

## 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.

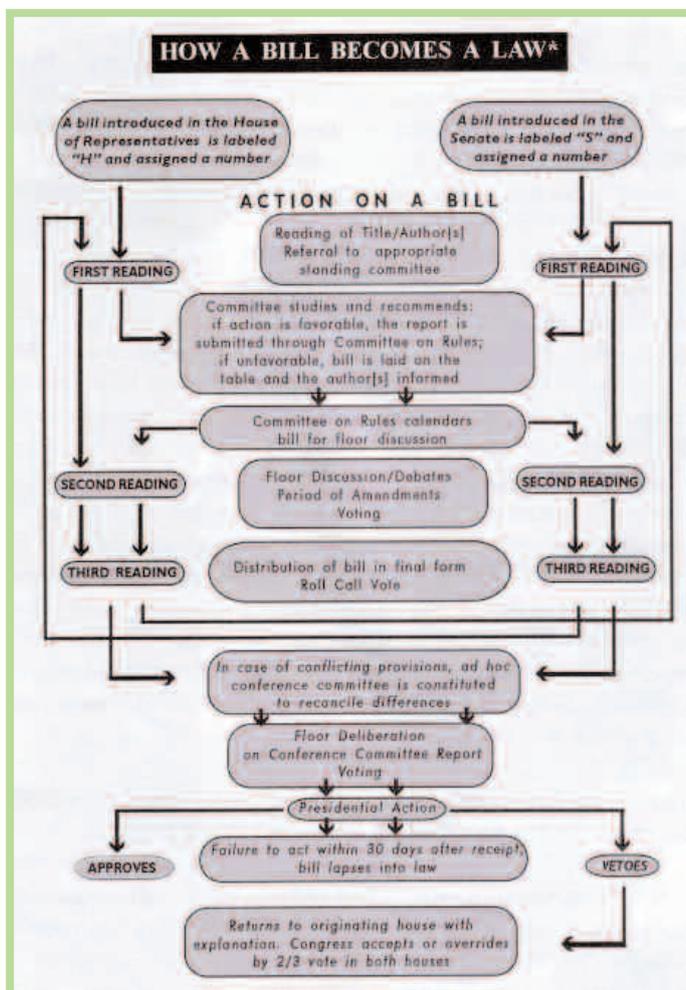
#### Preparing the Bill

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 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 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.