



Global Initiative to  
End All Corporal Punishment  
of Children

## **GLOBAL INITIATIVE NEWSLETTER 13** **(AUGUST 2010)**

This issue begins with the announcement of two more countries achieving prohibition in all settings – Tunisia and Poland! We also report on high level court rulings in Bangladesh and Tonga, commitments to law reform in the Middle East and North Africa, and lots more....

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## **1 GLOBAL PROGRESS**

### **Two more countries achieve prohibition**

*Poland:* On 1 August 2010, a new law came into force in Poland prohibiting all corporal punishment in childrearing. Article 2 of the Law of 6 May 2010 “On the Prevention of Family Violence” amends the Family Code (1964) by inserting a new article 96 which prohibits all corporal punishment in childrearing: “Persons exercising parental care, care or alternative care over a minor are forbidden to use corporal punishment, inflict psychological suffering and use any

other forms of child humiliation” (unofficial translation). This makes Poland the 22<sup>nd</sup> European state to achieve prohibition.

*Tunisia:* In July 2010, Tunisia became the first African state to prohibit all corporal punishment of children in all settings, including the home. Law No. 2010-40 of 26 July 2010, amends article 319 of the Penal Code to remove the clause which provided a legal defence for the use of corporal punishment in childrearing. Prior to the reform, article 319 of the Penal Code punished assault and violence which did not lead to serious or lasting consequences for the victim, but stated that “correction of a child by persons in authority over him is not punishable”. The new law explicitly repeals this clause, making it a criminal offence to assault a child even lightly. Publication of the law in the Official Gazette, in July 2010, was accompanied by a statement from the Constitutional Council that the new law is wholly compatible with the Constitution and its effect is to make the provisions against light assault in article 319 of the Penal Code equally applicable to “correction” of children.

### High level court rulings

*Bangladesh:* Following a writ petition challenging Government inaction in the face of repeated and serious incidents of corporal punishment in schools and madrasas, the High Court made an interim order to the Ministry of Education to issue circulars to primary and secondary schools to tell them to stop using corporal punishment. The Court also asked various Government bodies and officials to respond to the concerns raised, particularly asking them why the Court should not declare the situation to be a breach of human rights under the Constitution and the UN Convention on the Rights of the Child. A second hearing was scheduled for 4 August, though the outcome has not yet been publicised. The petition was filed by two human rights organisations, Bangladesh Legal Aid and Services Trust (BLAST) and Ain o Salish Kendra (ASK).

*Tonga:* The Appeal Court overturned sentences of judicial whipping imposed by British judge Justice Robert Shuster of the Tonga Supreme Court on two 17-year-olds convicted of burglary and escaping from prison. The judgment (Fangupo v Rex; Fa'aoa v Rex [2010] TOCA 17; AC 34 of 2009; AC 36 of 2009 (14 July 2010)) referred to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and stated that “interpreted in the light of international conventions and decisions of this Court ... it might be argued that the whipping provision [in criminal law] is now unconstitutional”. The judgment also questioned the role of a doctor in certifying that an offender is fit for whipping, stating: “It is arguable that for a doctor to provide such certification would be contrary to various Medical Association declarations and codes and principles of medical ethics which taken together would appear to prevent a doctor from participating in the infliction of a whipping sentence.”

### Other positive moves

*Brazil:* In July, President Luiz Inacio Lula da Silva introduced a bill to Congress which would explicitly prohibit corporal punishment by parents and guardians. The bill must be approved by the lower house and the Senate in order to become law.

*India:* The Prevention of Offences against the Child Bill drafted by the Ministry of Women and Child Development is in the final stages of approval and is expected to be introduced to the Cabinet soon. It reportedly prohibits corporal punishment in all settings, but an early draft prohibited only corporal punishment which reached a certain level of severity. At the time of writing, the new draft is not available on the Ministry website.

*Kenya:* A referendum on the proposed new Constitution was held on 4 August and resulted in an overall “Yes” vote. The new Constitution states that every person “has the right not to be ... subjected to corporal punishment or treated or punished in a cruel, inhuman or degrading manner” (article 29).

*Malawi:* Parliament has passed the Child (Care, Protection and Justice) Bill, which prohibits corporal punishment in the penal system and possibly other institutions. This is in keeping with article 19 of the Constitution which prohibits corporal punishment “in connection with any judicial proceedings or any other proceedings before any organ of the state”.

*Nigeria:* The Criminal Law Bill under consideration in Lagos state will reportedly prohibit judicial corporal punishment of children and school corporal punishment which results in “grievous harm”, but it does not prohibit all corporal punishment.

*Pakistan:* The Khyber Pakhtunkhwa Child Protection and Welfare Ordinance 2010 has been promulgated in the province. It explicitly prohibits corporal punishment in all settings. However, the Act defines corporal punishment in a limited way, and less serious corporal punishment remains lawful.

*Republic of Korea:* The Seoul Metropolitan Office of Education is to prohibit corporal punishment and establish a task force to develop an action plan for implementation of the ban. But the Ministry of Education has reportedly stated that this breaches current education law which allows corporal punishment and guarantees schools autonomy in managing students. The National Human Rights Commission of Korea first recommended that legislation be amended to prohibit corporal punishment in schools in 2002.

*US:* Bill HR 5628 – the “Ending Corporal Punishment in Schools Act” – was introduced to Congress on 29 June and referred to the House Committee on Education and Labor. It requires 25 votes to move it on to the next stage: as at 27 July it had 21 votes.

*Zambia:* Final consultations have taken place with the Ministry of Education on the new Education Bill. It includes prohibition of corporal punishment by teachers, employees and other persons.

### **And ...**

A technical workshop on law reform to prohibit all forms of corporal punishment of children in the **Middle East and North Africa** region was held in Beirut, 30 June to 2 July, organised by Save the Children in partnership with the Global Initiative to End All Corporal Punishment of Children, the League of Arab States and the Higher Council for Childhood in Lebanon. Around 70 participants attended, from Governments and non-government organisations (NGOs) across the region. It was also attended by Ms Marta Santos Pais, Special Representative of the Secretary General on Violence against Children, Professor Paulo Sérgio Pinheiro, the Independent Expert who led the UN Secretary General’s Study on Violence against Children, and representatives from the League of Arab States. The workshop followed a two day meeting of the League of Arab States concerning the region’s follow-up to the UN Study on Violence against Children, and provided an opportunity for participants to focus on the recommendation of the Study to prohibit as a matter of priority all forms of corporal punishment of children in all settings.

During the workshop, the key elements of law reform were described and guidance given on how to develop national strategies to achieve prohibition in all settings. There was in depth discussion about the challenges faced and how to overcome them, and exploration of how action can be taken at a regional as well as a national level. This work culminated in presentations by participants of national strategies for law reform drafted during the workshop, to be further developed and implemented on returning to their respective countries. Civil society representatives had the opportunity to discuss the

significant role they can play in promoting law reform and ways of overcoming the particular challenges they face. A report of the work is available (see below).

### **Bad news ...**

*Botswana:* A Government White Paper has been issued on the role of traditional leaders in promoting social values. It states that village and ward leaders will be empowered to administer corporal punishment (flogging) for certain offences, and teachers can inflict corporal punishment on students. The National Strategy for the Promotion of Good Social Values is to be implemented immediately.

*Zanzibar:* Initial drafts of the Children's Bill 2010 included prohibition of corporal punishment in all settings, but following resistance, including from religious leaders, it was decided to delete references to corporal punishment before the Bill is tabled in Parliament.

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## **2 CAMPAIGNS AND CALLS FOR PROHIBITION**

*Canada:* International children's entertainer, Raffi Cavoukian, is calling on faith leaders to pledge to end all violence against children. So far, over 130 have signed the Proclamation which is the focal point of the [Children and Nonviolence Initiative](#) of the [Centre for Child Honouring](#). The Proclamation says: "With utmost compassion we urge an end to all forms of maltreatment and violence against children. We uphold the sanctity of children, we respect their personhood, we affirm their inherent dignity and their right to peace, love and security." The Centre's website includes [information on positive discipline](#).

*Ireland:* In response to research carried out on behalf of the Minister for Children and Youth Affairs (see below), the Irish Society for the Prevention of Cruelty to Children called for complete prohibition of corporal punishment of children without delay ([ISPCC Press release](#), 29 June 2010).

*Kenya:* The Children of Kibera Foundation is campaigning to end corporal punishment in school and drawing attention to abuse in the home. The campaign – [End Violence Against Children! Protect Our Children From Violence in Schools and the Home](#) – began with teacher training on the negative effects of corporal punishment and promoting positive disciplinary methods. An art competition and creative arts festival is planned for October 2010.

*UK:* The publication of a manual on physical restraint techniques in secure training centres prompted calls from the Children's Rights Alliance for England and other organisations for explicit prohibition of all forms of corporal punishment in these centres, which are purpose built facilities for young offenders up to the age of 17 run by private companies under Government contracts.

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### **\*NEW RESOURCES TO SUPPORT LAW REFORM\***

The [report of the technical workshop](#) to prohibit corporal punishment in the Middle East and North Africa (see above) is now available. It summarises the key presentations made during the workshop and the development of national strategies to promote prohibition. It also takes account of the issues raised during detailed discussions, including the challenges faced and ways to overcome them. It is

intended as an account of the workshop and as a reference document for promoting and achieving prohibition of all corporal punishment of children in the region.

The **Child Rights Information Network** (CRIN) launched its newly designed [website on violence against children](#). It includes information on relevant campaigns, resources, the UN Study and a growing database of laws related to children's rights. The website is also available in [Spanish](#).

The **Legal Assistance Centre** in Namibia has published materials to promote positive, non-violent discipline – a comic entitled *Alternatives to Corporal Punishment* and a [poster factsheet](#) on the issue.

In May 2010, the **Global Initiative** launched an All-Africa e-newsletter. The second issue will be published in September. To subscribe, email [vohito@africanchildforum.org](mailto:vohito@africanchildforum.org).

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### 3 HUMAN RIGHTS MONITORING

#### Key decisions and recommendations, etc.

The **Committee on the Rights of the Child** published its concluding observations on states examined at the 54<sup>th</sup> session, 25 May – 11 June 2010. The Committee examined the state party reports of Argentina, Belgium, Grenada, Japan, Macedonia, Nigeria and Tunisia, and made recommendations in all cases to prohibit corporal punishment of children in all settings. The Committee expressed concern about legal defences for corporal punishment by parents in Argentina and Tunisia and about judicial corporal punishment in Grenada and under Sharia law in Nigeria. In most states – Belgium, Grenada, Japan, Nigeria and Tunisia – the Committee drew attention to the inadequate attention given to its previous recommendations concerning corporal punishment and again urged states to take the recommended action. (Note: Tunisia has now achieved law reform to prohibit all corporal punishment: see above.)

The 8<sup>th</sup> session of the **Universal Periodic Review** of states by the Human Rights Council took place in May 2010. Recommendations to prohibit corporal punishment of children were made to Armenia, Belarus, Grenada, Guyana, Kiribati, Kuwait, Kyrgyzstan, Lesotho and Turkey.

#### Briefing the human rights bodies

The Global Initiative regularly briefs human rights treaty monitoring bodies prior to examination of state parties, and encourages national NGOs and human rights institutions to do likewise. Current opportunities to submit advance briefings on states coming up for examination are listed below. We are always willing to advise NGOs and human rights institutions on the practical details of how to submit briefings (email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)).

The *Committee on the Rights of the Child* pre-sessional working group will be meeting at its 55<sup>th</sup> session in September/October 2010 to consider the issues to raise in its forthcoming examinations of Denmark, Afghanistan, Belarus, Cuba, Czech Republic, Finland, Lao PDR and New Zealand. **Briefings on these countries should be submitted before 13 August 2010.**

The *Committee Against Torture* pre-sessional working group will be meeting at its 45<sup>th</sup> session in November 2010 to consider the issues to raise in its forthcoming examinations of Ghana, Ireland, Kuwait, Monaco, Slovenia and Turkmenistan. **The deadline for submitting briefings has now passed. Information relevant to the next opportunity for briefing the Committee will be confirmed in the next newsletter.**

The *Committee on Economic, Social and Cultural Rights* pre-sessional working group will be meeting at its 45<sup>th</sup> session in November 2010 to consider the issues to raise in its forthcoming



examinations of Cameroon, Estonia, Germany, Israel and Turkmenistan. **Briefings on these countries should be submitted before 1 November 2010.**

The *Committee on the Elimination of Discrimination against Women* pre-sessional working group will be meeting at its 47<sup>th</sup> session in October 2010 to consider the issues to raise when it examines Costa Rica, Djibouti, Ethiopia, Italy, Nepal, Republic of Korea, Singapore and Zambia. **Briefings on these countries should be submitted by 6 September 2010.**

The *Human Rights Committee* country report task forces will be meeting at its 100<sup>th</sup> session in October 2010 to consider the issues to raise when the Committee examines Jamaica, Bulgaria, Kuwait, Guatemala and Iran. **The deadline for submitting briefings has now passed. Information relevant to the next opportunity for briefing the Committee will be confirmed in the next newsletter.**

The 11<sup>th</sup> session of the *Universal Periodic Review* will take place in May 2011. The deadlines for making submissions on the countries involved are:

**1 November 2010** for Palau, Papua New Guinea, Samoa, Seychelles, Sierra Leone, Singapore, Somalia and Sudan

**8 November 2010** for Belgium, Denmark, Greece, Hungary, Latvia, Solomon Islands, St Vincent and the Grenadines, and Suriname.

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## 4 RESEARCH AND REPORTS

A report on school-based violence in **West and Central Africa** has been published by UNICEF, Plan West Africa, Save the Children Sweden West Africa and ActionAid. *Too Often in Silence*, available in English and French, documents prevalence research (e.g. in Benin, Senegal, Central Africa Republic and Gambia), and considers children who are particularly at risk of corporal punishment (disabled children, migrant and refugee children, and children in koranic schools) and the causes and negative effects of corporal punishment. It discusses laws and policies in the region to prohibit and eliminate corporal punishment in schools, and makes recommendations for action at a number of levels, including the enactment of appropriate legislation.

Other new research and reports include:

*Australia:* In a *Daily Telegraph* online poll of more than 500 parents of toddlers, almost half (47%) admitted to hitting their children, though only 5% claimed they used “physical discipline”; 7% said they threatened physical punishment, e.g. with a wooden spoon, but rarely carried it out. (*ChildUp*, 15 May 2010)

*Ireland:* In a Government-commissioned telephone survey of 1,353 parents, 34% said smacking should be lawful, 42% said it should be unlawful, and 24% said it should be unlawful for children of certain ages. Most parents (64.5%) agreed that “smacking is not necessary to bring up a well-behaved child”, 30% agreed that “smacking is wrong and should never be used”. A quarter of parents admitted to using some form of physical punishment in the past year, particularly on younger children. *Parenting Styles and Discipline: Parents’ Perspectives on Parenting Styles and Disciplining Children* is published by the Office of the Minister for Children and Youth Affairs.

*Children’s Perspectives on Parenting Styles and Discipline: A Developmental Approach* describes the results of research involving 30 focus groups with 132 children aged 6-17. Children said physical punishment made them feel bad, using words such as “sadness, unloved,

mad, upset, hurt” to describe their feelings. Overall, children of all ages disapproved of physical punishment. They suggested effective alternatives such as grounding and loss of privileges, and emphasised the importance of discipline strategies being consistent and fair, and of being able to learn from them.

**Pakistan:** The Society for the Protection of the Rights of the Child published its report on *The State of Pakistan’s Children 2009*. The chapter on violence against children describes the acceptance and practice of corporal punishment as the form of violence most resilient to change. It describes research into corporal punishment, the Government’s commitment to prohibiting corporal punishment, and efforts to achieve law reform.

**Republic of Korea:** In a survey of more than 6,600 students by the National Youth Policy Institute, 69.6% reported being physically punished by their teachers – 28.1% reported being punished one or twice a year, 22% once or twice a month, and 7.1% more than three times a week. More than half (51.2% of boys and 54.5% of girls) said they were also physically punished by their parents. In a separate survey of 2,889 elementary school students, 25.3% said they had been physically punished by their teachers, 42.4% by their parents. (Reported in *The Korea Times*, 26 July 2010)

**UK:** A survey of more than 2,000 adults across the UK found that 69% of respondents believed that slapping a child aged 6-15 carried a medium or high risk of causing harm to the child. Older respondents (over 65) were much less likely than younger adults to see physical punishment as potentially harmful. The research was carried out by The Children’s Society and published in the report *Public Attitudes to Safeguarding Children*. The Children’s Society supports law reform to prohibit all corporal punishment and give children the same legal protection from assault as adults.

**Yemen:** The NGO Seyaj for Childhood Protection released a report on children’s rights violations in Yemen, including murder, arrest and detention, beating, torture and sexual exploitation. The *Summary Report of the Monitoring Unit* identifies the factors which account for the fact that most perpetrators are not brought to justice, which include the use of beating in education and the absence or weakness of legislation relevant to child rights.

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## 5 MEDIA WATCH

A selection of media reports:

**Afghanistan:** A video given to the Afghanistan Independent Human Rights Commission appears to show a 14-year-old girl being flogged for running away from a forced marriage in a remote village. It is not thought to be an isolated case. (*CNN*, 10 June 2010)

**Bangladesh:** Teachers from Bangladesh, India, Pakistan and the Philippines attended a workshop on how to promote peace and non-violence in the classroom, run by the Catholic Teachers’ Team Movement at The Catholic Bishops’ Conference of Bangladesh. (*ucanews.com* 4 August 2010)

**Fiji:** Following reports of a teacher beating 26 students with a hose pipe, the Ministry of Education reminded teachers that corporal punishment is not allowed in schools and is regarded as assault. (*Fiji Times*, 6 July 2010)

**Ghana:** Mr Hammond Oppong Kwarteng, Brong Ahafo, Regional Director of the Department of Children, spoke against corporal punishment in schools at a forum of the 6<sup>th</sup> March Women’s Foundation on violence against women and children. He explained the negative impact of

corporal punishment on children's learning and urged parents to take action when their children report abuse in schools. (*BusinessGhana*, 23 July 2010)

*India:* There have been a number of reports of corporal punishment in schools leading to injury and even death, with many complaints to the National Commission for Protection of Child Rights (NCPCR). The NCPCR has framed guidelines for dealing with violence in schools in a sustained and systematic way. Following an investigation into the specific case of Rouvanjit Rawla, who committed suicide days after being caned at school, an NCPCR Committee made recommendations at school and local and central Government levels concerning sanctions against those responsible in this case and broader actions to be taken to implement the prohibition of corporal punishment in the Right to Education Act. (*India Current Affairs*, 20 July 2010)

*Namibia:* The Mayor of Keetmanshoop, Arnold Losper, appealed to the Minister of Education to reintroduce caning in schools, reportedly stating that "there is no doubt in my mind that it is within the ambit of our governments to invent regulations within the confines of the law legalising corporal punishment to instil discipline". (*The Namibian*, 21 July 2010). Deputy Education Minister, Dr David Namwandi, had previously threatened to bring back corporal punishment in schools if pupils continue to misbehave (*The Namibian*, 15/16 July 2010). (Note: Corporal punishment is unlawful in schools under a 1991 Supreme Court judgment but this has not yet been confirmed in legislation; the Child Care and Protection Bill would explicitly prohibit it.)

*Nepal:* Two school girls, sisters aged 9 and 11, were severely beaten by a teacher, needing medical treatment for their physical injuries and psychiatric treatment for the effects of trauma. The girls' father has lodged a formal complaint with the school. (*República*, 15 July 2010)

*Nigeria:* The Abuja Environmental Protection Board's Mobile Court ordered that a child be subjected to six strokes of the cane as a punishment for hawking on the streets of Abuja. (*Daily Trust*, 5 July 2010)

*Pakistan:* The Punjab Education Foundation (PEF) announced it has developed a composite mechanism against corporal punishment in 2,000 partner schools in the province. The provincial government is also working to strictly ban corporal punishment (*Daily Dawn*, 5 August 2010). The Balochistan provincial government has imposed restrictions on physical punishment in all private and government educational institutes, including in teacher training programmes instructions to avoid physical punishment of students. (*Islamabad Pulse*, 12 July 2010)

*Republic of Korea:* A student committed suicide by hanging shortly after being physically punished by his teacher for not bringing his school supplies to class. (*Korea Beat*, 28 July 2010)

*Swaziland:* About 30 school pupils were each whipped more than 20 times at a primary school in Manzini. The whipping was inflicted at a school assembly, mostly by parents. (*Swaziland News*, 26 May 2010)

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## 6 CAN YOU HELP?

In the autumn the Global Initiative will be publishing **regional reports** on progress towards prohibiting all corporal punishment in Africa and in South Asia, following up those we prepared for the UN Study on Violence Against Children. We will also be publishing our fifth annual **global report** on progress worldwide. If you are aware of campaigns to promote law reform and/or of opportunities for achieving law reform in your country (e.g. draft laws already being considered), please let us know.



We are also looking for good quality photographs to include in our publications (e.g. of campaigns and other events focused on prohibiting corporal punishment, new laws being signed, etc). Please get in touch if you think you can help with this: [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).

Can you offer assistance as a **volunteer translator**? We occasionally require translation of materials between English and other languages, including Arabic, Chinese, French, Portuguese, Russian and Spanish. If you would like to be included in the list of persons we can turn to, please email us at [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).

And finally, we would appreciate any **information on laws** prohibiting or authorising corporal punishment in the following countries and settings:

*Penal system (sentence of the courts)* – Equatorial Guinea, Gabon, Oman

*Penal system (disciplinary measure in penal institutions)* – Bahrain, Equatorial Guinea, Eritrea, Gabon, Guinea, Liberia, Libyan Arab Jamahiriya, Niue, Sao Tome and Principe, Syrian Arab Republic

*Alternative care settings* – Guinea-Bissau, Kuwait, Libyan Arab Jamahiriya.

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We hope you find this newsletter informative and useful and welcome your comments: please email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org). We are sending the newsletter to supporters of the aims of the Global Initiative (for the full list, click on “Supporters” on the [website](#)) and others who we think will be interested. If you do not want to receive future editions, please tell us at [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org). If your organisation is not listed as supporting the aims of the Initiative, please consider signing up (email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)).

To receive the latest developments between newsletters, please sign up to the RSS news feed at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org).

*Legislation is a key component of any comprehensive strategy to prevent and address all forms of violence against children, in all contexts and at all times. It is the solemn expression of political commitment of a country to work towards violence prevention and response, and to protect children’s dignity and physical integrity. It encourages positive discipline and the education of children through non-violent means. It safeguards the protection of victims and helps to shape their recovery and reintegration.... All states should urgently review and reform their legislation to ensure the legal prohibition of all forms of violence against children, including corporal punishment within the family and domestic violence, and to link law reform with the promotion of positive, non-violent forms of discipline.*

Marta Santos Pais, Special Representative of the Secretary General on Violence against Children, speaking at the Middle East & North Africa Region technical workshop: *Law reform to prohibit all forms of corporal punishment of children* in Beirut, 30 June 2010