

Campaigning for law reform to prohibit corporal punishment: Understanding the need for prohibition

Summary Briefing 1 (June 2009)



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

Prohibiting corporal punishment of children in all settings – the home, schools, the penal system and alternative care settings – is an immediate obligation of governments under international human rights law, and no legal framework for child protection can be complete without it.

Why prohibiting all corporal punishment is so necessary

Corporal punishment of children is widely socially and legally accepted. It is lawful in nearly all countries for parents to be physically and emotionally violent towards their children in the name of “discipline” or “correction”. In many it is also lawful in schools, penal institutions and alternative care settings, and in some countries children convicted of an offence can still be sentenced to corporal punishment by the courts. This is a blatant violation of children’s right under the Convention on the Rights of the Child and other international human rights law to protection from all forms of violence.

The legality of corporal punishment also violates children’s right to equal protection under the law, because adults the world over *are* legally protected from assault. Legalised violence against children is highly symbolic of children’s low status in societies, and is out of keeping with a view of children as human beings and as holders of human rights.

Children are in the position today that in the past they shared with women, when it was perceived as men’s right to hit women because they were regarded as inferior and in need of control and discipline. The enactment of laws against domestic violence the world over testifies to the acceptance of women as equal human beings with an equal right to live lives free from violence. But children have been left behind.

The adoption of the Convention on the Rights of the Child in 1989 signalled consensus that, as human beings, children have human rights, and it is governments’ responsibility to ensure that those rights are realised. Many governments and the societies they govern continue to resist the fact that this means all corporal punishment of children should be prohibited, reflecting the deeply embedded social attitudes that authorise and approve it and which ensure that, without challenge, this form of violence will continue to be a daily experience in children’s lives.

The idea that breaching a child’s human dignity and physical integrity is acceptable, normal, or even “in their best interests”, perpetuates children’s status as objects or possessions, and makes every other sort of extreme abuse and exploitation more likely. It is obvious that ending the legality of punitive violence against children is an essential strategy for ending all forms of violence against them. And without prohibition of all corporal punishment, no country can claim to be meeting its obligations to children under human rights law.

International human rights law

The UN Convention on the Rights of the Child, ratified by virtually all states, places an obligation on governments to prohibit corporal punishment of children, including by parents in the home. The Committee on the Rights of the Child, which monitors implementation of the Convention, has consistently recommended prohibition in its concluding observations to states parties. It spelled out this obligation in General Comment No. 8 (2006) on “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)”.

Other UN human rights treaty monitoring bodies have recommended prohibition of corporal punishment of children in order to fulfil obligations under their respective human rights instruments, including:

- the Committee Against Torture
- the Committee on Economic, Social and Cultural Rights
- the Committee on the Elimination of Discrimination Against Women
- the Human Rights Committee.

Regional human rights bodies have also confirmed that governments must prohibit all corporal punishment of children, including:

- the European Committee of Social Rights
- the Inter-American Court of Human Rights
- the African Committee of Experts on the Rights and Welfare of the Child.

The final report of the UN Study on Violence against Children, presented to the General Assembly in 2006, recommended that states should prohibit all forms of violence, including all corporal punishment, by the end of 2009.

The place of research

Research into corporal punishment of children, including research involving children themselves, makes the problem of corporal punishment visible, ensuring that governments cannot deny that it happens and mapping the prevalence, nature and impact of the violence that children experience daily. It is a significant element in campaigning for prohibition of corporal punishment and provides a useful benchmark for monitoring implementation of prohibition once law reform has been achieved.

Research is not necessary in order to “prove” that corporal punishment should be prohibited, just as it was not necessary to show through research that violence against women is bad for women and society. There is no justification for delaying law reform, and campaigning for it, until research has been completed. The fundamental reason for prohibition is that children have a right to equal protection and governments are under an obligation to realise it – now.

Other summary briefings available:

- 2: Reviewing current law; 3: Drafting prohibiting legislation*
- 4: Building a national strategy; 5: Working with Government and Parliament*
- 6: Using legal action and regional and international human rights mechanisms*
- 7: Key resources to support campaigning*

Further information at www.endcorporalpunishment.org, email info@endcorporalpunishment.org.