



Global Initiative to
End All Corporal Punishment
of Children

Prohibiting and eliminating corporal punishment of children – a key element of state responsibility for eliminating violence against women and girls

Submission to the study of the Special Rapporteur on Violence against Women, its Causes and Consequences, on state responsibility for eliminating violence against women

Global Initiative to End All Corporal Punishment of Children

www.endcorporalpunishment.org

info@endcorporalpunishment.org

October 2012

International human rights law is clear that girls and boys have a right to legal protection from all corporal punishment, including in the home. However, many states ignore this human rights obligation: corporal punishment of children remains legally sanctioned in the majority of states worldwide. The legal and social acceptance of this most common form of violence against girls and boys directly hinders prevention of violence against women and contributes to a tolerance of violence in family relationships and in wider society. Despite this, corporal punishment is rarely included in the global challenge to all violence against women and girls. The Global Initiative to End All Corporal Punishment of Children therefore hopes that the Special Rapporteur on Violence against Women, its Causes and Consequences will highlight states' immediate obligation under international law to prohibit and eliminate all corporal punishment of girls and boys, including in the family home, in her study on state responsibility for eliminating violence against women.

Introduction

Corporal punishment of children – violence inflicted on children by parents, teachers, carers and others in the name of “discipline” – is the most common form of violence against girls and boys, experienced by enormous numbers of children in states in all regions. It is a violation of children’s right to respect for their human dignity and physical integrity. However, corporal punishment is legally sanctioned in some settings of children’s lives – the penal system, care settings, schools and their own homes – in the majority of states worldwide: girls and boys can legally be assaulted by family members, teachers, carers and others. Judicial sentences of corporal punishment for children are lawful in 41 states; where sentencing is based on Sharia law, women and girls from the age of puberty can be ordered to undergo cruel punishments including flogging.

Corporal punishment and state responsibility for eliminating violence against women

“Addressing the widespread acceptance or tolerance of corporal punishment of children and eliminating it, in the family, schools and other settings, is not only an obligation of States parties under the Convention. It is also a key strategy for reducing and preventing all forms of violence in societies.”

Committee on the Rights of the Child, General Comment No. 8, 2006

Corporal punishment of children is closely related to other forms of interpersonal violence. Corporal punishment by family members is particularly closely related to domestic violence against women. Childhood experience of corporal punishment, especially for girls, is often the beginning of a life of violent victimisation by authority figures and family members. The perpetrators of corporal punishment and domestic violence may be the same, and the two kinds of violence frequently coexist – a home in which some degree or kind of violence against children is condoned is one in which other kinds of violence are more likely to be accepted. Similarly, social acceptance of corporal punishment of children contributes to a more general acceptance of violence in wider society. Corporal punishment also teaches children that it is acceptable for people in positions of power to use violence to control and dominate people with less power.

The similarity of the arguments used to justify corporal punishment and those sometimes used to excuse inaction on domestic violence further betrays the links between them – for example, the suggestion that governments should not “interfere” in the “private” sphere of the home, the perception that “light” force against children or

Progress towards universal prohibition

Children are protected in legislation from all corporal punishment, including in their homes, in 33 states worldwide, and many others are committed to enacting prohibition. School corporal punishment is prohibited in 117 states and corporal punishment is prohibited in penal institutions in 121 states.

Progress is accelerating in all regions. The number of states prohibiting corporal punishment in all settings including the home has tripled since 2000, when children had full protection in only 11 states, and more than doubled since 2006 (16 states). Inter-governmental organisations in Europe and South Asia are campaigning for prohibition of all corporal punishment across their regions.

women somehow does not count as violence and the use of religious justifications for both kinds of violence.

As the call for information for this study makes clear, states are required not only to refrain from acts of violence against women (for example, judicial sentences of corporal punishment) but also to make positive efforts to prevent violence against women. These efforts must be holistic and address violence at the different levels at which it occurs, including the individual and community levels. It is suggested that states improve and expand their efforts to eliminate violence against women by engaging with overall societal transformation to address the root causes of violence against women. Prohibiting corporal punishment is an essential part of this overall transformation – it helps societies move away from the view that it is acceptable to use violence to control and

punish others, including family members. Where this view is not only unchallenged but also enshrined in law, it will remain accepted – and violence against women and children will continue.

States cannot claim to be fulfilling their human rights obligations to protect women from violence, including in the private sphere, while failing to address the most common form of violence against girls and boys. By failing to prohibit corporal punishment, states not only allow violence against girls and boys to continue, they also demonstrate their lack of genuine commitment to women’s rights by failing to take this most basic of steps in preventing violence in the family home and elsewhere.

“Corporal punishment of girls and boys is not only a children’s issue – it is also a women’s issue. Addressing corporal punishment of children is not a distraction from addressing violence against women or an optional extra – it is an essential element of challenging violence against women and girls and a human rights imperative”

Paulo Sérgio Pinheiro, Independent Expert appointed by the UN Secretary General to lead the Study on Violence against Children

The human rights imperative to prohibit and eliminate all corporal punishment of children

The Committee on the Rights of the Child has consistently made it clear that the **UN Convention on the Rights of the Child** requires prohibition of all corporal punishment in all settings – the home, schools, penal systems and alternative care settings. In its General Comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment the Committee consolidated and confirmed these obligations, and it systematically recommends prohibition in its concluding observations.¹

The monitoring bodies of other international treaties, including the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**, the **International Covenant on Civil and Political Rights** and the **International Covenant on Economic, Social and Cultural Rights**, and of regional human rights instruments increasingly recommend prohibition of corporal punishment and the issue is regularly raised in the **Universal Periodic Review** of states' overall human rights records.²

The Committee on the Elimination of Discrimination against Women has made it clear that the **Convention on the Elimination of All Forms of Discrimination against Women** requires that women are protected against violence of any kind in the family and elsewhere,³ and that laws against family violence give adequate protection to all women.⁴ The Committee has recommended prohibition of corporal punishment of children to some states in its concluding observations on state party reports. For example, in 2012 it recommended prohibition to Guyana:

*“The Committee is ... concerned that corporal punishment is accepted both in school and home settings, even though it constitutes a form of violence against children, including the girl child. The Committee urges the State party.... to explicitly prohibit corporal punishment in all settings....”*⁵

Key figures in the fight against violence against women, including two former Special Rapporteurs on Violence against Women, support the aims of the Global Initiative to End All Corporal Punishment of Children.

A 2012 study from the Office of the **High Commissioner for Human Rights** on violence against women and girls and disability confirms that children with disabilities are more vulnerable to corporal punishment in all settings. It recommends reviewing and/or amending legislation on violence against women to ensure that it expressly prohibits all forms of violence against women and girls with disabilities, in line with international law including the Convention on the Rights of the Child.⁶

The **Beijing Declaration and Platform for Action** emphasises states' determination to prevent and eliminate all forms of violence against women and girls. The review of the Platform for Action in 2000 stated that governments should treat all forms of violence against women and girls of all ages as a criminal offence punishable by law.⁷

The importance of explicitly addressing corporal punishment of children

Like challenging gender-based violence, challenging corporal punishment of children requires explicit inclusion of the issue in reports and resolutions addressing violence more generally. The near universal social acceptance of corporal punishment of children means that it is commonly not understood as “violence”. When it is not explicitly addressed (for example, where documents refer only to “all forms of violence” or to “child abuse”)

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 and many other international and national organisations. The Global Initiative has been regularly briefing the Committee on the Rights of the Child on this issue since 2002; since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee; and, since 2011, the Committee on the Rights of Persons with Disabilities. Briefings are also submitted for every state being reviewed in the Universal Periodic Review.

corporal punishment of children inevitably remains invisible – just as the lack of a gender perspective makes many forms of violence against women invisible.

This leaves a glaring gap – for example, where documents which focus on domestic violence against women fail to note that violence against children in the home is also widespread and often coexists with domestic violence, or, perversely, acknowledge the harm done to children by witnessing violence in the home while ignoring the violence inflicted directly on them in the guise of “discipline”.

This gap is evident in repeated reports of the Secretary General and resolutions by the General Assembly on the elimination of “all violence” against women and girls, which have failed to address violent punishment of girls. The report of the Secretary General for the 51st session of the Commission on the Status of Women on the elimination of all forms of discrimination and violence against the girl child⁸ did not mention the issue. The Secretary General’s 2006 study on violence against women does not address violent punishment; neither does UNICEF’s study on promoting the rights of girls to be free from violence (created in follow-up to the Secretary General’s 2006 study on violence against children).⁹

Reluctance to address the issue may stem in part from the fact that corporal punishment of children is perpetrated by both men and women – in some cases, especially women since they are the primary caregivers of children. But addressing violence in societies necessitates confronting this reality. Silence on the issue in studies on violence against women and girls colludes with its legal and social acceptance. Too many reports and resolutions promote women’s right to not be victims of violence while at the same time condone or ignore their actions as perpetrators of violence.

To meaningfully address corporal punishment it is essential to refer explicitly to it and to highlight states’ responsibility under international law to prohibit and eliminate it in the family home and elsewhere.

“Many citizens and politicians express deep concern about increasing violence in their societies. The credibility of this concern is questionable as long as they are not willing to seriously and systematically address the use of violence against children. And nobody should suggest that a little bit of violence is acceptable. That applies equally for adults and children.”

Jaap E. Doek, former Chair, Committee on the Rights of the Child

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
October 2012

¹ Committee on the Rights of the Child (2006), *General Comment no. 8: 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)*, para. 11, available at www2.ohchr.org/english/bodies/crc/index.htm. All concluding observations relating to corporal punishment can be found at www.endcorporalpunishment.org

² See the Global Initiative website, www.endcorporalpunishment.org, for more information

³ Committee on the Elimination of Discrimination against Women (1989), *General Recommendation No. 12: Violence against women*

⁴ Committee on the Elimination of Discrimination against Women (1992), *General Recommendation No. 19: Violence against women*

⁵ Committee on the Elimination of Discrimination against Women (2012), *Concluding observations of the Committee on the Elimination of Discrimination against Women: Guyana*, paras. 28 and 29 (CEDAW/C/GUY/CO/7-8 Advance Unedited Version)

⁶ General Assembly (2012), *Thematic study on the issue of violence against women and girls and disability: Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/20/5)*

⁷ General Assembly (2000), *Further actions and initiatives to implement the Beijing Declaration and Platform for Action (A/RES/S-23/3)*

⁸ Economic and Social Council (2006), *The elimination of all forms of discrimination and violence against the girl child: Report of the Secretary-General (E/CN.6/2007/2)*

⁹ Ward, J. [n.d.], *From Invisible to Indivisible: Promoting and Protecting the Right of the Girl Child to be Free from Violence*, UNICEF