disreputable exercise. We would not think of trying to define acceptable ways of assaulting women, or elderly people, or any other population group. Children have a right to equal protection from assault. If anything, children, generally smaller and more fragile than the rest of us, have a right to more protection.

### ***“I only smack my children to stop them from hurting themselves.”***

This is nonsensical. Can you imagine advising parents that when their children are in danger they should hit them? Of course not: smacking is not protecting! Parents have to use physical actions to protect children – especially babies and young children – all the time. It is a natural part of parenting. If a child is crawling towards a fire, or running into a dangerous road, of course parents use physical means to stop them – grab them, pick them up, show them and tell them about the danger. But to cause them pain by hitting them completely undermines the message that they must learn to keep themselves safe and that, until they can do so, their parents will keep them safe. As the Committee on the Rights of the Child explains (General Comment No. 8, para. 14): ‘... parenting and caring for children, especially babies and young children, demand frequent physical actions and interventions to protect them. This is quite distinct from the deliberate and punitive use of force to cause some degree of pain, discomfort or humiliation. As adults, we know for ourselves the difference between a protective physical action and a punitive assault; it is no more difficult to make a distinction in relation to actions involving children.’

It is sometimes exclaimed: “If all physical punishment is prohibited, parents won’t be able to grab their children to keep them safe, change a nappy against a child’s will, put an unwilling child to bed.” But there is a very clear distinction between using force to protect children and use of force to punish and deliberately hurt them. The law in all states, explicitly or implicitly, allows for the use of non-punitive and necessary force to protect people. Removing the right to use force for punishment does not interfere with this at all.

### ***“My religion requires me to use corporal punishment.”***

Religious freedom cannot run counter to human rights. As the Committee on the Rights of the Child makes clear (General Comment No. 8, para. 29): ‘Some raise faith-based justifications for corporal punishment, suggesting that certain interpretations of religious texts not only justify its use, but provide a duty to use it. Freedom of religious belief is upheld for everyone in the International Covenant on Civil and Political Rights (Art. 18), but practice of a religion or belief must be consistent with respect for others’ human dignity and physical integrity. Freedom to practise one’s religion or belief may be legitimately limited in order to protect the fundamental rights and freedoms of others.’

Religious extremists who advocate ritualistic hitting of children with implements need to be condemned by mainstream religious opinion and by society as a whole. Leading faith figures are now

joining the campaign for abolition of all corporal punishment. At the 2006 World Assembly of Religions for Peace in Kyoto, Japan, more than 800 faith leaders endorsed ‘a religious commitment to combat violence against children’, which urges governments to adopt laws in compliance with the Convention on the Rights of the Child and to prohibit all violence, including all corporal punishment.

**“Many parents are bringing up their children in desperate conditions, and teachers and other staff are under stress from overcrowding and lack of resources. Banning corporal punishment would add to the stress and should be delayed until conditions improve.”**

This argument is a tacit admission of an obvious truth: corporal punishment is often an outlet for adults’ pent-up feelings rather than an attempt to educate children. In many homes and institutions adults urgently need more resources and support, but however real adults’ problems may be, venting them on children cannot be justifiable. Children’s protection should not wait on improvements in the adult world, any more than protection of women from violence should have had to await improvement to men’s conditions.

In any case hitting children is ineffective in relieving stress. Adults who hit out in temper often feel guilty; those who hit in cold blood find they have angry and resentful children to cope with. Life in homes and institutions where corporal punishment has been abandoned in favour of positive discipline is much less stressful for all.

In conflict-ridden countries, adults working with children, including parents and teachers, are themselves victims of violence and humiliation. They agree on protecting children’s rights, but question who is fighting for their rights. Clearly, these breaches of rights must be addressed but children should not have to wait until adults are able to enjoy their own rights. *All* people have rights to respect for this dignity and physical integrity and to equal protection under the law – and children are people too.

**“This is a white, Euro-centric issue. Corporal punishment is a part of my culture and child-rearing tradition. Attempts to outlaw it are discriminatory.”**

The idea that hitting children can be a matter of cultural pride is unacceptable. In any case, historically, the hitting of children seems to be a white tradition, exported to many parts of the world through slavery and colonialism and some missionary teaching. It appears that the only cultures where children are rarely or never physically punished are small, hunter-gatherer societies, arguably among the most ‘natural’ of all human cultures, though now rapidly vanishing under the impact of urbanisation.

But the point is that human rights are universal, and children the world over have the right to live lives free from all forms of violence. Yet children everywhere are subject daily to violence at the hands of their parents. *All* cultures have a responsibility to disown corporal punishment, just as

they have disowned other breaches of human rights which formed a part of their traditions. The Convention on the Rights of the Child upholds *all* children's right to protection from all forms of physical or mental violence, without discrimination on grounds of race, culture, tradition or religion. There are movements to end corporal punishment of children in all continents. School and judicial beatings have been outlawed in many states in all regions of the world.

***“If corporal punishment of children is criminalised, thousands of parents will be prosecuted and many more children will be placed in state care.”***

The point of a law banning all corporal punishment is not about putting parents in jail. It is about learning positive parenting. There is no evidence of increased prosecution of parents from the growing number of countries where corporal punishment is criminalised. Banning corporal punishment fulfils states' human rights obligations to children. Its first purpose is educational – to send a clear message into the 'privacy' of the home that it is no more acceptable or lawful to hit a child than to hit anyone else. Guidance to all those involved in child protection, including the police and prosecuting authorities, should ensure that implementation of the law is focused on the best interests of the child. Prosecution and other formal interventions are unlikely to benefit children unless they are the only way to achieve necessary protection from significant harm.

***“Banning physical punishment will just lead to children being treated in more horrible ways – emotional abuse, humiliation or locking them up.”***

Children have a right to protection not only from corporal punishment, but also from all other forms of cruel or degrading punishment or treatment. Law reform needs to be linked to awareness raising and promotion of positive, non-violent relationships with children. Parents want their children to have the best possible start in life. Parents who hit their children do not feel good about it – they generally feel upset and guilty. Most of them would welcome advice on how to prevent and solve conflicts with their children. Positive parenting policies help parents enable their children to understand, accept and respect rules (discipline) without using any kind of violence, physical or emotional. Moving on from hitting and humiliating children to regarding them as people and rights-holders alongside the rest of us improves family life for everyone.

***“Why bring the law into this? Why not just educate parents away from using corporal punishment?”***

Educating parents away from something that is lawful is confusing and difficult. The assumption is that “if the law allows it then it must be OK”. Education is much more effective when the law gives the same message.

Elimination of all corporal punishment and other cruel or degrading punishment requires both education and prohibition. It is not a matter of choice. Human rights demand that children have

at least the same legal protection as adults – in the family and everywhere else – now. The law in itself is a powerful educational tool, and of course law reform banning corporal punishment needs to be linked to public and parent education. A ban will motivate parents to look into positive ways of educating their children and motivate professionals, politicians and media to resource and provide this education.

## *Annex 5 – Summaries of participants’ draft national strategies to achieve full prohibition*

During the workshop, participants were asked to draft national strategies to pursue law reform, building on the sessions of the workshop. This involved identifying the current legality of corporal punishment of children in different settings, including gaps in the information which would need to be researched, and drafting detailed plans to achieve explicit prohibition in all settings, bearing in mind the deadline of 2009 set by the UN Study recommendations. Participants were asked to identify the particular challenges faced in their situations, and to begin thinking about ways to address these.

The following summaries are based on the draft strategies developed during the workshop. They represent work in progress and will inevitably be further developed in consultation with national partners following the workshop. Please contact the representative of the state concerned for further details (see participants’ list, Annex 2).

### **Botswana**

#### **Current legal situation**

Corporal punishment is lawful in all settings. The Children’s Bill would prohibit judicial corporal punishment but this would not apply to customary courts; the Bill confirms the right to administer “reasonable” correction by prohibiting only “correction which is unreasonable in kind or in degree” (section 84).

#### **Proposed strategy to achieve prohibition**

The plan is to (i) rally other civil society organisations to form an alliance or reference group (June 2008); (ii) approach the Parliamentary Legal Committee on how to ensure that the Children’s Bill includes explicit prohibition; (iii) pursue a test case challenging the constitutionality of corporal punishment (ongoing); (iv) raise the issue of corporal punishment in alternative reports to the UN Committee on the Rights of the Child and the African Committee of Experts on the Rights and Welfare of the Child (2008) and in the alternative report to the UN Human Rights Council for the Universal Periodic Review (July 2008); (v) approach the Botswana Council of Churches to gain support (June 2008); (vi) engage the Department of Social Services and the Ministry of Education through awareness-raising workshops; (vii) conduct research with children; (viii) engage the media.

Major challenges include other issues being seen as a higher priority and high level supporters of corporal punishment. These can be addressed by making the link between corporal punishment and global and societal violence generally in order to highlight the urgency of the issue, and by identifying key high level supporters of prohibition.

## **Brazil**

### **Current legal situation**

Corporal punishment is unlawful as a sentence for crime but there is no explicit prohibition in relation to any other setting, and the Civil Code specifically authorises “moderate” punishment of children by parents (article 1638). Draft legislation which would have explicitly prohibited in all settings succeeded through three commissions in the House of Representatives but was blocked on appeal by the Evangelical Group in 2006.

#### **Proposed strategy to achieve prohibition**

The Brazilian Network *Não Bata, Eduque* will ensure the bill is re-submitted in 2009, following elections. Preparation for this will include revising the text of the draft law, seeking expert advice on the parliamentary process itself, strengthening the network of support, continuing the campaign launched in 2007, and developing effective child participation.

## **Cambodia**

### **Current legal situation**

Corporal punishment is prohibited in schools and the penal system but the law relating to penal institutions is vague and leaves room for interpretation. Corporal punishment is lawful in the home, alternative care settings and situations of employment. The Civil Code confirms the right of persons with parental authority to discipline their children “within the necessary scope” (article 1044) and the Domestic Violence Law 2005 possibly exempts disciplinary physical punishment of children from its scope. A Criminal Code Bill and Juvenile Justice Bill have long been under discussion.

#### **Proposed strategy to achieve prohibition**

The strategy focuses on (i) reforming the law –reviewing the Juvenile Justice Bill, Criminal Code Bill, Civil Code, Domestic Violence Law and labour laws to identify and advocate for necessary amendments, with reference to relevant research; (ii) conducting national research, ideally in collaboration with UNICEF, World Vision and Plan, and identifying other relevant studies in the region; (iii) child participation – undertaking child led research as a first step in awareness-raising, with the assistance of the Youth Advisory Panel at Save the Children Australia, Children Committee partner of Save the Children Norway and the Research Ethics Review panel, and involving children in peer awareness-raising activities, with training and support; (iv) advocacy and awareness-raising – identifying key ministers and ministries to advocate for prohibition and channeling discussions through the Orphans and Vulnerable Children task force and the Cambodian National Council for Children, raising the issue with existing networks and planning a national campaign for 2008, identifying key individuals at community level (e.g. religious leaders), using the mass media, disseminating publications, and developing a joint Save the Children national strategy for prohibition.

## **Ethiopia**

### **Current legal situation**

Corporal punishment is explicitly prohibited in schools, the penal system and care institutions in the Constitution, but it is lawful in other alternative care settings and in the home. The Criminal Code and the Revised Family Code authorise “disciplinary measures” by parents and others with parental responsibility (articles 576 and 258 respectively). In schools, ministerial directives reflect the Constitutional prohibition but there is no explicit prohibition in primary legislation. There is no explicit prohibition in situations of employment.

### **Proposed strategy to achieve prohibition**

The following strategies are proposed: (i) public education and awareness-raising on non-violent disciplinary methods in care and education, including through parent education and teacher training, mainstreaming the issue of corporal punishment in child rights focused governmental and non-governmental organisations, using the media for expression of public views, and maximising opportunities offered by special events (e.g. Day of the African Child); (ii) children and youth participation – facilitating child participation in media debates, enabling participation in law reform process through existing structures (school child rights clubs, children’s parliament), supporting youth led organisations, and arranging national consultative meetings for the children’s parliament and MPs of the Federal State; (iii) collaborative and coordinated approach to law reform initiative, including through identifying key stakeholders and prominent individual child rights activists; (iv) support law reforming group of experts by organising an experience-sharing visit and supporting the group to organise community discussion forums; (v) research and documentation – learning from countries which have achieved prohibition and documenting and disseminating case studies and best practice within the country.

## **Fiji**

### **Current legal situation**

Corporal punishment was declared unlawful in schools and in the penal system by a High Court ruling in 2002, but there is no prohibition in legislation in relation to schools and the Penal Code provisions for judicial corporal punishment have yet to be repealed. Corporal punishment is lawful in the home and alternative care settings. The Juveniles Act confirms the rights of parents, teachers and others with lawful control of a child “to administer reasonable punishment” (article 57).

### **Proposed strategy to achieve prohibition**

The strategy builds on work already undertaken to address corporal punishment, including research, awareness-raising, child participation initiatives and legal reviews. It includes compiling relevant information from the various legal reviews into a single report; drafting prohibiting legislation; building support from NGOs, community-based organisations and faith groups through consultations; continued lobbying at all levels and within the National Coordinating Committee on Children (NCCC); endorsing the draft legislation (or legal opinion) through the NCCC who

will pursue reform through government and the Fiji Law Reform Commission; establishing violence against children as a priority issue in the 2009 elections; and developing child participation through a children's forum and a children's campaign. Particular challenges include the frequent coups and associated disregard of the Constitution, and the dangers of criticising the military when it is in power. Ways of addressing these and other challenges include training for all working with and for children, awareness-raising on the law and children's right to protection, and working with the police.

## **Indonesia**

### **Current legal situation**

Corporal punishment is unlawful as a sentence for crime under the Criminal Code but lawful under Sharia law in Aceh and other regions. It is lawful in the home, schools, penal institutions, alternative care and situations of employment. A Criminal Law Bill is being discussed in parliament.

### **Proposed strategy to achieve prohibition**

A number of starting points for pursuing law reform are identified: (i) advocacy with UNICEF and the Ministry of Child Protection to include prohibition in the National Plan of Action to Eliminate Violence Against Children; (ii) ensure that prohibition in all settings is included in the Criminal Law Bill; (iii) lobby for full incorporation of the Convention on the Rights of the Child in national law; (iv) ensure that prohibition maintains its priority within the Unification Process; (v) investigate how to strengthen article 54 of the Child Protection Law to prohibit corporal punishment in schools without undermining the need for prohibition in other settings. The strategy identifies specific organisations and individuals that are potential supporters/partners and specific media opportunities. Challenges include the forthcoming national elections (June 2009), the widespread acceptance of corporal punishment in all settings including under Sharia law, and the very slow process of reform.

## **Japan**

### **Current legal situation**

Corporal punishment is prohibited in schools and the penal system, although over the years there have been various definitions of what exactly is prohibited and permitted in schools. Corporal punishment is lawful in the home and alternative care settings, and the Child Abuse Prevention Law and the Civil Code confirm the right of parents to discipline their children (articles 14 and 822 respectively).

### **Proposed strategy to achieve prohibition**

The aim is to amend article 14 of the Child Abuse Prevention Law to explicitly prohibit corporal punishment, including a definition if necessary. Four awareness-raising strategies were identified:

(i) targeting groups who will listen (identifying and enlisting parliamentarians, gaining support from the business sector, building partnerships with civil society); (ii) getting media attention; (iii) identifying a celebrity spokesperson; (iv) facilitating children's participation.

## **Kenya**

### ***Current legal situation***

Corporal punishment is unlawful as a sentence for crime. It is prohibited in schools by the repeal of the enabling legislation in the Education Act, confirmed in the Draft Constitution yet to be adopted. But there is no explicit prohibition in penal institutions, alternative care settings and the home, and the Children Act authorises a parent or other person with lawful control of a child "to administer reasonable punishment" (article 127). The Children Act is under review but there is no specific proposal to prohibit corporal punishment by parents.

### ***Proposed strategy to achieve prohibition***

Three steps are identified, building on efforts already undertaken to raise awareness about the problem of corporal punishment and to promote positive, non-violent disciplinary approaches to child-rearing and education: (i) identify relevant stakeholders to disseminate workshop proceedings and form a working group for follow up; (ii) mobilise all key stakeholders to form a working group to improve this strategy (National Council of Children's Services (NCCS), Kenya Law Reform Commission, Ministry of Gender and Children); (iii) assess existing legal provisions on corporal punishment and their enforcement. The proposed working group will ensure that the NCCS brief their respective ministries, develop a strategy for using the media as an advocacy tool, identify a focal point in Parliament to facilitate access to parliamentarians and develop a child participation strategy. ANPPCAN Kenya in consultation with the working group will develop reader friendly materials and disseminate these to target groups. ANPPCAN Kenya will develop a strategy for providing feedback to children and relevant stakeholders on all laws that have been revised/amended.

## **Lebanon**

### ***Current legal situation***

Corporal punishment is prohibited in the penal system but is lawful in the home, schools and alternative care settings and there is no explicit prohibition in situations of employment. The Penal Code allows teachers and parents to inflict discipline "as sanctioned by general custom" (article 186) and Law 422 for the Protection of Juvenile Delinquents and Endangered Juveniles allows for a level of physical assault which is "culturally accepted as harmless corporal punishment". Legislation is being drafted by Save the Children and partners (including a government body) with the aim of full prohibition.

### ***Proposed strategy to achieve prohibition***

Government/parliament will be approached by way of parliamentary briefings, liaison with parliamentary allies, and through UNICEF. The draft protection law will be revised so as to include explicit and comprehensive prohibition, including repeal of specific laws as necessary. Child participation will be ensured by raising awareness among children's groups, by involvement in the drafting of the law (for feedback, advocacy and awareness-raising in implementing the law), and by making their voices heard on the impact of corporal punishment. Use will be made of the media, which is easily accessible, to raise awareness of the effects of corporal punishment and of the new law when enacted, and in national debates on the issue. Challenges include a belief that existing law is sufficient, the position of religious/traditional leaders, and the idea that prohibition is a western construct. These can be overcome by demonstrating the need for a new law through a comparison of the draft with existing law, by working on religious texts, and by reminding people of the countries that were involved originally in developing the Convention on the Rights of the Child.

## ***Lithuania***

### ***Current legal situation***

Corporal punishment is unlawful as a sentence for crime but there is no explicit prohibition in relation to any other setting, and the Law on the Fundamentals of Protection of the Rights of the Child allows for "appropriate discipline" (article 49). In 2006, the Government stated its intention to prohibit but went on to accept the recommendation of the Lithuanian Institute of Law that separate legislation was unnecessary and the "anti-spanking" law was not approved. Current draft legislation prohibits only "physical violence".

### ***Proposed strategy to achieve prohibition***

Previous efforts towards law reform will be evaluated to ensure a clear focus on law reform, e.g. in the "Educate responsibly" campaign launched in May 2008. Work with parliament and government will include familiarisation with the parliamentary process, analysis of domestic law and international human rights obligations, collaboration with the Child Rights Ombudsperson and other MPs known to support prohibition, lobbying of other members (and identification of opposition) and influencing the preparation of the report to the UN Committee on the Rights of the Child due in February 2009. Previous child participation initiatives will be developed to maximise children's voices in calling for prohibition, including through involvement in round table meetings with government and civil society. The use of the media to date will be evaluated and redeveloped so as to present a clear message against corporal punishment. Collaboration with other organisations will be pursued to strengthen the support base and improve coordination of efforts towards reform. The strategy is to be developed further following discussion with Save the Children Lithuania staff.

## **Mongolia**

### **Current legal situation**

Corporal punishment is prohibited in schools and as a sentence of the courts but there is no explicit prohibition in the home, penal institutions and alternative care settings. Legislation is being drafted to prohibit in all settings and is due to be presented to parliament in late 2008.

### **Proposed strategy to achieve prohibition**

The aim is to prohibit all corporal punishment by 2009-2010, together with development of the national child protection system to ensure effective implementation. This will be achieved in the home and alternative care settings by amending the Family Law, and in penal institutions by amending criminal law. The strategy focuses on (i) alliance building (NGOs, lawyers, prominent individuals); (ii) child participation (reporting to the UN Committee on the Rights of the Child in 2008, media work); (iii) media campaigning, lobbying (targeting the relevant ministries and task group leaders and identifying high level supporters) and (iv) sharing experience and resources (between national organisations and between countries). The strategy details specific activities to be undertaken between June and November 2008, including establishing an NGO task group, reviewing existing laws and finalising the text of the draft legislation (Jun); engaging with the alternative reporting process on implementation of the Convention on the Rights of the Child; identifying supporters and opponents among new government members and planning the media campaign (Jul/Aug); lobbying MPs, preparation of spokespersons and launch of the media campaign (Sept); and launching the alternative and children's reports on implementation of the Convention on the Rights of the Child (Oct/Nov).

## **Mozambique**

### **Current legal situation**

Corporal punishment is unlawful as a sentence for crime and is prohibited in penal institutions under the Child Act which will enter into force in September 2008. It is lawful in the home, schools and alternative care settings. There is no explicit prohibition in situations of employment. The Child Act states that the child has a "right to be disciplined" and that no disciplinary measure is justifiable if the child cannot understand its purpose (article 17). The Penal Code and a Law against Domestic Violence Bill are under revision.

### **Proposed strategy to achieve prohibition**

The plan is to (i) create and rally other civil society organisations to form an alliance or core group to revise existing laws, propose amendments and identify opportunities within the current legal reform process; (ii) gain support from representatives of the African Council of Churches and identify supporting national religious leaders; (iii) collaborate with Plan International on a research study; (iv) lobby parliamentary Social Affairs, Human Rights and Legislation Committee for explicit prohibition; (v) ensure inclusion of corporal punishment in the 2008 alternative report to the

UN Committee on the Rights of the Child; (vi) engage with the Ministry of Education, Women and Social Welfare and with the Justice Ministry to confirm in law the ministerial directive banning corporal punishment in schools and to include explicit prohibition in regulations still to be developed under the Child Act; (vii) engage with the media; (viii) identify key individuals to lobby government/parliament; (ix) identify other potential stakeholders (medical, academic) and conduct seminars to raise awareness and enlist support.

## **Nepal**

### **Current legal situation**

Corporal punishment is not explicitly prohibited in any setting, though in 2005 the Supreme Court declared the legal defence available to parents, guardians and teachers in the Child Act (but not the Civil Code) null and void. The Education Act Bill would prohibit in schools and a Children's Bill is under discussion

### **Proposed strategy to achieve prohibition**

The proposed plan is developed around the following issues: (i) situation research – on children's experiences leading to recommendations by children, on existing policy and law leading to specific recommendations for reform, and document research into prevalence and best practice worldwide leading to best alternatives and recommendations; (ii) development of messages and a slogan, and production of campaign resources; (iii) identification of key supporters and organisations to be targeted; (iv) lobbying for prohibition and campaigning against corporal punishment particularly through key supporters and organisations and using the mass media; (v) supporting the process of re-drafting legislation – lending expertise to the legal review process, re-drafting legislation, and providing financial support (seminars, printing costs). Particular challenges include the complex, long and slow process of law reform and the preoccupation with the constitution.

## **Nicaragua**

### **Current legal situation**

Corporal punishment is prohibited in schools and the penal system but not in the home, alternative care settings and situations of employment. The Revised Penal Code and the Draft Family Code (article 279) allow for "moderate correction". Legislation is being drafted with the support of the special ombudswoman for children's rights but prohibition has not yet been raised with government/parliament.

### **Proposed strategy to achieve prohibition**

The aim is to enact legislation prohibiting in all settings by including explicit prohibition in the Family Code, removing the authorisation of corporal punishment from the Penal Code, and strengthening the prohibition in schools by way of a ministerial regulation. Other aims are to sen-

sitise the public by raising public debate about law reform and to promote attitudinal and behavioural change by supporting implementation of law reform. This will include strengthening and expanding the multisectoral steering group, analysing the current legal framework and finalising the draft legislation, approaching decision makers in parliament and government, building the evidence base through literature reviews, producing factsheets, capacity building through workshops and seminars focused on the need for law reform, and organising a multi-media public education campaign. The plan identifies concrete ways to address and overcome the most significant challenges.

## **Palestine**

### ***Current legal situation***

Corporal punishment is prohibited in schools run by the UN Relief and Works Agency but is lawful in all other settings. The Jordanian Penal Code, applicable in the West Bank, permits “disciplinary beating of children by their parents in a manner allowed by public customs” and states that injuries inflicted in the course of discipline are not considered an offence (articles 62 and 333 respectively). In Gaza, a British penal code permits corporal punishment of children as a sentence for crime, and Sharia law is possibly being implemented under the Hamas government. At the Israeli state level, the Military Orders imposed on the Occupied Palestinian Territory and which govern all aspects of life do not explicitly refer to the full prohibition of corporal punishment in Israeli law. In 2005 the Palestinian National Authority pledged to uphold the provisions of the Convention on the Rights of the Child. Proposed amendments to the Palestinian Child Law have been received by the Palestinian Legislative Council, but since 2006 further progress has been prevented by the political situation. Palestinian children in the East Jerusalem area are legally protected by the prohibition of all corporal punishment in Israeli national law.

### ***Proposed strategy to achieve prohibition***

The proposed strategies are (i) research – review of existing and draft legislation and assessment of the situation in the Gaza Strip; (ii) pilot workshops with other Save the Children members; (iii) identification of lead child rights organisations and networks; (iv) development of materials and documentation; (v) establishment of a network to work towards prohibition; (vi) engagement of a professional and experienced lawyer to formulate a legal opinion and review case law; (vii) identification of opponents; (viii) awareness-raising on the impact of corporal punishment and on the Convention on the Rights of the Child; (ix) advocacy and lobbying – including child participation in relation to all settings and encouragement of collaboration between ministries; (x) capacity building – promoting alternatives to corporal punishment to parents, teachers, social workers, police officers and government officials; (xi) drafting the necessary legislation and ensuring it is enacted; (xii) developing ministerial policies and regulatory frameworks to ensure implementation of the prohibition; (xiii) follow up, monitoring and reporting, and feedback to the Palestinian Legislative Council. Particular challenges include the different processes of legal reform in the West Bank and the Gaza Strip, and the current inactivity of the Palestinian Legislative Council due to the detention of MPs in Israel. There is a high level of mistrust towards government bodies and public institutions because of the long absence of a government structure and the current difficulties facing the Palestinian National Authority. The typical reliance on traditional legal systems tends

to undermine the seriousness with which legislation is regarded. Meeting these challenges will involve, among other things, making best use of the strong civil society and raising awareness using the mass media.

## **Papua New Guinea**

### **Current legal situation**

Corporal punishment is prohibited in the penal system but is lawful in the home, schools, alternative care settings and situations of employment. The Criminal Code confirms the right of those with parental authority and of teachers to use “reasonable” force “by way of correction” (article 278), and the Constitution exempts “reasonable” acts “in the course of education, discipline or upbringing of the child” from the protections related to liberty of the person (article 42).

### **Proposed strategic plan to achieve prohibition**

Building on progress already made in relation to violence against children, the strategy involves (i) an evidence-based advocacy campaign using high-profile personalities; (ii) compilation of a single report on laws relevant to corporal punishment and inclusion in the Constitutional Law Reform process; (iii) drafting of comprehensive prohibiting legislation; (iv) gaining NGO support through consultations; (v) sensitising the media to the issue. Government is to be approached through the production of reader-friendly documents relating to the Convention on the Rights of the Child and the UN Committee on the Rights of the Child and summarising research with children. Children will participate through relevant training for children and volunteers, child-led community-based research, and child participation in analysis of research, in making and publicising recommendations and in drafting new legislation. Challenges to reform include the high prevalence and acceptance of violence generally in society, religious resistance and traditional customs such as apology/compensation and payback. Ways to overcome these and other challenges include identifying supportive key religious leaders as spokespersons, engaging with traditional elders on the subject of raising children, and training in and promotion of positive discipline among NGOs and in teacher training.

## **Peru**

### **Current legal situation**

Corporal punishment is unlawful as a sentence for crime but is not explicitly prohibited by law in any other setting, and the Code of Children and Adolescents and the Civil Code specifically provide for “moderate correction” (articles 74 and 423 respectively). In December 2007 Congress stated its all-party commitment to prohibition and legislation has been drafted which is to be submitted to Congress through the Children’s Ombudsman in June 2008.

### ***Proposed strategy to achieve prohibition***

The “Goodbye to Corporal Punishment” campaign focuses on the impact of child and adolescent organisations in eliminating corporal punishment and the promotion of a “pedagogy of tenderness” in parenting and education, and aims to achieve prohibition by amending the Child and Adolescent Code. Child participation plays a key role in the law reform process, including in proposing and monitoring the passage of the bill and in mobilising community and societal support for prohibition and defence of children’s rights. The campaign draws on, among other things, the Committee on the Rights of the Child’s recommendations to Peru and General Comment No.8, the UN Study on Violence against Children and recommendations, and the recommendations of the Peruvian Commission of Truth and Reconciliation.

## ***Philippines***

### ***Current legal situation***

Corporal punishment is prohibited in schools, the penal system and in some alternative care settings, but it is lawful in the home and in other alternative care settings and the “right to discipline” is recognised in a number of laws (e.g. Family Code, Child and Youth Welfare Code, Muslim Personal Law, Rules and Regulations on the Reporting and Investigation of Child Abuse Cases). Bills which would prohibit in all settings by amending various laws have been filed at the Senate and the House of Representatives but have not yet been filed for public hearing and a more comprehensive bill is being drafted

### ***Proposed strategy to achieve prohibition***

The strategy to achieve reform comprises (i) strengthening the support base – through capacity building, developing coordination and information-sharing, establishing new links, influencing partner networks and engaging with professionals, religious groups and special interest groups; (ii) awareness-raising and public education – promotion of positive discipline and development/dissemination of relevant materials, media work; (iii) evidence-building – developing model child protection systems, continued monitoring of children’s experiences of corporal punishment; (iv) lobbying in Congress – meetings with individuals, policy forums, monitoring progress of the bill; (v) facilitating child participation – supporting community-based and children-initiated actions, creating mechanisms for children’s involvement in the legal reform process, and building children’s capacities to participate. Particular challenges include gaining the support of religious (especially Catholic) groups and sustaining the campaign and the work of networks and partner organisations.

## ***South Africa***

### ***Current legal situation***

Corporal punishment is unlawful in all settings except the home and informal alternative care. Under common law, parents may “inflict moderate and reasonable chastisement on a child” (*R v Janke and Janke* 1913 TPD 382), and this may be delegated to a person acting in the parent’s place

(except those specifically prohibited in legislation). The Children's Amendment Act was passed in 2007 only after removal of the clause which would have prohibited corporal punishment in the home, pending further investigation of this issue. Prohibition in alternative care settings is included in regulations under the Child Care Act, but these will be repealed when the new Children Act comes into force. Prohibition is expected to be reintroduced to parliament by way of an amendment bill in 2009.

### ***Proposed strategy to achieve prohibition***

The strategy covers six areas: (i) support and alliance building – further development of the strategy by the existing alliance (June 2008), ongoing interaction with the alliance to keep up momentum, building the broader alliance, strengthening the advocacy capacity of young people, producing newsletter and disseminating other resources, establishing a website for access to resources; (ii) parliamentary law reform – using opportunities likely to be provided by the amendment process in 2009, identifying and targeting advocacy at high level supporters and supporting existing high level supporters, advocacy with the Department of Social Development to support prohibition of parental corporal punishment and to ensure continued prohibition in alternative care; (iii) litigation – exploring the possibility of litigation with the South African Human Rights Commission as the applicant and key members of core alliance as the legal council, meeting with legal experts to develop a litigation strategy (June/July 2008); (iv) implementation – meetings with Department of Education officials concerning prohibition in schools (July 2008) and consideration of litigation against the Department, advocacy with the Department of Education on the promotion of positive parenting, advocacy with Department of Social Development officials on implementation of parenting programmes under the Children's Amendment Act (Jul/Aug 2008); (v) media – continued proactive and reactive media engagement, linking proactive campaigns to events and cases, linking the issue of legal reform to interviews relating to child protection (opportunistic); (vi) regional interaction and support – undertaking joint actions to promote support for prohibition through the African Union, receiving and providing support to advocacy in other countries in the region. The strategy also highlights significant challenges and concrete steps to address them.

## ***Southern Sudan***

### ***Current legal situation***

Corporal punishment is prohibited in the home, schools, penal institutions, alternative care settings and situations of employment in the Interim Constitution of Southern Sudan, but is not explicitly prohibited as a sentence of the courts. The Child Bill explicitly confirms the constitutional prohibition in schools, police stations, prisons, reformatories and other institutions but does not explicitly prohibit in the home, children's homes, foster homes and as a sentence of the courts. The Education Bill and draft Teachers' Code of Conduct do not confirm the constitutional prohibition in schools. The Penal Code Bill allows whipping of children as a sentence of the courts. Proposals have been made to the Ministry of Education to include prohibition of corporal punishment in the Teachers' Code of Conduct.

### ***Proposed strategy to achieve prohibition***

Strategies to ensure that legislation confirms the explicit prohibition in the Interim Constitution and to prohibit judicial corporal punishment are: (i) lobby for inclusion of explicit prohibition in the Child Bill within the home and in the Education Bill in schools, utilising existing working relationships with the relevant ministries; (ii) work in partnership with key opinion leaders and children in clubs to enable them to be spokespersons for these issues; (iii) disseminate existing prevalence research and new advocacy messages and use the media to promote prohibition; (iv) work closely with UNICEF and other child rights organisations in giving a clear message about prohibition and supporting implementation. The strategy identifies some particular challenges to law reform in Southern Sudan and steps to overcome them. For example, perception of the issue as a western and un-African one will be addressed by working with high level Sudanese officials who can front the campaign and by using traditional village councils who are respected opinion leaders to own the issue and support reform.

## ***Sri Lanka***

### ***Current legal situation***

Corporal punishment is unlawful as a sentence for crime but is lawful in the home, schools, penal institutions and alternative care settings, and there is no explicit prohibition in situations of employment. The Penal Code clearly indicates the acceptability of corporal punishment in one of the illustrations to the offence of criminal force (articles 82 and 341). The Children and Young Person's Ordinance (CYPO) – which recognises the right of parents, teachers and others “to administer punishment” (part V) but has never been brought into force – is being re-drafted by UNICEF and the Ministry of Justice.

### ***Proposed strategy to achieve prohibition***

Elements of the strategy are (i) research on corporal punishment – ensuring child participation and fostering state ownership of the issue by involving government; (ii) strengthening civil society support – creating new networks and building on existing ones, particularly through publicising and disseminating results of the research; (iii) reviewing existing legislation (with Lawyers for Human Rights and Development) and lobbying UNICEF and the Ministry of Justice to include explicit prohibition in the CYPO bill and to consult children on the bill; (iv) creating strong public opinion and mobilising support from across the country, targeting the human rights organisations as well as the child rights organisations, and awareness-raising on the negative impact of corporal punishment; (v) media advocacy – on the negative impact of corporal punishment and promoting positive discipline; (vi) meetings with high level parliamentarians and developing simplified versions and briefings on the proposed bills for lobbying purposes; (vii) monitoring the bill's progress through parliament, being clear about its non-negotiable provisions. Particular challenges include the government's preoccupation with the war and its suspicion of INGOs.

## **Swaziland**

### **Current legal situation**

Corporal punishment is lawful in all settings. The Constitution confirms that children may be subject to “lawful and moderate chastisement for purposes of correction” (section 29). A Child Bill and a Juvenile Justice Bill are being drafted.

### **Proposed strategy to achieve prohibition**

The plan is to (i) review the Child Bill and Juvenile Justice Bill with a view to including explicit prohibition (June 2008); (ii) work with faith based groups through the Council of Swaziland Churches in liaison with the South African Council of Churches (July 2008); (iii) strengthen the media campaign; (iv) engage with the constitutional review process, focusing on the “moderate chastisement” provision; (v) engage with children’s forums within the National Children’s Coordinating Unit on the issue of corporal punishment; (vi) review other bills (education, social welfare) to identify necessary amendments and lobby as appropriate; (vii) develop implementation strategies and action plans so that they are in place when the law is passed. Major challenges include the support of traditional and religious leaders for corporal punishment and the constitutional protection of the right of parents to inflict corporal punishment.

## **Uganda**

### **Current legal situation**

Corporal punishment is prohibited in the penal system, but there is no explicit prohibition in the home, schools, alternative care settings and situations of employment. The Children’s Act and the Education Act are under review. The revised Education Bill possibly prohibits corporal punishment in schools.

### **Proposed strategy to achieve prohibition**

The proposed strategy is built around four issues: (i) information dissemination – meet with Uganda representatives of the UN study network to share workshop proceedings and strengthen the strategy following further consultation (Jul 2008); (ii) understanding the law – assess existing legislation and information on corporal punishment and develop a position paper (Oct 2008); (iii) law reform process – develop the detail of necessary steps, to include presentation of agenda to relevant ministries, identification of other influential bodies, determination of optimum mode of presenting bills (e.g. private member’s motion or parliamentary motion), meeting with relevant parliamentary committees during parliamentary debate of bills, and development of a media strategy, awareness-raising packages and a child participation strategy (ongoing); (iv) inclusion in legislation – development of feedback on legislation (Dec 2009). The strategy identified who is responsible for each activity.

## **Viet Nam**

### ***Current legal situation***

Corporal punishment is unlawful in the penal system but there is no explicit prohibition in the home, schools, alternative care settings or situations of employment.

### ***Proposed strategy to achieve prohibition***

The first step of the four year strategy involves reviewing all laws to establish whether or not the various prohibitions of abuse, violence, humiliating treatment etc are clear that these actions are prohibited even when inflicted “for purposes of discipline”. Confirmation that the laws are not clear in this respect will provide the basis for advocating explicit prohibition in law. The next steps are to advocate, with UNICEF, for a new law against child abuse which includes explicit prohibition of corporal punishment, to educate parents and teachers on positive disciplinary measures and, following reform, to communicate the prohibition publicly. The long term plan is to advocate for a child protection system. Language was identified as a particular challenge since the term “corporal punishment” is not familiar, but this can be overcome by referring instead to violence and humiliating treatment which is inflicted “for purposes of discipline”.

## **Yemen**

### ***Current legal situation***

Corporal punishment is prohibited in schools but is lawful in the home, the penal system, alternative care settings and situations of employment. The Children’s Rights Act confirms the right of parents to discipline their children (article 146) and this is reiterated in draft amendments to the Penal Code and the Children’s Rights Act. Parliament has rejected previous drafts due to its unwillingness to interfere in the private sphere of the home

### ***Proposed strategy to achieve prohibition***

The strategy is to work with government, civil society, NGOs and INGOs through (i) participation in reviews of existing laws and drafting of new legislation; (ii) awareness-raising of the recommendations of the UN Committee on the Rights of the Child and follow up to the UN Study on Violence against Children; (iii) positive parenting programmes; (iv) promotion of prohibition by influential national and regional individuals, especially religious figures, and through regional forums; (v) development of a positive interpretation of Sharia law; (vi) collaboration with UN and international organisations in the country. Work with the media will involve capacity building on the Convention on the Rights of the Child and relevant existing legislation, involving the media in advocacy events, and public awareness-raising. Efforts will also be directed at enforcing the prohibition in schools. Particular challenges include strong opposition from conservative religious groups and parliamentarians and the absence of effective social protection mechanisms.

## **Zambia**

### ***Current legal situation***

Corporal punishment is unlawful in the penal system by virtue of a 1999 Supreme Court ruling, but legislation in relation to approved schools and reformatories is yet to be repealed. Corporal punishment is lawful in the home, schools and alternative care settings under “the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer lawful punishment to him” (Juveniles Act, section 46), though the specific authorisation of corporal punishment in schools has been repealed. Corporal punishment in institutions is prohibited in the Constitution Bill.

### ***Proposed strategy to achieve prohibition***

The plan is to (i) establish a Child Law Reform Secretariat within the principle ministry, coordinated by the Law Commission; (ii) engage relevant government ministries in the issue; (iii) review child related laws and disseminate the results to all stakeholders for validation and identification of gaps, engaging the media and faith groups; (iv) create thematic groups, including one on corporal punishment and violence against children, to make proposals and recommendations for law reform; (v) approach relevant parliamentary committees to discuss themes under the reform; (vi) create junior committee to involve children in the process; (vii) conduct comparative studies with other jurisdictions; (viii) periodically review and consolidate the findings and effect the necessary change through legislative and other interventions (legal action, lobbying, campaigns, sensitization); (ix) resource mobilisation; (x) build a coalition of civil society and government departments to make corporal punishment a national and children’s rights issue and to advocate legal reform of the Juveniles Act and other laws. Particular challenges include the belief that existing law is sufficient and the lack of implementation of even the weak existing law.

## Annex 6 – Progress towards universal prohibition

Prepared by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)), July 2008

Please note: The following information has been compiled from many sources, including reports to and by the United Nations human rights treaty bodies, updated with information provided during and since the workshop. Information in square brackets is unconfirmed. We are very grateful to government officials, UNICEF and other UN agencies, NGOs and human rights institutions, workshop participants, and many individuals who have helped to provide and check information. Please let us know if you believe any of the information to be incorrect: [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).

This table is regularly updated on the Global Initiative website at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org).

| States with full prohibition in legislation |                        |                       |                            |                         |   |
|---|------------------------|-----------------------|----------------------------|-------------------------|---|
| State                                       | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|   |                        |                       | As sentence                | As disciplinary measure |   |
| Austria                                     | YES <sup>44</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Bulgaria                                    | YES <sup>45</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Chile                                       | YES <sup>46</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Costa Rica                                  | YES <sup>47</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Croatia                                     | YES <sup>48</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Cyprus                                      | YES <sup>49</sup>      | YES                   | YES                        | YES                     | YES                                     |

44. Prohibited in 1989 by section 146a of General Civil Code

45. Prohibited in 2000 Child Protection Act (amended 2003) and 2003 Regulation on the Implementation of the Child Protection Act

46. Prohibited in 2007 amendment to Civil Code (provisional information – the explicit prohibition proposed by the Ministry of Justice was amended before being passed by the Senate's Commission of the Constitution, Legislation, Justice and Regulations – the new law is to be discussed by the Senate in May 2008)

47. Prohibited in 2008 amendments to the Code on Children and Adolescents and the Family Code

48. Prohibited explicitly in 1998 Family Act, replaced by 2003 Family Act

49. Prohibited in 1994 Violence in the Family (Prevention and Protection of Victims) Law, reiterated in 2000 Act on Violence in the Family; response to governmental questionnaire in UN Secretary General's Study on Violence against Children (August 2005) stated Children Law provides for "right to administer punishment", but this provision expected to be removed following review

**States with full prohibition in legislation (ctd)**

| State       | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|-------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|             |                        |                       | As sentence                | As disciplinary measure |   |
| Denmark     | YES <sup>50</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Finland     | YES <sup>51</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Germany     | YES <sup>52</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Greece      | YES <sup>53</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Hungary     | YES <sup>54</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Iceland     | YES <sup>55</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Israel      | YES <sup>56</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Latvia      | YES <sup>57</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Netherlands | YES <sup>58</sup>      | YES                   | YES                        | YES                     | YES                                     |
| New Zealand | YES <sup>59</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Norway      | YES <sup>60</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Portugal    | YES <sup>61</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Romania     | YES <sup>62</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Spain       | YES <sup>63</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Sweden      | YES <sup>64</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Ukraine     | YES <sup>65</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Uruguay     | YES <sup>66</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Venezuela   | YES <sup>67</sup>      | YES                   | YES                        | YES                     | YES                                     |

50. Prohibited in 1997 amendment to 1995 Parental Custody and Care Act

51. Prohibited in 1983 Child Custody and Right of Access Act

52. Prohibited in 2000 amendment to Civil Code

53. Prohibited in 2006 Law 3500/2006 on the Combating of Intra-family Violence

54. Prohibited in 2004 amendment to Hungarian Child Protection Act

55. Prohibited in 2003 Children's Act

56. 2000 Supreme Court ruled against all violence in childrearing; "reasonable chastisement" defence removed from legislation in same year

57. Prohibited in 1998 Children's Rights Protection Law

58. Prohibited in 2007 amendment to the Civil Code

59. Prohibited in 2007 Crimes (Substituted Section 59) Amendment Act

60. Prohibited in 1987 amendment to 1981 Parent and Child Act; but Supreme Court decision 30 November 2005 interprets Penal Code as allowing "lighter smacks"; government is reviewing this provision

61. Prohibited in 2007 amendment to Penal Code

62. Prohibited in 2004 Law on Protection and Promotion of the Rights of the Child

63. Prohibited in 2007 amendment to Civil Code

64. Prohibited in 1979 amendment to Parenthood and Guardianship Code

65. Prohibited in 2003 Family Code

66. Prohibited in 2007 amendments to Civil Code and Children and Adolescents Code

67. Prohibited in 2007 amendment to Law for the Protection of Children and Adolescents

| <b>Prohibition by Supreme Court ruling</b> |                               |                              |                                   |                                |  |
|--|-------------------------------|------------------------------|-----------------------------------|--------------------------------|--|
| <b>State</b>                               | <b>Prohibited in the home</b> | <b>Prohibited in schools</b> | <b>Prohibited in penal system</b> |                                | <b>Prohibited in alternative care settings</b> |
|  |                               |                              | <b>As sentence</b>                | <b>As disciplinary measure</b> |  |
| Italy                                      | YES <sup>68</sup>             | YES                          | YES                               | YES                            | YES  |
| Nepal <sup>69</sup>                        | NO <sup>70</sup>              | NO <sup>71</sup>             | SOME <sup>72</sup>                | NO <sup>73</sup>               | NO <sup>74</sup>                               |

| <b>States committed to full prohibition</b> |                               |                              |                                   |                                |  |
|---|-------------------------------|------------------------------|-----------------------------------|--------------------------------|--|
| <b>State</b>                                | <b>Prohibited in the home</b> | <b>Prohibited in schools</b> | <b>Prohibited in penal system</b> |                                | <b>Prohibited in alternative care settings</b> |
|   |                               |                              | <b>As sentence</b>                | <b>As disciplinary measure</b> |  |
| Afghanistan <sup>75</sup>                   | NO                            | NO <sup>76</sup>             | YES                               | NO <sup>77</sup>               | NO   |
| Bangladesh <sup>78</sup>                    | NO                            | NO <sup>79</sup>             | NO                                | NO                             | NO   |
| Bhutan <sup>80</sup>                        | NO                            | NO <sup>81</sup>             | ???                               | NO                             | NO   |

68. 1996 Supreme Court ruling prohibited all violence in childrearing, but as at May 2008 not confirmed in legislation

69. Commitment to prohibition in all settings, including the home, made at July 2006 meeting of the South Asia Forum, following 2005 regional consultation of the UN Secretary General's Study on Violence against Children. As at May 2008, draft legislation which would prohibit in all settings under discussion

70. 2005 Supreme Court ruling removed legal defence available to parents, guardians and teachers

71. Draft legislation would prohibit (May 2008). See also previous note

72. Prohibited in state laws, but permitted in Maoist courts

73. See note 27

74. See note 27

75. Commitment to prohibition in all settings, including the home, made at July 2006 meeting of the South Asia Forum, following 2005 regional consultation of the UN Secretary General's Study on Violence against Children

76. Ministry of Education announced in June 2006 that "the use of any form of violent behaviour and beating and humiliation of children is strictly prohibited", but this yet to be confirmed in legislation

77. Prohibited by policy and practice in the Children's Rehabilitation Centre and as at September 2005 Regulations for the Children's Rehabilitation Centre under discussion

78. Commitment to prohibition in all settings, including the home, made at July 2006 meeting of the South Asia Forum, following 2005 regional consultation of the UN Secretary General's Study on Violence against Children

79. Ministerial directives advise against use

80. Commitment to prohibition in all settings, including the home, made at July 2006 meeting of the South Asia Forum, following 2005 regional consultation of the UN Secretary General's Study on Violence against Children

81. Prohibited in Code of Conduct but not in law

### States committed to full prohibition (ctd)

| State                        | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|------------------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                              |                        |                       | As sentence                | As disciplinary measure |   |
| Czech Republic <sup>82</sup> | NO                     | NO                    | YES <sup>83</sup>          | YES                     | NO                                      |
| Estonia <sup>84</sup>        | NO                     | YES <sup>85</sup>     | YES                        | YES <sup>86</sup>       | NO                                      |
| Ireland <sup>87</sup>        | NO                     | YES                   | YES                        | YES                     | SOME <sup>88</sup>                      |
| Lithuania <sup>89</sup>      | NO                     | YES <sup>90</sup>     | YES                        | YES <sup>91</sup>       | NO                                      |
| Luxembourg <sup>92</sup>     | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Maldives <sup>93</sup>       | NO                     | YES                   | NO                         | NO                      | SOME                                    |
| Pakistan <sup>96</sup>       | NO                     | SOME <sup>97</sup>    | SOME <sup>98</sup>         | NO <sup>99</sup>        | NO                                      |

82. Government committed to prohibition; as at March 2008, prohibition was due to be considered by the Government Council for Human Rights

83. But no explicit prohibition

84. Government committed to prohibition and draft legislation which would prohibit in all settings is due to be submitted to parliament at the end of 2008

85. But no explicit prohibition

86. But no explicit prohibition

87. Government has stated long-term commitment to prohibition but given no indication of timing

88. Prohibited in pre-school settings except for childminders caring for children of relatives, children of same family or up to three children from different families; prohibited in foster care and residential care services by guidance

89. Government stated its intention to introduce prohibition in law during January 2006 examination by the Committee on the Rights of the Child but as at May 2008 draft legislation under discussion does not explicitly refer to corporal punishment

90. But no explicit prohibition

91. But no explicit prohibition

92. Government has stated its intention to prohibit in the home; as at May 2007 a Bill was pending that would prohibit in the family and educational settings

93. Commitment to prohibition in all settings, including the home, made at July 2006 meeting of the South Asia Forum, following 2005 regional consultation of the UN Secretary General's Study on Violence against Children. But Government has also stated commitment to retaining corporal punishment under Islamic law (2006) and according to Committee on the Rights of the Child draft Penal Code legalizes corporal punishment in the home, schools and institutions (June 2007)

94. But as at June 2007, new draft Penal Code legalizes corporal punishment in schools (information unconfirmed).

95. Prohibited in the Education and Training Centre for Children

96. Commitment to prohibition in all settings, including the home, made at July 2006 meeting of the South Asia Forum, following 2005 regional consultation of the UN Secretary General's Study on Violence against Children; as at June 2007, draft Protection of Children Act (2005) which would introduce full prohibition under discussion; 2005 National Child Policy recognises right of the child to protection from corporal punishment

97. Prohibited in North West Frontier, Punjab and Sindh Provinces by directive

98. Prohibited in 2000 Juvenile Justice System Ordinance but as at June 2006 this not implemented in tribal areas and other legislation not amended

99. See previous note

| States committed to prohibition (ctd) |                        |                       |                            |                         |   |
|---------------------------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
| State                                 | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|                                       |                        |                       | As sentence                | As disciplinary measure |   |
| Peru <sup>100</sup>                   | NO                     | NO <sup>101</sup>     | YES                        | NO                      | NO                                      |
| Poland <sup>102</sup>                 | NO <sup>103</sup>      | YES                   | YES                        | YES                     | YES <sup>104</sup>                      |
| Serbia <sup>105</sup>                 | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Slovakia <sup>106</sup>               | NO                     | YES <sup>107</sup>    | YES                        | YES                     | YES                                     |
| Slovenia <sup>108</sup>               | NO                     | YES                   | YES                        | YES                     | SOME <sup>109</sup>                     |
| Sri Lanka <sup>110</sup>              | NO                     | NO <sup>111</sup>     | YES                        | SOME <sup>112</sup>     | NO                                      |
| Taiwan <sup>113</sup>                 | NO                     | YES                   | YES                        | YES                     | ???                                     |

| Legal reform in progress but no explicit commitment to full prohibition |                        |                       |                            |                         |   |
|---|------------------------|-----------------------|----------------------------|-------------------------|---|
| State   | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|   |                        |                       | As sentence                | As disciplinary measure |   |
| Brazil <sup>114</sup>   | NO                     | NO                    | YES                        | NO                      | NO                                      |

100. Congress has pledged all party support for prohibition (December 2007), and legislation which would prohibit in all settings under discussion (2008)

101. Prohibited by Decree, but not in law

102. Commitment confirmed to Council of Europe Commissioner for Human Rights (June 2008)

103. Prohibited in 1997 Constitution, but not confirmed in law

104. Prohibition in private institutions unconfirmed

105. Government has stated commitment to prohibition (December 2007)

106. Government stated commitment to full prohibition in 2005, expected to be included in new Family Code for public debate January/February 2007

107. But no explicit prohibition

108. Government stated intention to explicitly prohibit in the home during 2004 drafting of domestic violence law; as at January 2007, draft Family Bill which would prohibit in the home under discussion

109. Prohibited in day care centres and residential schools

110. Commitment to prohibition in all settings, including the home, made at July 2006 meeting of the South Asia Forum, following 2005 regional consultation of the UN Secretary General's Study on Violence against Children

111. Prohibited by ministerial circular, but not in law

112. Prohibited in prisons, but lawful in other penal institutions

113. Government stated commitment to prohibition in August 2005

114. Bill which would prohibit in all settings, including the home, passed its first parliamentary debate in early May 2008 and is expected to be tabled for its second (and final) debate later in the month

**Legal reform in progress but no explicit commitment to full prohibition (ctd)**

| State                         | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|-------------------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                               |                        |                       | As sentence                | As disciplinary measure |   |
| Canada <sup>115</sup>         | NO                     | YES <sup>116</sup>    | YES                        | YES                     | SOME <sup>117</sup>                     |
| Nicaragua <sup>118</sup>      | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Philippines <sup>119</sup>    | NO                     | YES                   | YES                        | YES                     | SOME <sup>120</sup>                     |
| Rep of Moldova <sup>121</sup> | NO                     | YES                   | YES                        | YES <sup>122</sup>      | NO                                      |
| South Africa <sup>123</sup>   | NO                     | YES                   | YES                        | YES                     | YES                                     |
| Switzerland <sup>124</sup>    | NO <sup>125</sup>      | YES <sup>126</sup>    | YES                        | YES                     | YES                                     |

115. In March 2008, Bill S-209 which would repeal section 43 of the Criminal Code allowing for the use of force “by way of correction”, was referred by the Senate to the Standing Senate Committee on Legal and Constitutional Affairs to examine the legal consequences of repeal; the Standing Senate Committee on Human Rights had already considered repeal from the child’s perspective and in light of the UN Convention on the Rights of the Child and recommended repeal of the defence by 2009; 2004 Supreme Court ruling upheld parents’ right to administer corporal punishment to children aged 2-12 years, but not using objects and not involving slaps or blows to the head

116. 2004 Supreme Court ruling limited use of force by teachers to restraint and removal and excluded corporal punishment; as at May 2008, no prohibition in legislation relating to private schools, or to any schools in Alberta, Manitoba and Ontario

117. Prohibited in state provided care in Alberta, British Columbia and Manitoba; in Ontario prohibited in provincially-licensed childcare programmes and foster homes and for all children receiving services from a child protection agency or other service provider licensed or approved by the province; in Quebec no right of correction under the Civil Code but right of correction in Federal Criminal Code applies

118. As at May 2008, proposals were being drafted with the support of the special ombudswoman for children’s rights to prohibit all corporal punishment in the draft Family Code

119. Various Bills which would prohibit corporal punishment, including by parents, have been filed but as at April 2008 not scheduled for public hearing

120. Prohibited in residential institutions and day care centres

121. Proposed draft amendments to various laws which would reportedly prohibit in all settings have been submitted to government (May 2008)

122. But no explicit prohibition

123. A clause which would prohibit in the home was removed from the Children’s Bill passed by Parliament in 2007 pending further investigation; as at May 2008, it is expected to be reintroduced to Parliament in a proposed Amendment Bill in 2009

124. Parliamentary initiative 06.419 to prohibit all corporal punishment, adopted by the Committee for Legal Affairs in October 2007, was defeated, but prohibition still under consideration by Parliament (May 2008)

125. 2003 Federal Court ruling stated repeated and habitual corporal punishment unacceptable, but did not rule out right of parents to use corporal punishment

126. Prohibited by federal law pursuant to cantonal legislation; 1991 Federal Court ruled it permissible in certain circumstances, but this considered impossible under current legislation

**Others – prohibition incomplete and no commitment to reform**

| State             | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|-------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                   |                        |                       | As sentence                | As disciplinary measure |   |
| Albania           | NO                     | YES                   | YES                        | YES <sup>127</sup>      | NO                                      |
| Algeria           | NO                     | YES                   | YES                        | [NO]                    | NO                                      |
| Andorra           | NO <sup>128</sup>      | YES <sup>129</sup>    | YES                        | YES                     | NO                                      |
| Angola            | NO                     | YES                   | YES <sup>130</sup>         | NO                      | NO                                      |
| Antigua & Barbuda | NO                     | NO                    | NO                         | NO                      | NO                                      |
| Argentina         | NO                     | NO                    | YES                        | NO                      | NO                                      |
| Armenia           | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Australia         | NO <sup>131</sup>      | SOME <sup>132</sup>   | YES                        | SOME <sup>133</sup>     | SOME <sup>134</sup>                     |
| Azerbaijan        | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Bahamas           | NO                     | NO                    | NO                         | NO                      | NO                                      |
| Bahrain           | NO                     | YES                   | YES                        | ???                     | ???                                     |
| Barbados          | NO                     | NO                    | NO                         | NO                      | SOME <sup>135</sup>                     |
| Belarus           | NO                     | YES                   | YES                        | YES                     | SOME <sup>136</sup>                     |
| Belgium           | NO                     | YES <sup>137</sup>    | YES                        | YES                     | SOME <sup>138</sup>                     |

127. But no explicit prohibition

128. Government has claimed existing laws prohibit in all settings (2004), but no explicit prohibition in legislation

129. No explicit prohibition, but education law and regulations recognise dignity of the child

130. Prohibited for persons under 16 years; prohibition for 16 and 17 year olds unconfirmed

131. In 2003, Law Reform Institute in Tasmania recommended abolition of reasonable correction defence from criminal and civil law but as at May 2008, no changes in the law had been made; 2002 law in New South Wales prohibits force to head or neck of child and to any part of the body where likely to cause harm lasting more than a short period

132. Prohibited in state schools and independent schools in Australian Capital Territory, Tasmania and Victoria; prohibited by Ministerial guidelines in New South Wales and by policy in Queensland and Western Australia but “reasonable chastisement” defence potentially available

133. “Reasonable chastisement” defence potentially available in Queensland and Tasmania

134. Prohibited in child care centres except in Northern Territory; prohibited in residential centres in New South Wales, Queensland, South Australia and Victoria; prohibited in foster care in Queensland, South Australia, Tasmania and New South Wales, but “reasonable chastisement” defence available in all but New South Wales

135. Prohibited in state-arranged foster care and pre-school settings, and in day care centres and children’s residential centres run by Child Care Board, but lawful in private foster care

136. Prohibited in boarding institutions; not prohibited in foster care

137. But no explicit prohibition

138. Prohibited in institutions and foster care by decrees in some communities; not prohibited in non-institutional childcare

**Prohibition incomplete and no commitment to reform (ctd)**

| State                | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|----------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                      |                        |                       | As sentence                | As disciplinary measure |   |
| Belize               | NO                     | NO                    | YES                        | SOME <sup>139</sup>     | SOME <sup>140</sup>                     |
| Benin                | NO                     | NO <sup>141</sup>     | YES                        | [YES]                   | NO                                      |
| Bolivia              | NO                     | NO <sup>142</sup>     | SOME <sup>143</sup>        | NO                      | NO                                      |
| Bosnia & Herzegovina | NO                     | YES <sup>144</sup>    | YES                        | YES                     | NO                                      |
| Botswana             | NO                     | NO                    | NO <sup>145</sup>          | NO                      | NO                                      |
| Brunei Darussalam    | NO                     | NO                    | NO                         | NO                      | NO                                      |
| Burkina Faso         | NO                     | YES                   | YES                        | YES                     | SOME <sup>146</sup>                     |
| Burundi              | NO                     | NO                    | YES                        | NO                      | NO                                      |
| Cambodia             | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Cameroon             | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Cape Verde           | NO                     | NO <sup>148</sup>     | YES                        | YES                     | [YES]                                   |
| Central African Rep. | NO                     | NO                    | ???                        | ???                     | ???                                     |
| Chad                 | NO                     | NO                    | YES                        | NO                      | NO                                      |
| China                | NO                     | YES                   | YES                        | YES                     | ???                                     |
| Colombia             | NO                     | NO <sup>149</sup>     | SOME <sup>150</sup>        | NO <sup>151</sup>       | NO                                      |
| Comoros              | NO                     | NO                    | [YES] <sup>152</sup>       | NO                      | NO                                      |
| Congo, Republic of   | NO                     | [YES]                 | YES                        | NO                      | NO                                      |
| Cook Islands         | NO                     | NO                    | YES                        | NO                      | NO                                      |
| Cote d'Ivoire        | NO                     | NO <sup>153</sup>     | YES                        | YES                     | NO                                      |

139. Prohibited in “Youth Hostel” detention centre but lawful in prisons and by law enforcement officials

140. Prohibited in residential care facilities and in day care centres

141. Prohibited in formal education by government circular

142. Prohibited by regulation

143. Prohibited in state laws, but ordered by community elders in traditional Indian justice systems

144. No explicit prohibition, but unlawful under child protection laws

145. As at May 2008, the draft Children’s Act would make judicial corporal punishment of children unlawful but this would not apply to customary courts

146. Prohibited in institutions; not prohibited in foster care

147. Prohibited in minimum standards but not in legislation

148. Prohibited by Ministry of Education guidelines

149. But corporal punishment resulting in injury is prohibited

150. Prohibited in laws of the Republic, but under Constitutional case law permitted among indigenous Indian communities

151. See note 104

152. Possibly lawful under Shari’a law

153. Prohibited by ministerial circular

**Prohibition incomplete and no commitment to reform (ctd)**

| State              | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|--------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                    |                        |                       | As sentence                | As disciplinary measure |   |
| Cuba               | NO                     | NO                    | YES                        | NO                      | NO                                      |
| DPR Korea          | NO                     | NO <sup>154</sup>     | YES                        | YES                     | ???                                     |
| DR Congo           | NO                     | YES                   | YES                        | SOME <sup>155</sup>     | NO                                      |
| Djibouti           | NO                     | [YES]                 | ???                        | NO                      | ???                                     |
| Dominica           | NO                     | NO                    | NO                         | NO                      | NO                                      |
| Dominican Republic | NO                     | YES                   | YES                        | NO                      | NO                                      |
| Ecuador            | NO                     | YES                   | SOME <sup>156</sup>        | NO                      | SOME <sup>157</sup>                     |
| Egypt              | NO                     | YES                   | YES                        | YES <sup>158</sup>      | NO                                      |
| El Salvador        | NO                     | YES                   | YES                        | YES                     | ???                                     |
| Equatorial Guinea  | NO                     | NO                    | ???                        | ???                     | NO                                      |
| Eritrea            | NO                     | NO <sup>159</sup>     | NO <sup>160</sup>          | ???                     | NO                                      |
| Ethiopia           | NO                     | YES                   | YES                        | YES                     | SOME <sup>61</sup>                      |
| Fiji               | NO <sup>162</sup>      | YES <sup>163</sup>    | YES <sup>164</sup>         | YES                     | NO                                      |
| France             | NO                     | NO <sup>165</sup>     | YES                        | YES <sup>166</sup>      | NO                                      |
| Gabon              | NO                     | YES                   | ???                        | ???                     | ???                                     |
| Gambia             | NO <sup>167</sup>      | NO <sup>168</sup>     | YES                        | NO <sup>169</sup>       | NO                                      |
| Georgia            | NO <sup>170</sup>      | YES <sup>171</sup>    | YES                        | YES                     | SOME <sup>172</sup>                     |

154. Prohibited in policy, but as at April 2004 not in law

155. Prohibited in Antoinette Sassou-Nguessou Re-education Centre

156. Prohibited in state law but permitted under traditional law in indigenous communities

157. Prohibited in institutions but lawful in other childcare settings

158. But possibly permitted in social welfare institutions

159. Prohibited by policy

160. Lawful under Transitional Penal Code but prohibited in Draft Penal Code

161. Prohibited in institutions by Constitution, but "reasonable chastisement" defence available

162. In 2006, the prime minister and other high level offices called for prohibition, but as at May 2008 legal reform has not progressed

163. Ruled unconstitutional in 2002 High Court ruling, but as at May 2008 legislation not amended

164. See previous note

165. 1889 High Court ruling allowed "right to correction" for teachers; 2000 ruling stated that habitual and non-educational corporal punishment not covered by this

166. But no explicit prohibition

167. But 2005 Children's Act provides for the responsibility of parents to "ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child"

168. Possibly prohibited in 2005 Children's Act

169. See previous note

170. In 2000 under examination by the Committee on the Rights of the Child government stated intention to prohibit in the family, and response to governmental questionnaire of the UN Secretary General's Study on Violence against Children indicated all corporal punishment is prohibited, but no explicit prohibition in legislation

171. But no explicit prohibition

172. Prohibited in institutional care establishments

**Prohibition incomplete and no commitment to reform (ctd)**

| State                 | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|-----------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                       |                        |                       | As sentence                | As disciplinary measure |   |
| Ghana                 | NO                     | NO                    | YES                        | NO                      | NO                                      |
| Grenada               | NO                     | NO                    | NO                         | NO                      | SOME <sup>173</sup>                     |
| Guatemala             | NO                     | NO                    | SOME <sup>174</sup>        | NO                      | NO                                      |
| Guinea                | NO                     | YES                   | [NO]                       | ???                     | NO                                      |
| Guinea-Bissau         | NO                     | YES                   | YES                        | YES                     | ???                                     |
| Guyana                | NO                     | NO <sup>175</sup>     | NO                         | NO                      | NO <sup>176</sup>                       |
| Haiti                 | NO <sup>177</sup>      | YES                   | YES                        | YES                     | YES                                     |
| Honduras              | NO                     | YES                   | YES                        | NO                      | NO                                      |
| India <sup>178</sup>  | NO                     | SOME <sup>179</sup>   | SOME <sup>180</sup>        | NO <sup>181</sup>       | NO                                      |
| Indonesia             | NO                     | NO                    | SOME <sup>182</sup>        | NO                      | NO                                      |
| Iran, Islamic Rep. of | NO                     | YES                   | NO                         | NO                      | NO                                      |
| Iraq                  | NO                     | YES                   | YES                        | ???                     | ???                                     |
| Jamaica               | NO                     | SOME <sup>183</sup>   | YES                        | YES                     | YES                                     |
| Japan                 | NO <sup>184</sup>      | YES <sup>185</sup>    | YES                        | YES                     | NO                                      |

173. Prohibited in child care homes by licensing requirements

174. Unlawful in state laws but permitted in traditional justice systems

175. Motion calling for prohibition (Notice Paper No. 22 (M3 Opp2) published on 22 November 2006) pending before Parliament (July 2007)

176. Prohibited in childcare and childminding services in Children's Bill, as at February 2005 not in force

177. Possibly prohibited by 2001 law, but no unequivocal confirmation

178. Government has committed to prohibition in schools and other settings outside the home; 2003 National Charter for Children recognises children's right to protection from corporal punishment

179. Prohibited in 8 out of 35 states and territories; National Policy on Education recommends prohibition; 2005 National Plan of Action for Children includes goal of prohibition in schools; as at April 2006, prohibited at national level in draft Free and Compulsory Education for Children Bill

180. Prohibited in state laws, but used in traditional justice systems

181. 2005 National Plan of Action for Children includes goal of prohibition in relation to children in difficult circumstances; prohibited in institutions in Offences Against Children (Prevention) Bill (2006)

182. Prohibited in Criminal Code but permitted under Shari'a law in Aceh province and in regional regulations based on Islamic Law in other areas

183. Prohibited in schools for children up to the age of 6 years

184. But prohibited in Kawasaki City by local ordinance

185. Prohibited in 1947 School Education Law but 1981 Tokyo High Court judgment stated that some physical punishment may be lawful in some circumstances

**Prohibition incomplete and no commitment to reform (ctd)**

| State                  | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|------------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                        |                        |                       | As sentence                | As disciplinary measure |   |
| Jordan                 | NO <sup>186</sup>      | YES                   | YES                        | YES                     | [YES]                                   |
| Kazakhstan             | NO                     | SOME <sup>187</sup>   | YES                        | YES                     | SOME <sup>188</sup>                     |
| Kenya                  | NO                     | YES                   | YES                        | NO <sup>189</sup>       | NO <sup>190</sup>                       |
| Kiribati               | NO                     | YES <sup>191</sup>    | NO <sup>192</sup>          | NO                      | NO                                      |
| Kuwait                 | NO                     | YES                   | YES <sup>193</sup>         | NO                      | ???                                     |
| Kyrgyzstan             | NO                     | YES                   | YES                        | YES                     | SOME <sup>194</sup>                     |
| Lao PDR                | NO                     | NO                    | YES                        | YES                     | NO                                      |
| Lebanon                | NO                     | NO <sup>195</sup>     | YES                        | YES                     | NO                                      |
| Lesotho                | NO                     | NO <sup>196</sup>     | NO <sup>197</sup>          | NO                      | NO                                      |
| Liberia                | NO                     | NO                    | YES                        | NO                      | NO                                      |
| Libyan Arab Jamahiriya | NO                     | YES                   | NO                         | ???                     | ???                                     |
| Liechtenstein          | NO <sup>198</sup>      | YES                   | YES                        | YES                     | SOME <sup>199</sup>                     |
| Madagascar             | NO                     | NO                    | YES                        | ???                     | NO                                      |
| Malawi                 | NO                     | YES <sup>200</sup>    | YES <sup>201</sup>         | YES <sup>202</sup>      | SOME <sup>203</sup>                     |
| Malaysia               | NO                     | NO                    | NO <sup>204</sup>          | NO <sup>205</sup>       | NO                                      |

186. In September 2006, government stated corporal punishment by parents prohibited in new legislation, but no explicit prohibition and Penal Code allows for parental discipline within limits established by “general custom” (article 62)

187. Prohibited in regular schools but not in military schools

188. Prohibited in children’s villages, youth homes and other institutions, but no prohibition in foster care or kinship care

189. Prohibited in draft Constitution (May 2008)

190. See previous note

191. Statutory provisions allowing for corporal punishment repealed but no explicit prohibition in legislation

192. Government committed to prohibition (2006)

193. But reintroduction possibly proposed

194. Prohibited in residential institutions

195. Government committed to law reform (2006)

196. Prohibited in Education Bill (2006), as at May 2008 still under discussion

197. Prohibited in the Child Protection and Welfare Bill, under discussion May 2008

198. Penal Code prohibits physical and psychological harm and government has stated (January 2006) corporal punishment not permitted, but no explicit prohibition

199. Prohibited in state alternative care settings but not in privately run alternative care settings

200. Prohibited in Constitution

201. Prohibited in Constitution, but permitted in other legislation

202. See previous note

203. Prohibited in state institutions by Constitution

204. Government committed to prohibition (2007)

205. See previous note

**Prohibition incomplete and no commitment to reform (ctd)**

| State                   | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|-------------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                         |                        |                       | As sentence                | As disciplinary measure |   |
| Mali                    | NO <sup>206</sup>      | YES                   | YES                        | YES <sup>207</sup>      | NO                                      |
| Malta                   | NO                     | YES <sup>208</sup>    | YES                        | YES                     | NO                                      |
| Marshall Islands        | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Mauritania              | NO                     | NO <sup>209</sup>     | ???                        | NO                      | NO                                      |
| Mauritius               | NO                     | YES                   | YES                        | NO                      | NO                                      |
| Mexico                  | NO <sup>211</sup>      | NO <sup>212</sup>     | YES                        | NO                      | NO                                      |
| Micronesia, Fed. States | NO                     | [YES]                 | YES                        | NO                      | NO                                      |
| Monaco                  | NO                     | YES <sup>213</sup>    | YES                        | YES <sup>214</sup>      | NO                                      |
| Mongolia <sup>215</sup> | NO                     | YES                   | YES                        | NO                      | NO                                      |
| Montenegro              | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Morocco                 | NO                     | NO <sup>216</sup>     | YES                        | YES                     | NO <sup>217</sup>                       |
| Mozambique              | NO                     | NO <sup>218</sup>     | YES                        | YES <sup>219</sup>      | NO                                      |
| Myanmar                 | NO                     | NO <sup>220</sup>     | YES <sup>221</sup>         | NO                      | NO                                      |
| Namibia                 | NO                     | YES                   | YES                        | YES <sup>222</sup>      | SOME <sup>223</sup>                     |
| Nauru                   | NO                     | ???                   | SOME <sup>224</sup>        | NO                      | ???                                     |
| Niger                   | NO                     | NO                    | [YES]                      | [NO]                    | NO                                      |
| Nigeria                 | NO                     | NO                    | SOME <sup>225</sup>        | [NO]                    | NO                                      |

206. But Government stated commitment to implementation of all the recommendations of the UN Secretary-General's Study on Violence against Children during examination by the Committee on the Rights of the Child in January 2007

207. But no explicit prohibition

208. But no explicit prohibition

209. Prohibited by Ministerial Order

210. Possibly lawful under Islamic law

211. But "right of correction" removed from the Civil Code of the Federal Territory

212. Except possibly in Sonora

213. But no explicit prohibition

214. But no explicit prohibition

215. Draft legislation to amend the Family Law to prohibit corporal punishment is due for consideration in Parliament late in 2008

216. Prohibited by Ministerial direction

217. No prohibition in foster care; possibly no prohibition in other alternative care settings

218. Prohibited by Government directive

219. Prohibited in 2008 Children's Act, to come into force in October 2008

220. Prohibited by Government directive

221. But some legislation not amended/repealed

222. Declared unconstitutional in 1991 Supreme Court ruling; as at May 2007 not confirmed in legislation though Child Justice Bill under discussion

223. Unlawful in state institutions under 1991 Supreme Court ruling, but not confirmed in legislation; not prohibited in privately administered settings

224. Prohibited for children under 16 years, but permitted for older children

225. Prohibited as sentence in 2003 Child Rights Act, but this not enacted in all states and other legislation not amended

**Prohibition incomplete and no commitment to reform (ctd)**

| State                      | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|----------------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                            |                        |                       | As sentence                | As disciplinary measure |   |
| Niue                       | NO                     | ???                   | YES                        | ???                     | ???                                     |
| Oman                       | NO                     | YES                   | ???                        | NO                      | NO                                      |
| Palau                      | NO                     | NO                    | YES                        | NO                      | NO                                      |
| Palestine                  | NO                     | SOME <sup>226</sup>   | NO                         | NO                      | NO                                      |
| Panama                     | NO                     | NO                    | YES                        | YES                     | NO                                      |
| Papua New Guinea           | NO                     | NO <sup>227</sup>     | YES                        | YES                     | SOME <sup>228</sup>                     |
| Paraguay                   | NO                     | NO <sup>229</sup>     | YES                        | YES                     | NO                                      |
| Qatar                      | NO                     | NO <sup>230</sup>     | NO                         | NO                      | NO                                      |
| Republic of Korea          | NO                     | NO                    | YES                        | YES                     | NO                                      |
| Russian Federation         | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Rwanda                     | NO                     | NO <sup>231</sup>     | YES                        | YES                     | SOME <sup>232</sup>                     |
| Saint Kitts & Nevis        | NO                     | NO                    | NO                         | NO                      | NO                                      |
| Saint Lucia                | NO                     | NO                    | YES                        | NO                      | NO                                      |
| Saint Vincent & Grenadines | NO                     | NO                    | NO                         | NO                      | NO                                      |
| Samoa                      | NO                     | NO <sup>233</sup>     | YES                        | [YES]                   | NO                                      |
| San Marino                 | NO <sup>234</sup>      | YES                   | YES                        | YES                     | NO                                      |
| Sao Tome & Principe        | NO                     | [YES]                 | SOME <sup>235</sup>        | ???                     | NO                                      |
| Saudi Arabia               | NO                     | NO <sup>236</sup>     | NO                         | NO                      | NO                                      |
| Senegal                    | NO                     | YES                   | YES                        | SOME <sup>237</sup>     | NO                                      |

226. Prohibited in UNRWA schools; prohibited by Ministerial direction in public schools

227. Prohibited by government directive but not in legislation

228. 2007 Lukautim Pikinini (Child Welfare) Act prohibits corporal punishment of children “in the care of the Director”, but we have yet to establish whether this covers all possible alternative care settings

229. Legislation protects dignity but does not explicitly prohibit corporal punishment

230. Prohibited by Ministerial Decree

231. Legislation in preparation (2005)

232. Prohibited in child care centres

233. Prohibited by policy; possibly prohibited in the Education Bill (2006), as at May 2008 enacted

234. Government has stated Penal Code provision for “abuse of the powers of correction or discipline” (article 234) effectively prohibits corporal punishment, but no explicit prohibition in law

235. Prohibited for persons under the age of 17 years, but possibly lawful for those aged 17 years

236. Prohibited by Ministerial circulars

237. Prohibited in prisons and in training centres but possibly lawful in other penal institutions

**Prohibition incomplete and no commitment to reform (ctd)**

| State                | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|----------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                      |                        |                       | As sentence                | As disciplinary measure |   |
| Seychelles           | NO                     | NO <sup>238</sup>     | YES                        | [YES]                   | [YES]                                   |
| Sierra Leone         | NO <sup>239</sup>      | NO <sup>240</sup>     | YES                        | NO                      | NO <sup>241</sup>                       |
| Singapore            | NO                     | NO                    | NO                         | NO                      | SOME <sup>242</sup>                     |
| Solomon Islands      | NO                     | NO                    | YES                        | NO                      | NO                                      |
| Somalia              | NO                     | NO                    | NO <sup>243</sup>          | YES                     | NO                                      |
| Sudan                | NO <sup>244</sup>      | SOME <sup>245</sup>   | NO                         | SOME <sup>246</sup>     | SOME <sup>247</sup>                     |
| Suriname             | NO                     | [YES]                 | YES                        | YES                     | NO <sup>248</sup>                       |
| Swaziland            | NO                     | NO <sup>249</sup>     | NO <sup>250</sup>          | NO <sup>251</sup>       | NO <sup>252</sup>                       |
| Syrian Arab Republic | NO                     | NO <sup>253</sup>     | YES                        | ???                     | NO                                      |
| Tajikistan           | NO                     | NO                    | YES                        | NO                      | NO                                      |
| Thailand             | NO                     | YES                   | YES <sup>254</sup>         | YES <sup>255</sup>      | NO                                      |

238. Prohibited by policy

239. Sierra Leone Truth and Reconciliation Commission recommended prohibition in the home and schools (2004), but 2007 Child Rights Act reaffirms right to correct

240. See previous note

241. See note 196

242. Prohibited in child care centres

243. Ordered by Islamic courts

244. Prohibited in 2005 Interim Constitution of Southern Sudan; possibly prohibited in draft Children's Act under discussion in Northern Sudan (May 2008)

245. 1993 School Regulations prohibit for girls but allow four lashes for boys; prohibited in 2005 Interim Constitution of Southern Sudan; prohibited in Child Bill (2007) of Southern Sudan, as at May 2008 under discussion in the Legislative Assembly; possibly prohibited in draft Children's Act under discussion in Northern Sudan (May 2008)

246. Prohibited in 2005 Interim Constitution of Southern Sudan; prohibited in Child Bill (2007) of Southern Sudan, as at May 2008 under discussion in the Legislative Assembly; possibly prohibited in draft Children's Act under discussion in Northern Sudan (May 2008)

247. Prohibited in 2005 Interim Constitution of Southern Sudan; prohibited in institutions in Child bill (2007) of Southern Sudan, as at May 2008 under discussion in the Legislative Assembly; possibly prohibited in draft Children's Act under discussion in Northern Sudan (May 2008)

248. Prohibited in private and state institutions in draft Children's Home Bill due for presentation early 2005

249. Proposals have been made to prohibit in draft legislation (May 2008)

250. See previous note

251. See note 206

252. See note 206

253. Ministry of Education advises against its use

254. But some legislation not yet amended (May 2008)

255. See previous note

**Prohibition incomplete and no commitment to reform (ctd)**

| State                | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|----------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                      |                        |                       | As sentence                | As disciplinary measure |   |
| TFYR Macedonia       | NO                     | YES                   | YES                        | YES                     | YES                                     |
| Timor-Leste, DR      | NO                     | NO <sup>256</sup>     | YES                        | YES                     | NO <sup>257</sup>                       |
| Togo                 | NO                     | YES                   | SOME <sup>258</sup>        | YES                     | SOME <sup>259</sup>                     |
| Tonga                | NO                     | YES                   | NO                         | NO                      | NO                                      |
| Trinidad & Tobago    | NO                     | NO <sup>260</sup>     | YES                        | NO                      | NO <sup>261</sup>                       |
| Tunisia              | NO                     | NO <sup>262</sup>     | YES                        | YES                     | NO                                      |
| Turkey               | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Turkmenistan         | NO <sup>263</sup>      | YES                   | YES                        | YES                     | ?? <sup>264</sup>                       |
| Tuvalu               | NO                     | NO                    | YES                        | NO                      | NO                                      |
| Uganda               | NO <sup>265</sup>      | NO <sup>266</sup>     | YES                        | YES                     | NO <sup>267</sup>                       |
| United Arab Emirates | NO                     | YES                   | NO                         | NO                      | NO                                      |
| UK                   | NO <sup>268</sup>      | YES                   | YES                        | SOME <sup>269</sup>     | SOME <sup>270</sup>                     |

256. Government committed to prohibition (2005)

257. Prohibited by policy in child care centres, orphanages and boarding houses

258. Prohibited in state legislation but used in traditional courts

259. Prohibited in institutions

260. Prohibited by 2000 Children (Amendment) Act, as at May 2008 not in force

261. Prohibited in health care and psychiatric institutions by policy

262. Prohibited by Ministerial circular

263. Possibly prohibited under 2002 Rights of the Child (Guarantees) Act

264. See previous note

265. Recommendations have been made to include prohibition in all settings in draft Child Law (May 2008)

266. Prohibited in state schools by Ministerial circular; possibly prohibited in Education Bill (May 2008); see previous note

267. See note 222

268. Scotland: 2003 Criminal Justice (Scotland) Act restricts common law defence by introducing concept of “justifiable assault” of children and defining blows to head, shaking and use of implements as unjustifiable; England and Wales: 2004 Children Act maintains “reasonable punishment” defence for cases of common assault; similar provision introduced in Northern Ireland by the 2006 Law Reform (Miscellaneous Provisions) (Northern Ireland) Order

269. Considered unlawful except in secure training centres, where painful “distraction” techniques are lawful to maintain discipline

270. Prohibited in residential care institutions and foster care arranged by local authorities or voluntary organisations, and in day care institutions and childminding in England and Wales and Scotland; prohibited by guidance in day care institutions and childminding in Northern Ireland; not prohibited in private foster care

**Prohibition incomplete and no commitment to reform (ctd)**

| State                   | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|-------------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                         |                        |                       | As sentence                | As disciplinary measure |   |
| United Rep. of Tanzania | NO                     | NO                    | NO                         | NO                      | NO                                      |
| USA                     | NO                     | SOME <sup>271</sup>   | YES                        | SOME <sup>272</sup>     | SOME <sup>273</sup>                     |
| Uzbekistan              | NO                     | YES                   | YES <sup>274</sup>         | YES                     | NO                                      |
| Vanuatu                 | NO                     | YES                   | SOME <sup>275</sup>        | [YES]                   | NO                                      |
| Viet Nam                | NO                     | NO                    | YES                        | YES                     | NO                                      |
| Western Sahara          | NO                     | [NO]                  | [YES]                      | [YES]                   | [NO]                                    |
| Yemen                   | NO <sup>276</sup>      | YES                   | NO                         | NO                      | NO                                      |
| Zambia                  | NO                     | YES <sup>278</sup>    | YES <sup>279</sup>         | YES <sup>280</sup>      | NO <sup>281</sup>                       |
| Zimbabwe                | NO                     | NO                    | NO                         | NO                      | NO                                      |

271. Prohibited in public and private schools in Iowa and New Jersey, in public schools in a further 26 states and District of Columbia, and in some large city school districts in other states

272. Prohibited in 31 states

273. Prohibited in all alternative care settings in 30 states and in some settings in other states and District of Columbia

274. But possibly permitted under mahallyas system

275. Used in rural areas for punishment of young boys and girls found to have broken village or custom rules

276. Proposals have been made to restrict, but not prohibit, corporal punishment (May 2008)

277. See previous note

278. But no explicit prohibition. Prohibited in the draft Constitution (May 2008)

279. Ruled unconstitutional by Supreme Court in 1999, but as at May 2008 some legislation not amended

280. See previous note. Prohibited in draft Constitution (May 2008)

281. Prohibited in institutions and possibly other care settings in draft Constitution (May 2008)

## Annex 7 – Ratification of international and regional complaint/communications mechanisms, by region

Many international and regional human rights instruments have associated complaints/communications mechanisms, which can be used to challenge the legality of corporal punishment in states where governments are resisting law reform. The following tables identify the complaints/communications mechanisms that are available to each state. For details on how to use the mechanisms see [www2.ohchr.org/english/bodies/petitions/individual.htm](http://www2.ohchr.org/english/bodies/petitions/individual.htm) and [www.crin.org/law/index.asp#co](http://www.crin.org/law/index.asp#co).

### Africa

| STATE                    | CCPR (First Optional Protocol) <sup>282</sup> | ICERD (art. 14 declaration) <sup>283</sup> | CAT (art. 22 declaration) <sup>284</sup> | CEDAW (Optional Protocol) <sup>285</sup> | African Charter on Human and Peoples' Rights <sup>286</sup> | Protocol to African Charter on Human and Peoples' Rights (establishment of Court) | African <sup>287</sup> Charter on the Rights and Welfare of Children <sup>288</sup> |
|--------------------------|---|--|--|--|---|---|---|
| Algeria                  | √   | √  | √  |  | √   | √   | √   |
| Angola                   | √   |  |  | √  | √   |   | √   |
| Benin                    | √   |  |  |  | √   |   | √   |
| Botswana                 |   |  |  | √  | √   |   | √   |
| Burkina Faso             | √   |  |  | √  | √   | √   | √   |
| Burundi                  |   |  | √  |  | √   | √   | √   |
| Cameroon                 | √   |  | √  | √  | √   |   | √   |
| Cape Verde               | √   |  |  |  | √   |   | √   |
| Central African Republic | √   |  |  |  | √   |   |   |
| Chad                     | √   |  |  |  | √   |   | √   |
| Comoros                  |   |  |  |  | √   | √   | √   |
| Congo, Republic of       | √   |  |  |  | √   |   | √   |
| Cote d'Ivoire            | √   |  |  |  | √   | √   |   |
| DR Congo                 | √   |  |  |  | √   |   |   |
| Djibouti                 | √   |  |  |  | √   |   |   |
| Egypt                    |   |  |  |  | √   |   | √   |
| Equatorial Guinea        | √   |  |  |  | √   |   | √   |
| Eritrea                  |   |  |  |  | √   |   | √   |
| Ethiopia                 |   |  |  |  | √   |   | √   |
| Gabon                    |   |  |  | √  | √   | √   | √   |
| Gambia                   | √   |  |  |  | √   | √   | √   |
| Ghana                    | √   |  | √  |  | √   | √   | √   |
| Guinea                   | √   |  |  |  | √   |   | √   |

| STATE                          | CCPR<br>(First<br>Optional<br>Protocol) <sup>282</sup> | ICERD<br>(art. 14 dec-<br>laration) <sup>283</sup> | CAT<br>(art. 22 dec-<br>laration) <sup>284</sup> | CEDAW<br>(Optional<br>Protocol) <sup>285</sup> | African<br>Charter on<br>Human and<br>Peoples'<br>Rights <sup>286</sup> | Protocol to<br>African<br>Charter on<br>Human and<br>Peoples'<br>Rights<br>(establi-<br>shment of<br>Court) | African <sup>287</sup><br>Charter on<br>the Rights<br>and Welfare<br>of<br>Children <sup>288</sup> |
|--------------------------------|--|--|--|--|---|---|--|
| Guinea-Bissau                  |  |  |  |  | √   |   |  |
| Kenya                          |  |  |  |  | √   | √   | √  |
| Lesotho                        | √  |  |  | √  | √   | √   | √  |
| Liberia                        |  |  |  |  | √   |   |  |
| Libyan Arab<br>Jamahiriya      | √  |  |  | √  | √   | √   | √  |
| Madagascar                     | √  |  |  |  | √   |   | √  |
| Malawi                         | √  |  |  |  | √   |   | √  |
| Mali                           | √  |  |  | √  | √   | √   | √  |
| Mauritania                     |  |  |  |  | √   | √   | √  |
| Mauritius                      | √  |  |  |  | √   | √   | √  |
| Morocco                        |  | √  | [?]  |  |   |   |  |
| Mozambique                     |  |  |  |  | √   | √   | √  |
| Namibia                        | √  |  |  | √  | √   |   | √  |
| Niger                          | √  |  |  | √  | √   | √   | √  |
| Nigeria                        |  |  |  | √  | √   | √   | √  |
| Rwanda                         |  |  |  |  | √   | √   | √  |
| Sao Tome & Principe            |  |  |  |  | √   |   |  |
| Senegal                        | √  | √  | √  | √  | √   | √   | √  |
| Seychelles                     | √  |  | √  |  | √   |   | √  |
| Sierra Leone                   | √  |  |  |  | √   |   | √  |
| Somalia                        | √  |  |  |  | √   |   |  |
| South Africa                   | √  | √  | √  | √  | √   | √   | √  |
| Sudan                          |  |  |  |  | √   |   |  |
| Swaziland                      |  |  |  |  | √   |   |  |
| Togo                           | √  |  | √  |  | √   | √   | √  |
| Tunisia                        |  |  | √  |  | √   | √   |  |
| Uganda                         | √  |  |  |  | √   | √   | √  |
| United Republic of<br>Tanzania |  |  |  | √  | √   | √   | √  |
| Western Sahara                 |  |  |  |  | √   |   |  |
| Zambia                         | √  |  |  |  | √   |   |  |
| Zimbabwe                       |  |  |  |  | √   |   | √  |

282. Last updated 5 March 2008

283. Last updated 21 April 2008

284. Last updated 18 April 2008

285. Last updated 25 January 2008

286. Last updated May 2007

287. Last updated October 2007

288. Last updated June 2007

289. Listed as Saharawi Arab Democratic Republic

## East Asia and Pacific

Note: no relevant regional mechanisms

| STATE                        | ICCPR (First Optional Protocol) <sup>290</sup> | ICERD (art. 14 declaration) <sup>291</sup> | CAT (art. 22 declaration) <sup>292</sup> | CEDAW (Optional Protocol) <sup>293</sup> |
|------------------------------|--|--|--|--|
| Australia                    | √  | √  | √  |  |
| Brunei Darussalam            |  |  |  |  |
| Cambodia                     |  |  |  |  |
| China                        |  |  |  |  |
| Cook Islands                 |  |  |  | √  |
| DPR Korea                    |  |  |  |  |
| Fiji                         |  |  |  |  |
| Indonesia                    |  |  |  |  |
| Japan                        |  |  |  |  |
| Kiribati                     |  |  |  |  |
| Lao PDR                      |  |  |  |  |
| Malaysia                     |  |  |  |  |
| Marshall Islands             |  |  |  |  |
| Micronesia, Federated States |  |  |  |  |
| Mongolia                     | √  |  |  | √  |
| Myanmar                      |  |  |  |  |
| Nauru                        |  |  |  |  |
| <b>New Zealand</b>           | √  |  | √  | √  |
| Niue                         |  |  |  |  |
| Palau                        |  |  |  |  |
| Papua New Guinea             |  |  |  |  |
| Philippines                  | √  |  |  | √  |
| Republic of Korea            | √  | √  |  | √  |
| Samoa                        |  |  |  |  |
| Singapore                    |  |  |  |  |
| Solomon Islands              |  |  |  | √  |
| Taiwan                       |  |  |  |  |
| Thailand                     |  |  |  | √  |
| Timor-Leste, DR              |  |  |  | √  |
| Tonga                        |  |  |  |  |
| Tuvalu                       |  |  |  |  |
| Vanuatu                      |  |  |  | √  |
| Viet Nam                     |  |  |  |  |

290. Last updated 5 March 2008

291. Last updated 21 April 2008

292. Last updated 18 April 2008

293. Last updated 25 January 2008

## Europe and Central Asia

| STATE                | ICCPR (First Optional Protocol) <sup>294</sup> | ICERD (art. 14 declaration) <sup>295</sup> | CAT (art. 22 declaration) <sup>296</sup> | CEDAW (Optional Protocol) <sup>297</sup> | European Convention for the Protection of Human Rights and Fundamental Freedoms <sup>298</sup> | European Social Charter (Collective Complaints Protocol) <sup>299</sup> |
|----------------------|--|--|--|--|--|---|
| Albania              | √  |  |  | √  | √  |   |
| Andorra              | √  | √  |  | √  | √  |   |
| Armenia              | √  |  |  | √  | √  |   |
| <b>Austria</b>       | √  | √  | √  | √  | √  |   |
| Azerbaijan           | √  | √  | √  | √  | √  |   |
| Belarus              | √  |  |  | √  |  |   |
| Belgium              | √  | √  | √  | √  | √  | √   |
| Bosnia & Herzegovina | √  |  | √  | √  | √  |   |
| <b>Bulgaria</b>      | √  | √  | √  | √  | √  | √   |
| <b>Croatia</b>       | √  |  | √  | √  | √  | √   |
| <b>Cyprus</b>        | √  | √  | √  | √  | √  | √   |
| Czech Republic       | √  | √  | √  | √  | √  |   |
| <b>Denmark</b>       | √  | √  | √  | √  | √  |   |
| Estonia              | √  |  |  |  | √  |   |
| Finland              | √  | √  | √  | √  | √  | √   |
| France               | √  | √  | √  | √  | √  | √   |
| Georgia              | √  | √  | √  | √  | √  |   |
| <b>Germany</b>       | √  | √  | √  | √  | √  |   |
| <b>Greece</b>        | √  |  | √  | √  | √  | √   |
| <b>Hungary</b>       | √  | √  | √  | √  | √  |   |
| <b>Iceland</b>       | √  | √  | √  | √  | √  |   |
| Ireland              | √  | √  | √  | √  | √  | √   |
| <b>Italy</b>         | √  | √  | √  | √  | √  | √   |
| Kazakhstan           |  |  |  | √  |  |   |
| Kyrgyzstan           | √  |  |  | √  |  |   |
| <b>Latvia</b>        | √  |  |  |  | √  |   |
| Liechtenstein        | √  | √  | √  | √  | √  |   |
| Lithuania            | √  |  |  | √  | √  |   |
| Luxembourg           | √  | √  | √  | √  | √  |   |
| Malta                | √  | √  | √  |  | √  |   |
| Monaco               |  | √  | √  |  | √  |   |
| Montenegro           | √  |  |  | √  | √  |   |
| <b>Netherlands</b>   | √  | √  | √  | √  | √  | √   |
| <b>Norway</b>        | √  | √  | √  | √  | √  | √   |

| STATE               | ICCPR (First Optional Protocol) <sup>294</sup> | ICERD (art. 14 declaration) <sup>295</sup> | CAT (art. 22 declaration) <sup>296</sup> | CEDAW (Optional Protocol) <sup>297</sup> | European Convention for the Protection of Human Rights and Fundamental Freedoms <sup>298</sup> | European Social Charter (Collective Complaints Protocol) <sup>299</sup> |
|---------------------|--|--|--|--|--|---|
| Poland              | √  | √  | √  | √  | √  |   |
| Portugal            | √  | √  | √  | √  | √  | √   |
| Republic of Moldova | √  |  |  | √  | √  |   |
| <b>Romania</b>      | √  | √  |  | √  | √  |   |
| Russian Federation  | √  | √  | √  | √  | √  |   |
| San Marino          | √  |  |  | √  | √  |   |
| Serbia              | √  | √  | √  | √  | √  |   |
| Slovakia            | √  | √  | √  | √  | √  |   |
| Slovenia            | √  | √  | √  | √  | √  | √   |
| Spain               | √  | √  | √  | √  | √  |   |
| <b>Sweden</b>       | √  | √  | √  | √  | √  | √   |
| Switzerland         |  | √  | √  | √  | √  |   |
| Tajikistan          | √  |  |  |  |  |   |
| TFYR Macedonia      | √  | √  |  | √  | √  |   |
| Turkey              | √  |  | √  | √  | √  |   |
| Turkmenistan        | √  |  |  |  |  |   |
| <b>Ukraine</b>      | √  | √  | √  | √  | √  |   |
| UK                  |  |  |  | √  | √  |   |
| Uzbekistan          | √  |  |  |  |  |   |

294. Last updated 5 March 2008

295. Last updated 21 April 2008

296. Last updated 18 April 2008

297. Last updated 25 January 2008

298. Last updated 6 September 2007

299. Last updated 29 June 2007

## Middle East

Note: no relevant regional mechanisms

| STATE                     | ICCPR (First Optional Protocol) <sup>300</sup> | ICERD (art. 14 declaration) <sup>301</sup> | CAT (art. 22 declaration) <sup>302</sup> | CEDAW (Optional Protocol) <sup>303</sup> |
|---------------------------|--|--|--|--|
| Bahrain                   |  |  |  |  |
| Iran, Islamic Republic of |  |  |  |  |
| Iraq                      |  |  |  |  |
| <b>Israel</b>             |  |  |  |  |
| Jordan                    |  |  |  |  |
| Kuwait                    |  |  |  |  |
| Lebanon                   |  |  |  |  |
| Oman                      |  |  |  |  |
| Palestine                 |  |  |  |  |
| Qatar                     |  |  |  |  |
| Saudi Arabia              |  |  |  |  |
| Syrian Arab Republic      |  |  |  |  |
| United Arab Emirates      |  |  |  |  |
| Yemen                     |  |  |  |  |

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300. Last updated 5 March 2008

301. Last updated 21 April 2008

302. Last updated 18 April 2008

303. As at January 2008

## The Americas and the Caribbean

| STATE                          | ICCPR<br>(First<br>Optional<br>Protocol) <sup>304</sup> | ICERD<br>(art. 14 dec-<br>laration) <sup>305</sup> | CAT<br>(art. 22 dec-<br>laration) <sup>306</sup> | CEDAW<br>(Optional<br>Protocol) <sup>307</sup> | American<br>Convention<br>on Human<br>Rights | American<br>Convention<br>(recognition<br>of jurisdic-<br>tion of<br>Court) <sup>7</sup> | American<br>Convention<br>(recognition<br>of compe-<br>tence of<br>Commission<br>[art. 45]) <sup>7</sup> |
|--------------------------------|---|--|--|--|--|--|--|
| Antigua & Barbuda              |   |  |  | √  |  |  |  |
| Argentina                      | √   |  | √  | √  | √  | √  | √  |
| Bahamas                        |   |  |  |  |  |  |  |
| Barbados                       | √   |  |  |  | √  | √  |  |
| Belize                         |   |  |  | √  |  |  |  |
| Bolivia                        | √   | √  | √  | √  | √  | √  |  |
| Brazil                         |   | √  | √  | √  | √  | √  |  |
| Canada                         | √   |  | √  | √  |  |  |  |
| Chile                          | √   | √  | √  |  | √  | √  | √  |
| Colombia                       | √   |  |  | √  | √  | √  | √  |
| Costa Rica                     | √   | √  | √  | √  | √  | √  | √  |
| Cuba                           |   |  |  |  |  |  |  |
| Dominica                       |   |  |  |  | √  |  |  |
| Dominican Republic             | √   |  |  | √  | √  | √  |  |
| Ecuador                        | √   | √  | √  | √  | √  | √  | √  |
| El Salvador                    | √   |  |  |  | √  | √  |  |
| Grenada                        |   |  |  |  | √  |  |  |
| Guatemala                      | √   |  | √  | √  | √  | √  |  |
| Guyana                         | √   |  |  |  |  |  |  |
| Haiti                          |   |  |  |  | √  | √  |  |
| Honduras                       | √   |  |  |  | √  | √  |  |
| Jamaica                        |   |  |  |  | √  |  | √  |
| Mexico                         | √   | √  | √  | √  | √  | √  |  |
| Nicaragua                      | √   |  |  |  | √  | √  | √  |
| Panama                         | √   |  |  | √  | √  | √  |  |
| Paraguay                       | √   |  | √  | √  | √  | √  |  |
| Peru                           | √   | √  | √  | √  | √  | √  | √  |
| Saint Kitts & Nevis            |   |  |  | √  |  |  |  |
| Saint Lucia                    |   |  |  |  |  |  |  |
| Saint Vincent & the Grenadines | √   |  |  |  |  |  |  |
| Suriname                       | √   |  |  |  | √  | √  |  |
| Trinidad & Tobago              | √   |  |  |  | √  | √  |  |
| USA                            |   |  |  |  |  |  |  |
| Uruguay                        | √   | √  | √  | √  | √  | √  | √  |
| Venezuela                      | √   | √  | √  | √  | √  | √  | √  |

304. Last updated 5 March 2008

305. Last updated 21 April 2008

306. Last updated 18 April 2008

307. Last updated 25 January 2008

308. Information accessed 4 July 2008, last updated ??

## South Asia

Note: no relevant regional mechanisms

| STATE       | ICCPR (First Optional Protocol) <sup>309</sup> | ICERD (art. 14 declaration) <sup>310</sup> | CAT (art. 22 declaration) <sup>311</sup> | CEDAW (Optional Protocol) <sup>312</sup> |
|-------------|--|--|--|--|
| Afghanistan |  |  |  |  |
| Bangladesh  |  |  |  | √  |
| Bhutan      |  |  |  |  |
| India       |  |  |  |  |
| Maldives    | √  |  |  | √  |
| Nepal       | √  |  |  | √  |
| Pakistan    |  |  |  |  |
| Sri Lanka   | √  |  |  |  |

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309. Last updated 5 March 2008

310. Last updated 21 April 2008

311. Last updated 18 April 2008

312. Last updated 25 January 2008

# Annex 8 – Resources to support law reform

## 1. Committee on the Rights of the Child

Committee on the Rights of the Child (2006), General Comment No.8 on “The right to protection from corporal punishment and other cruel or degrading forms of punishment (articles 19, 28(2) and 37, inter alia)” [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm) (English, French, Spanish)

Committee on the Rights of the Child (2001), General Comment No.1 on “The aims of education” [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm) (English, French, Spanish)

Committee on the Rights of the Child (2007), General Comment No.10 on “Children’s rights in juvenile justice” [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm) (Arabic, Chinese, English, French, Russian, Spanish)

Concluding observations and recommendations to states to prohibit corporal punishment – relevant extracts at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org) (click on “Human rights, law and corporal punishment”, then “Committee on the Rights of the Child”, or see individual state reports under “Global progress”)

## 2. Council of Europe

Council of Europe (2008), *Eliminating Corporal Punishment: A human rights imperative for Europe’s children*, 2<sup>nd</sup> edition, Strasbourg: Council of Europe Publishing [www.coe.int/t/transversalprojects/children/violence/CPPublications\\_en.asp](http://www.coe.int/t/transversalprojects/children/violence/CPPublications_en.asp) (English, French)

Council of Europe (2007), *Abolishing corporal punishment of children: Questions and answers*, Strasbourg: Council of Europe Publishing, [www.coe.int/t/transversalprojects/children/violence/CPPublications\\_en.asp](http://www.coe.int/t/transversalprojects/children/violence/CPPublications_en.asp) (English, French)

Council of Europe (2007), *Parenting in contemporary Europe: A positive approach*, Strasbourg: Council of Europe Publishing, [www.coe.int/t/transversalprojects/children/violence/CPPublications\\_en.asp](http://www.coe.int/t/transversalprojects/children/violence/CPPublications_en.asp) (English, French)

Council of Europe (2007), *Views on positive parenting and non-violent upbringing*, Strasbourg: Council of Europe Publishing, [www.coe.int/t/transversalprojects/children/violence/CPPublications\\_en.asp](http://www.coe.int/t/transversalprojects/children/violence/CPPublications_en.asp) (English)

Council of Europe (2007), *Information leaflet: Abolishing corporal punishment in a nutshell*, Strasbourg: Council of Europe Publishing, [www.coe.int/t/transversalprojects/children/violence/CPPublications\\_en.asp](http://www.coe.int/t/transversalprojects/children/violence/CPPublications_en.asp) (English, French)

Website [www.coe.int/t/transversalprojects/children/violence/corporalPunishment\\_en.asp](http://www.coe.int/t/transversalprojects/children/violence/corporalPunishment_en.asp) (English, French):

- Media and information packs
- Selected legal texts

- Viewpoints
- Publications on corporal punishment and positive parenting
- Country reports on corporal punishment in Europe (online appendices to the book *Eliminating corporal punishment – A human rights imperative*)
- Flash news – Progress in Europe towards a total ban

### **3. Global Initiative to End All Corporal Punishment of Children**

Global Initiative to End All Corporal Punishment of Children (2008), *Prohibiting corporal punishment of children: A guide to legal reform and other measures*, [www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbook2008.pdf](http://www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbook2008.pdf)

Global Initiative to End All Corporal Punishment of Children (2007), *Ending legalised violence against children: Global report 2007* [www.endcorporalpunishment.org/pages/pdfs/reports/GlobalReport2007.pdf](http://www.endcorporalpunishment.org/pages/pdfs/reports/GlobalReport2007.pdf)

Website [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org) (English, but with some links to resources in other languages):

- Introducing the Global Initiative – includes useful list of supporters of GI aims
- Human rights, law and corporal punishment – information relating to the Convention on the Rights of the Child and other international treaties and their monitoring bodies; CRC concluding observations relating to corporal punishment for all states (by session and by state); information on national high-level court judgments
- Global progress – analysis of legality of corporal punishment in every state and territory, organised regionally and globally; GI global report; individual state reports; information on countries which have prohibited
- Research – summaries of prevalence research, research into children's own views and experiences, research into effects of corporal punishment
- Resources – internet and other resources to support the promotion of non-violent discipline in the home and schools; links to other campaigns; downloads of GI reports etc
- Legal reform – legislative and other measures to support law reform (companion to the *Legal Reform Handbook*)

Also Countdown to universal prohibition; Latest developments; RSS feed; Newsletter

Note: there is a companion site in Spanish [www.acabarcastigo.org/](http://www.acabarcastigo.org/) (but this needs updating)

### **4. Inter-Parliamentary Union**

Inter-Parliamentary Union & UNICEF (2007), *Eliminating Violence Against Children (Handbook for Parliamentarians No. 13)*, [www.ipu.org/english/handbks.htm](http://www.ipu.org/english/handbks.htm) (English, French)

## 5. Sweden

Durrant, J. E. (2000), *A Generation without Smacking: The impact of Sweden's ban on physical punishment*, London: Save the Children, [www.endcorporalpunishment.org/pages/pdfs/GenerationwithoutSmacking.pdf](http://www.endcorporalpunishment.org/pages/pdfs/GenerationwithoutSmacking.pdf)

Swedish Ministry of Health and Social Affairs/Ministry for Foreign Affairs (2001), *Ending Corporal Punishment – Swedish Experience of Efforts to Prevent All Forms of Violence against Children – and the Results*, Stockholm: Ministry of Health and Social Affairs/Ministry for Foreign Affairs, [www.endcorporalpunishment.org/pages/pdfs/ending.pdf](http://www.endcorporalpunishment.org/pages/pdfs/ending.pdf)

## 6. New Zealand

EPOCH NZ website, [www.epochnz.org.nz/](http://www.epochnz.org.nz/) – includes extensive information about reform in New Zealand, including all campaign materials and resources

Office of the Children's Commissioner [www.occ.org.nz/](http://www.occ.org.nz/), includes a number of resources related to child discipline

Wood, B., Hassall, I. & Hook, G. (2008), *Unreasonable Force – New Zealand's journey towards banning physical punishment of children*, Save the Children, New Zealand – order form at [www.savethechildren.org.nz/index.html](http://www.savethechildren.org.nz/index.html)

## 7. UN Study on Violence against Children

UN General Assembly (2006), *Report of the independent expert for the United Nations study on violence against children [Final report]*, A/61/299, [www.violencestudy.org/a555](http://www.violencestudy.org/a555) (Arabic, Bulgarian, Chinese, English, Farsi, French, Italian, Korean, Russian, Spanish)

UN General Assembly (2007), *Report of the independent expert for the United Nations [Progress report]*, A/62/209, [www2.ohchr.org/english/bodies/crc/study.htm](http://www2.ohchr.org/english/bodies/crc/study.htm) (Arabic, Chinese, English, French, Russian, Spanish)

Pinheiro, Paulo Sérgio (2007), *World Report on Violence Against Children*, [www.violencestudy.org/a553](http://www.violencestudy.org/a553) (Arabic, English, French)

UN Study on Violence against Children – child friendly materials at [www.violencestudy.org/a554](http://www.violencestudy.org/a554) (English, French, German)

## 8. Save the Children

Alliance staff Xtranet (Registration required) – provides information related to:

- legal resources [www.savethechildren.net/xtranet/resources\\_to\\_use/legal/main.html](http://www.savethechildren.net/xtranet/resources_to_use/legal/main.html)
- programme areas, including child participation and corporal punishment [www.savethechildren.net/xtranet/resources\\_to\\_use/prog\\_areas/advocacy\\_initiatives/main.html](http://www.savethechildren.net/xtranet/resources_to_use/prog_areas/advocacy_initiatives/main.html)
- UN News [www.savethechildren.net/xtranet/resources\\_to\\_use/news/main.html](http://www.savethechildren.net/xtranet/resources_to_use/news/main.html)

International Publications – includes resources on child participation [www.savethechildren.net/alliance/resources/publications.html](http://www.savethechildren.net/alliance/resources/publications.html)

Publication for making it happen (the UN Study on Violence against Children) – includes a number of useful publications on ending corporal punishment, including research studies on children's views and experiences, advocacy leaflets in Spanish, Arabic and French, and information on positive discipline [www.rb.se/eng/Programme/Exploitationandabuse/Corporalpunishment/1415+Publications.htm](http://www.rb.se/eng/Programme/Exploitationandabuse/Corporalpunishment/1415+Publications.htm)

## **Faith-based resources**

### **1. Churches' Network for Non-Violence**

Website [www.churchesfornon-violence.org](http://www.churchesfornon-violence.org) – includes new multi-faith resources section and information related to prohibition of corporal punishment and all the main faith groups

### **2. Arigatou Foundation – Global Network of Religions for Children**

Website [www.arigatou.ch](http://www.arigatou.ch). The Arigatou Foundation is an international faith-based NGO with a mission to create a better environment for all children of the world in working for the implementation of the UN CRC. It provides training and education on children's rights. Areas of expertise:

- Children and violence
- Rights-based programming
- Minority or indigenous children
- Children and the media
- Children and participation
- Children and education

### **3. Children in Islam – Their care, protection and development**

Includes research papers and extracts of Koranic verses, Hadiths and Sunnas that provide useful guidance on children's rights [www.churchesfornon-violence.org/Egy-homepage-Childreninislamengsum\(1\).pdf](http://www.churchesfornon-violence.org/Egy-homepage-Childreninislamengsum(1).pdf)

### **4. Gentle Christian Mothers**

Website [www.gentlemothering.com](http://www.gentlemothering.com) Articles include:

- *Christian Look at Attachment Parenting by Jessica Wigley*
- *To spank or not to spank: Choosing not to spank*

- *The Proverbs by Laurie Morgan*
- *Gentle Mothering*

## **5. Kirklees Parenting Forum: Positive Parenting for Muslim Parents**

Website [www.kirklees.gov.uk/community/health-care/childrenandfamilies/parentsupport/madressahs.shtml](http://www.kirklees.gov.uk/community/health-care/childrenandfamilies/parentsupport/madressahs.shtml)

As part of the Madressah Project, the Parent Support Forum has produced a booklet (*Positive Parenting: Give your child the best start in life*). It is written for Muslim parents and describes the benefits of positive parenting and how this approach is supported by Islam.

## **6. Non-violent parenting in the Hindu Faith**

‘Spare the Rod – Save the Child’, by Satguru Sivaya Subramuniyaswami,  
[www.hinduismtoday.com/archives/1997/2/1997-2-03.shtml](http://www.hinduismtoday.com/archives/1997/2/1997-2-03.shtml)

## **7. Parenting in Jesus’ Footsteps**

Website [www.parentinginjesusfootsteps.org](http://www.parentinginjesusfootsteps.org)

## **8. Project Nospank**

Website [www.nospank.net/toc.htm](http://www.nospank.net/toc.htm). Includes:

*The Bible and Positive Parenting* ([www.nospank.net/bible1.htm](http://www.nospank.net/bible1.htm))

*The dangers of spanking children*

*Advice of violence-prevention professionals compared with the advice of those who advocate smacking* ([www.nospank.net/perlin2.htm](http://www.nospank.net/perlin2.htm))

### **Publications distributed at the global workshop**

*Banning Corporal Punishment of Children: Romania’s experience*, Save the Children Sweden, Save the Children Romania

*Positive Discipline at your School: Seven steps to prevent corporal punishment and focus on learning*, Save the Children Sweden Southern Africa Office and MSTP

*Religions, the Promotion of Positive Discipline and the Abolition of Corporal*

*Reporting on Violence against Children: A thematic guide for non-governmental organisations reporting to the UN Committee on the Rights of the Child*, NGO Group for the Convention on the Rights of the Child

*Punishment: A Position Paper*, The South Africa Council of Churches

*Summary of the Children’s Act 2001*, ANPPCAN Kenya Chapter

*The Tree by the River: A story about corporal and humiliating punishment and the need for positive discipline*, RAPCAN, South Africa

*The Tree by the River: An activity book that explores the impact of corporal punishment and promotes positive discipline*, RAPCAN, South Africa

*Unreasonable Force: New Zealand's journey towards banning the physical punishment of Children*, Wood, Beth; Hassal, Ian, and Hook, George with Ludbrook, Robert, Save the Children, 2008

*Why effective national child protection systems are needed: Save the Children's key recommendations in response to the UN Secretary General's Study on Violence against Children*, Save the Children

### **Pamphlets**

*Child Protection is Everybody's Business*, ANPPCAN Kenya Chapter

*Do you know your rights?*, Save the Children Papua New Guinea

*How do you treat your child: Love and Protect your Children*, Save the Children Papua New Guinea

*Provisions of The Children's Act on the Role of Local Authorities*, ANPPCAN Kenya Chapter

### **Newsletters**

*Special: Ban on corporal punishment against children*, Regional Newsletter (Jan-April 2008), Save the Children Sweden, Regional Programme for Latin America and the Caribbean

### **Films screened at the workshop**

*Say NO to Violence* (television spot), Save the Children, Papua New Guinea

*Time for change: Filipino Children and Parents Speak Out against Corporal Punishment*, produced by Save the Children Sweden in the Philippines, 2008

*Save the Children fights for children's rights.  
We deliver immediate and lasting  
improvements to children's lives worldwide.*



**Save the Children**

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