

Prohibiting all corporal punishment of children in Africa – A key element in eliminating harmful social and cultural practices

Briefing for the Day of the African Child 2013, from Sonia Vohito, African Project Coordinator, Global Initiative to End All Corporal Punishment of Children (yohito@endcorporalpunishment.org)



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This briefing is a contribution to the Day of the African Child 2013 theme “**Eliminating harmful social and cultural practices affecting children: our collective responsibility**”. Corporal punishment has long been traditionally accepted in childrearing and education in Africa and beyond. It is now recognised as a social and cultural practice which seriously breaches children’s rights to physical integrity and respect for their human dignity. Prohibiting and eliminating corporal punishment of children is central in addressing violence against children in Africa. We therefore urge organisations working on violence against children in Africa, including NGOs, CSOs and NHRIs, to use the opportunities presented by the 2013 Day of the African Child to:

- highlight to African governments the obligation under international and regional human rights law to prohibit and eliminate all corporal punishment of children, and
- ensure that the issue is included in their existing and planned work on harmful social and cultural practices, violence against children and other related areas of concern.

Introduction

Corporal punishment of children is almost universally socially and culturally accepted as a means of punishing or “disciplining” children in childrearing. Its use is supported by strongly held beliefs that hitting and hurting a child for this purpose is not violence but is for the good of the child and is even a parental “duty”, that generations of parents using corporal punishment have not resulted in “damaged” adults, and that positive, non-violent approaches to discipline alone are inadequate. These beliefs are often justified by particular interpretations of religious texts and are confirmed in laws which authorise corporal punishment, regulate how it should be inflicted and provide legal defences such that parents and others charged with assault or child cruelty can claim that their actions constituted “reasonable chastisement”, “moderate correction”, etc. Resistance to efforts to enact laws to prohibit corporal punishment frequently takes the form of claims that corporal punishment is “part of our culture”, “part of our tradition”.

There has been accelerating progress towards law reform in Africa, with five African states prohibiting all corporal punishment of children, including in the home, and 25 prohibiting it in all schools. However, the pace of reform is still slow. Too many governments on the one hand claim to support ending all forms of violence against children, while on the other they fail to prohibit violence inflicted in the name of “discipline”. **Prohibiting and eliminating all corporal punishment is essential in combating harmful social and cultural practices affecting children.**

The human rights imperative to prohibit harmful practices includes the obligation to prohibit corporal punishment

The **African Charter on the Rights and Welfare of the Child** requires States Parties to take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child including customs and practices prejudicial to the health or life of the child, and customs and practices discriminatory to the child on the grounds of sex or other status (article 21.1). The Charter also requires states to ensure that discipline by parents and at school respects the child's human dignity (articles 11 and 20) and that children are protected from all forms of torture and inhuman or degrading treatment by parents and others caring for the child (article 16) and in detention (article 17). The Committee of Experts on the Rights and Welfare of the Child, monitoring implementation of the Charter, has clearly stated that "the acceptance of corporal punishment and other harmful traditional practices should be publicly condemned and eliminated" (see box below).

The **African Charter on Human and Peoples' Rights** states that everyone should have equal protection of the law (article 3), respect for personal integrity (article 4) and respect for human dignity (article 5) and prohibits torture and cruel, inhuman or degrading punishment and treatment (article 5).

"In many countries in the continent, don't we find that society still tolerates and sometimes condones certain recurrent forms of violence against children, especially in families? However, no tradition, religion, belief, economic situation or educational method should justify these practices.... A clear and unambiguous rejection of all forms of violence, even moderate ones, against children should be encouraged by society as a whole. The notions deeply rooted in the social and cultural norms and traditions which accept, tolerate and indeed encourage violence, including sexist clichés, racial or ethnic discrimination, the acceptance of corporal punishment and other harmful traditional practices should be publicly condemned and eliminated. The harmful consequences that all forms of violence can have on children should be widely publicised."

(African Committee of Experts on the Rights and Welfare of the Child, "Statement on violence against children", 2011)

The **UN Convention on the Rights of the Child** confirms children's right to protection from all forms of physical and mental violence (article 19), to school discipline administered in a manner consistent with the child's human dignity (article 28) and not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (article 37). The Committee on the Rights of the Child has consistently made it clear that the Convention requires explicit prohibition of all corporal punishment in all settings – the home, schools, penal systems and alternative care settings. In its General Comment No. 8 (2006) the Committee consolidated and confirmed these obligations, and it systematically recommends prohibition in its concluding observations to states parties. The Committee again confirmed the obligation to prohibit corporal punishment in General Comment No. 13 on "The right of the child to freedom from all forms of violence" (2011).

In 2006, the Independent Expert leading the **UN Study on Violence against Children** recommended that states prohibit all corporal punishment of children, harmful traditional practices, such as early and forced marriages, female genital mutilation and so-called honour crimes, in all settings.

Corporal punishment of children – a harmful practice

The harmful effects of corporal punishment are well researched. Physically, its impact ranges from physical pain, minor cuts and bruises to serious injuries resulting in disability and even death. But it also has emotional and developmental consequences. Corporal punishment and other cruel or degrading punishment is associated with depression, low self-esteem, negative psychological adjustment and poor

relationships with parents and others. It impedes children's ability to learn and to reason, it makes children feel lonely, sad, abandoned and angry. Corporal punishment at home is often why children run away from home, making them more vulnerable to exploitation on the street.¹

The use and legality of corporal punishment breaches children's rights and undermines many aspects of effective child protection from all forms of violence. Its prohibition and elimination will contribute to the elimination of violence against children, including harmful social and cultural practices.

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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About the Global Initiative

Launched in 2001, the Global Initiative to End All Corporal Punishment of Children aims to act as a catalyst for the prohibition and elimination of corporal punishment of children across the world. Supporters of its aims include UNICEF, UNESCO, International Society for the Prevention of Child Abuse and Neglect (ISPCAN), Harm Reduction International and many other international and national organisations. The Africa project of the Global Initiative aims specifically to increase the number of states in Africa committed to and actively pursuing the prohibition and elimination of all corporal punishment of children, in the family, schools and all other settings.

¹ For further information, see Global Initiative to End All Corporal Punishment of Children (2013), "Review of research on the effects of corporal punishment: working paper", available at www.endcorporalpunishment.org