



Global Initiative to
**End All Corporal Punishment
of Children**

Prohibiting and eliminating all corporal punishment of girls with disabilities

**Submission to the Committee on the Rights of
Persons with Disabilities on its draft General
comment on Article 6: Women with disabilities**

www.endcorporalpunishment.org
info@endcorporalpunishment.org

July 2015

Summary

Girls with disabilities are particularly vulnerable to corporal punishment – violence from parents, carers and others in the name of “discipline” – the most common form of violence against children. Used to control and regulate their social and sexual behaviour, corporal punishment violates the right of girls with disabilities to respect for their human dignity and physical integrity, and its legality violates their right to equal protection under the law. States have an obligation under international law to expressly prohibit all corporal punishment of children, including girls with disabilities. ***The Global Initiative urges the Committee on the Rights of Persons with Disabilities to specifically address corporal punishment of girls with disabilities in the following sections of its General comment on Article 6:***

1. ***“Introduction”***
2. ***“States parties’ obligations”***
3. ***“Article 17 – Protecting the integrity of the person”***

There is no more powerful symbol of the low status of children than the legal and social acceptance of corporal punishment – assault which, if perpetrated on an adult, would be unlawful. Violent punishment remains lawful in some or all settings of children’s lives in the majority of states worldwide so that girls and boys, including those with disabilities, can legally be hurt by family members, teachers, carers and others in the name of “discipline”. For girls with disabilities the problem is compounded by the lower worth often ascribed to them and the double discrimination they face on the grounds of their disability and gender. The essence of prohibiting all corporal punishment of children is ensuring that girls and boys with and without disabilities enjoy equal protection under the law on assault, whoever the perpetrator and whether or not the assault is inflicted as “discipline” or punishment.

Girls with disabilities are particularly vulnerable to corporal punishment

UNICEF statistics from 62 countries published in 2014 show the huge scale of violent punishment of children: about 80% of children aged 2-14 were subjected to “violent discipline” (physical punishment and/or psychological aggression) in the home in the past month, and 17% experienced severe physical punishment (being hit on the head, ears or face or being hit hard and repeatedly).¹

¹ UNICEF (2014), *Hidden in Plain Sight: A statistical analysis of violence against children*, NY: UNICEF

Children with disabilities are especially likely to experience this and all forms of violence from adults.² A study published in 2013, which used UNICEF data on more than 45,000 2-9 year olds from 17 countries, found that children with disabilities were more likely to be physically punished and more likely to experience severe physical punishment than children without disabilities. Caregivers of children with disabilities were more likely to believe that they needed to use physical punishment than caregivers of children without disabilities.³

Children with disabilities are also at increased risk of being physically punished in some schools: in the USA, school students with disabilities are up to twice as likely as students without disabilities to be “paddled” (beaten with a wooden paddle).⁴ In some countries, children with disabilities experience extremely severe corporal punishment in institutional settings. A 2014 report on orphanages in Russia documented widespread severe physical punishment of children with disabilities, including children being beaten and having cold water poured over their heads.⁵ Studies in Mexico⁶ and Serbia⁷ found that children with disabilities in psychiatric hospitals, institutions, care facilities and shelters were kept in permanent restraints, including being tied to chairs, tied up with bedsheets and kept in cribs.

Girls with disabilities are at greater risk than other children due to the double discrimination they experience based on their disability and their gender. Girls may experience different types of punishment from boys and may be punished for different behaviours. Corporal punishment is often used to control and regulate girls’ behaviour, including their social and sexual behaviour,⁸ and to encourage deference. Violence against girls has been shown to cause “submission” and “timidity”.⁹

Corporal punishment is also closely linked to partner violence. Studies have found that social settings in which corporal punishment is prevalent tend to be social settings in which partner violence is prevalent,¹⁰ that parents in households where intimate partner violence was perpetrated are more likely to inflict corporal punishment on their children¹¹ and that approval of husbands hitting their wives is associated with a belief that corporal punishment is necessary to rear children.¹² Associations have also been found between experiencing corporal punishment

² Pinheiro, P. S. (2007), *World Report on Violence Against Children*

³ Hendricks, C. et al (2014), “Associations Between Child Disabilities and Caregiver Discipline and Violence in Low- and Middle-Income Countries”, *Child Development*, 85(2), 513-531

⁴ Human Rights Watch & American Civil Liberties Union (2009), *Impairing Education: Corporal Punishment of Students with Disabilities in US Public Schools*

⁵ Human Rights Watch (2014), *Abandoned by the State: Violence, Neglect, and Isolation for Children with Disabilities in Russian Orphanages*

⁶ Rosenthal, E. et al (2010), *Abandoned & Disappeared: Mexico’s Segregation and Abuse of Children and Adults with Disabilities*, Mexico City: Disability Rights International & Comisión Mexicana de Defensa y Promoción de los Derechos Humanos

⁷ Ahern, L. et al (2007), *Torment not Treatment: Serbia’s Segregation and Abuse of Children and Adults with Disabilities*, Washington, DC: Mental Disability Rights International

⁸ Stavropoulos, J. (2006), *Violence Against Girls in Africa: A Retrospective Survey in Ethiopia, Kenya and Uganda*, Addis Ababa: African Child Policy Forum

⁹ Ministère de la Famille et de la Solidarité National (2009), *Les Violences Faites aux Femmes au Bénin*, Observatoire de la Famille, de la Femme et de L’Enfant

¹⁰ Levinson, D. (1989), *Family violence in cross-cultural perspective*, Newbury Park: Sage, cited in Straus, M. A. et al (2014), *The Primordial Violence: Spanking Children, Psychological Development, Violence, and Crime*, NY: Routledge

¹¹ Taylor, C. A. et al (2012), “Use of Spanking for 3-Year-Old Children and Associated Intimate Partner Aggression or Violence”, *Pediatrics*, 126(3), 415-424

¹² Lansford, J. E. et al (2014), “Attitudes Justifying Domestic Violence Predict Endorsement of Corporal Punishment and Physical and Psychological Aggression towards Children: A Study in 25 Low- and Middle-Income Countries”, *The Journal of Pediatrics*, 164(5), 1208-1213

as a child and perpetrating violence towards a partner as an adult,¹³ experiencing violence from a partner as an adult,¹⁴ holding inequitable gender attitudes¹⁵ and verbally coercing or physically forcing a partner to have sex as an adult.¹⁶

The obligation to prohibit under international law

The Committee on the Rights of Persons with Disabilities has recommended prohibition of all corporal punishment of children with disabilities following its examinations of Cook Islands¹⁷ and El Salvador¹⁸ and has raised the issue in its examination of other states.¹⁹ The obligation to enact prohibition of corporal punishment is linked to the rights of children with disabilities to life (article 10 of the CRPD), to respect for their physical and mental integrity (article 17), to be free from exploitation, violence and abuse within and outside the home (article 16), to be free from torture and cruel, inhuman or degrading treatment or punishment (article 15), to an education (article 24) and to the highest attainable standard of health (article 25). The Preamble of the Convention recognises that children with disabilities should enjoy human rights on an equal basis with other children and recalls the obligations to this end of States Parties to the Convention on the Rights of the Child.

The Committee on the Rights of the Child has consistently made it clear that the Convention on the Rights of the Child requires prohibition of all corporal punishment, including in the home. The Committee consolidated and confirmed these obligations 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.²⁰ General Comment No. 13 (2011) on the right of the child to freedom from all forms of violence²¹ identifies corporal punishment as unacceptable, however light, and both it and General Comment No. 9 (2006) on the rights of children with disabilities²² recognise that children with disabilities are particularly vulnerable to violence. The Committee systematically recommends prohibition in its concluding observations.²³

The monitoring bodies of other international treaties, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil

¹³ Gershoff, E. T. (2002), "Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review", *Psychological Bulletin*, 128(4), 539-579

¹⁴ Bott, S. et al (2012), *Violence Against Women in Latin America and the Caribbean: A comparative analysis of population-based data from 12 countries*, Washington DC: Pan American Health Organisation & Center for Disease Control and Prevention

¹⁵ Contreras, M. et al (2012), *Bridges to Adulthood: Understanding the Lifelong Influence of Men's Childhood Experiences of Violence, Analyzing Data from the International Men and Gender Equality Survey*, Washington DC: International Center for Research on Women

¹⁶ Straus, M. A. et al (2014), *The Primordial Violence: Spanking Children, Psychological Development, Violence, and Crime*, NY: Routledge

¹⁷ 17 April 2015, CRPD/C/COK/CO/1, *Advance Unedited Version, Concluding observations on initial report*, paras. 31-32

¹⁸ 8 October 2013, CRPD/C/SLV/CO/1, *Concluding observations on initial report*, paras. 35-36

¹⁹ For example Ecuador (24 October 2014, CRPD/C/SR.153, *Summary record of 153rd meeting*, paras. 10, 14, 19 and 40), Mexico (24 October 2014, CRPD/C/SR.145, *Summary record of 145th meeting*, para. 14) and Tunisia (13 May 2011, CRPD/C/TUN/CO/1, *Concluding observations on initial report*, paras. 6, 16-17)

²⁰ 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)* (CRC/C/GC/8)

²¹ Committee on the Rights of the Child (2011), *General Comment No. 13: The right of the child to freedom from all forms of violence* (CRC/C/GC/13)

²² Committee on the Rights of the Child (2006) *General Comment No. 9: The rights of children with disabilities* (CRC/C/GC/9)

²³ For details see <http://endcorporalpunishment.org/prohibiting-corporal-punishment/hrlaw/crc/>

and Political Rights and the International Covenant on Economic, Social and Cultural Rights also recommend prohibition of corporal punishment. The issue is regularly raised in the Universal Periodic Review of states' overall human rights records.

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.²⁴

Governments are increasingly enacting laws to prohibit this form of violence against children. As at July 2015, 46 states have achieved prohibition in all settings including the home and governments of at least 50 others have expressed a commitment to enacting full prohibition. But still, corporal punishment remains legal in some settings, particularly care settings and the home, in the majority of states worldwide. For global and regional legality tables and detailed individual reports on every state, visit www.endcorporalpunishment.org or email info@endcorporalpunishment.org.

Recommendations: addressing corporal punishment in General comment on Article 6

No consideration of the rights of girls with disabilities is complete if it does not acknowledge the huge scale and legality of punitive violence against them and call for an end to it. The widespread legal and social acceptance of corporal punishment means that it is commonly not understood as “violence” unless it reaches some degree of severity; this necessitates explicitly referring to it. Where corporal punishment is not directly mentioned (for example, where documents refer only to “all forms of violence” or to “abuse”) it inevitably remains invisible – just as the lack of a gender or a disability perspective makes violations of the rights of women or people with disabilities invisible. Meaningfully addressing corporal punishment requires explicitly calling for its prohibition and elimination.

The Global Initiative urges the Committee on the Rights of Persons with Disabilities to address corporal punishment of girls with disabilities in its General comment on Article 6: Women with disabilities, under the following sections:

1. “Introduction”

Paragraph 5 of the introduction identifies violence against women and girls with disabilities as one of the main subjects of concern with respect to this vulnerable group. Paragraph 6 lists forms of violence commonly experienced by women and girls with disabilities, but makes no reference to corporal punishment – the most common form of violence against girls and boys, to which girls with disabilities are particularly vulnerable.

Suggested insertion (underlined):

6. ... Women with disabilities may experience violence for longer periods of time due to inadequate pathways to safety. Girls with disabilities experience high levels of corporal

²⁴ 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)*

punishment (violence in the name of “discipline”) in educational settings, care institutions and the family home. Violence may be based on gender or disability or both.

2. “States parties’ obligations”

There is widespread consensus among treaty monitoring bodies and other human rights mechanisms on the obligation of states under international law to prohibit corporal punishment of all children – girls and boys with and without disabilities – in all settings including the home. This obligation should be explicitly included in paragraph 32 in relation to States parties’ obligation to protect women and girls with disabilities against all forms of exploitation, violence and abuse.

Suggested insertion (underlined):

32. ... In particular State Parties must apply due diligence in protecting women and girls with disabilities against all forms of exploitation, violence and abuse through prevention, investigation, prosecution and punishment. This includes the obligation to explicitly prohibit corporal punishment of children in all settings including the home and care settings.

3. “Article 17 – Protecting the integrity of the person”

The commentary on Article 17 currently included in the draft General comment does not address the increased risk of violence faced by women and girls with disabilities. As the most common form of violence experienced by children, the vulnerability of girls with disabilities to corporal punishment in the home, care settings, schools and elsewhere should be highlighted, together with the need to prohibit and eliminate it.

Suggested insertion (underlined):

[New paragraph] Girls with disabilities are particularly vulnerable to violence from parents, carers and others in the name of “discipline”. Corporal punishment is used to control and regulate the social and sexual behaviour of girls with disabilities. States Parties are obliged to expressly prohibit all corporal punishment of children to protect girls and boys with disabilities in the family home, institutions and all other settings.

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

The Global Initiative aims to act as a catalyst for the prohibition and elimination of corporal punishment of children across the world. Its aims are supported by UNICEF, UNESCO, International Disability Alliance, Disabled Peoples’ International, Disability Rights International, Inclusion International, Rehabilitation International, International Women’s Rights Action Watch Asia Pacific and many other international and national organisations; a full list of supporters is available on our website: www.endcorporalpunishment.org.