

Africa newsletter 30

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GLOBAL INITIATIVE TO
**End All Corporal
Punishment of Children**

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Highlights in this issue include news on litigation before the Constitutional Court in South Africa, as well as challenges to achieving prohibition of corporal punishment of children in African states. Read on for further details on national research findings on corporal punishment.

Featured News: The South African Constitutional Court Considers the constitutionality of the use of corporal punishment in the home

On 29th November 2018, the Constitutional Court considered the constitutionality of the use of corporal punishment in the home. The Constitutional Court had previously prohibited corporal punishment in detention settings in 1995 and in schools in 2000. On this occasion, the Court was hearing the appeal of the High Court of Gauteng judgment of 2017, which had ruled that the common law defence of “reasonable or moderate chastisement” breached children’s rights upheld by the 1996 Constitution and as such was unconstitutional. The Constitutional Court will take several months to deliver its judgment.



Right: The Global Initiative’s Africa project co-ordinator Sonia Vohito (representing The Global Initiative amicus curiae) photographed with children’s rights lawyer, Professor Ann Skelton.

1. Recent developments in Africa

National news

Ghana: A study carried out by the GES Guidance and Counselling Unit found that corporal punishment, bullying and sexual harassment were the biggest challenges preventing children of school-going age from enjoying their right to education. With financial and technical support from UNICEF, the [Ghana Education Service](#) (GES) developed a resource pack on safe schools to help prevent school-based violence, help promote the rights and wellbeing of children in schools and equip educators with the needed skills to ensure that schools are free from all forms of violence. The Safe School Pack is composed of a teacher's handbook, a peer-to-peer manual and a training manual to be used for the training of teachers. For more information: please email the GES directrgeneralsec.ges@gmail.com

During the “Youth Talks” Programme organised by UNICEF Ghana, children appealed to government, parents and society to take steps to end all forms of violence against them in order to keep every child safe from harm. Children specifically complained of harsh punishment in schools. Ivy Kumi, Director of the Guidance and Counselling Unit of the Ghana Education Services urged teachers to stop using corporal punishment in order to break the cycle of violence. (Graphic Online, 11 October 2018)

But ...

UR Tanzania: In response to uproars caused by recent incidents of severe corporal punishment in the country, Deputy Minister for Education William ole Nasha stated that caning should be the last resort punishment and should be applied only to students involved in gross misconduct. Although he called for sanctions against teachers who inflict severe corporal punishment, the Deputy Minister reaffirmed that corporal punishment “should be used rarely, and that is the Government stand”. He recommended that teachers strictly adhere to existing guidelines that regulate the use of corporal punishment in schools. (The Citizen, 9 September 2018).

Note: The National Education (Corporal Punishment) Regulations 1979 define corporal punishment as a “punishment by striking a pupil on his hand or on his normally clothed buttocks with a light, flexible stick but excludes striking a child with any other instrument or on any other part of the body”.

From Prohibition to Elimination

South Africa: In a recent article, Makubetse Sekhonyane, Director at the Gauteng Department of Education called for the use of existing non-violent forms of discipline provided for by the South African schools' code of conduct. Mr Sekhonyane argued that restoring authority in classrooms starts with teachers' individual self-respect and the acceptance of their role in instilling discipline and morality in children. His comments follow recent calls for restoring corporal punishment in South African schools, due to incidents of indiscipline and violence in schools. (Mail & Guardian, 16 November 2018).

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2. Resources: Research/Reports/Publications

Regional resource

[The African Report on Child Wellbeing 2018: Progress in the Child-Friendliness of African Governments. Addis Ababa, African Child Policy Forum.](#) This publication scores and ranks the performance of 52 African governments in improving the wellbeing of children. It features a scoring table of prohibition of corporal punishment per settings, in sub-Saharan countries. It also assesses the state of harmonization of national laws on children with international standards and principles using different key criteria, including the existence of domestic laws which prohibit corporal punishment of children. The report concluded that there has been little progress on banning all corporal punishment of children in Africa. The practice remains prevalent in the continent. As one of the priority areas for actions, the report recommends respect for the dignity of the child, which implies prohibition of corporal punishment of children.

National resources

DRC: [Building caregivers' emotional, parental and social support skills to prevent violence against adolescent girls: findings from a cluster randomised controlled trial in Democratic Republic of Congo, Lindsay Stark et al., BMJ Global Health, 2018.](#) A randomised control trial with 869 adolescent girls ages 10-14 and 764 caregivers residing in South Kivu involved life skills interventions, in addition to caregiver classes, with a view to enable the adolescent girls to advocate for their rights and physical safety. The study revealed over 30% prevalence of physical and

emotional violence exposure among girls aged 10–14. The study found no evidence that adding a caregiver component to the life skills intervention increased or reduced girls' exposure to any form of violence including physical violence. Similarly, caregivers receiving the intervention did not report decreased acceptance of physical discipline.

Ethiopia: [Preventing violence against refugee adolescent girls: findings from a cluster randomised controlled trial in Ethiopia, Lindsay Stark et al., BMJ Global Health, 2018.](#) A randomised controlled trial of 986 Sudanese and South Sudanese girls ages 13-19 living in refugee camps in Ethiopia carried out life skills interventions in order to empower them, build their knowledge of violence risk factors and improve their decision-making and negotiation skills. The intervention revealed that the girls had reportedly been subjected to various forms of violence including physical violence and emotional violence during the 12 previous months. Physical violence was defined as being hit or beaten. Emotional violence was defined as being screamed at loudly or aggressively. Analyses showed no significant effect of the intervention on reports of sexual violence, physical violence, emotional violence as well as no effect on perceived feelings of safety.

South Africa: [South African Child Gauge 2018, Hall K, Richter L, Mokomane Z & Lake L \(eds\), Cape Town: Children's Institute, University of Cape Town\).](#) The thirteenth issue of the Gauge focuses on children in relation to families and the state. The issue includes a special chapter which focuses on family violence and corporal punishment in particular. It introduces new evidence that highlights the interconnection between intimate partner violence and violence against children in the home. Using existing data, it argues that experiencing corporal punishment and witnessing IPV during childhood can thus start an intergenerational cycle of violence. In order to address violence against women and children, the chapter calls for a strong and adequate political will. It recommends interventions should promote positive parenting throughout the life-course, as well as a coordinated response to violence, recognising that of both children and their caregivers are in need of services and support to address trauma and to heal. The South African Child Gauge is published annually by the Children's Institute, University of Cape Town, to monitor progress towards realising children's rights

[Reyneke, M "Educator accountability in South Africa: Rethink section 10 of the South African Schools Act" \(2018\) 43 \(3\) Journal for Juridical Science.](#) This article finds that twenty years after the abolition of corporal punishment in South African schools – under section 10 of the South African Schools Act- corporal punishment is still prevalent in many schools. Based on existing data, it appears that more than

1.3 million learners are still subjected to this unlawful practice. In order to address this issue, the author recommends that section 10 of the South African Schools Act is amended to properly define corporal punishment and to prohibit other forms of non-physical punishment that cause psychological and emotional harm to learners. The definition contained in the UN Committee on the Rights of the Child's General Comment No. 8 provides a good example of an all-encompassing definition and could be used as a model to amend the Schools Act in order to prohibit physical and harmful non-physical disciplinary measures.

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3. Human rights monitoring

Key decisions and recommendations, etc.

The African Committee of Experts on the Rights and Welfare of the Child's Concluding observations on Sierra Leone, adopted in 2017 at session 30, have been published. The Committee recommended that Sierra Leone repeal the provision in the Child Rights Act which allows for reasonable punishment and fully prohibit corporal punishment in all settings.

The Committee on the Rights of Persons with Disabilities held its 20th session in August-September 2018 and examined South Africa, recommending that the Children's Act is amended without delay to explicitly prohibit all forms of corporal punishment in all settings.

At its 79th session in October 2018, the Committee on the Rights of the Child issued recommendations on corporal punishment to all states examined. In particular, the Committee refuted Mauritania's statement that its Child Protection Code had enacted prohibition of all corporal punishment and urged Mauritania to amend legislation to prohibit corporal punishment of children in all settings, including as a sentence for a crime. To Niger, the Committee recommended the enactment of the Children's Code to harmonise national legislation with the Convention and that corporal punishment is explicitly prohibited in legislation in all settings, including the home and in Koranic schools.

The Human Rights Committee held its 124th session in October/November 2018 and expressed concern to Sudan that, despite previous recommendations, flogging and amputation was still provided for as a sentence for a crime, including for minors. It recommended that those provisions are repealed from domestic legislation.

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: if you/your organisation is interested please contact vohito@endcorporalpunishment.org. For deadlines for submitting briefings to the Committees, please see our individual [country reports](#).

The Universal Periodic Review

The obligation to prohibit and eliminate corporal punishment of children continues to be raised with states in the Universal Periodic Review (UPR) of their overall human rights records. The Global Initiative submits briefings on every state being reviewed, sharing advance draft briefings with relevant organisations to encourage submissions at national level. We also conduct a follow up programme, pursuing the issue with states that accept recommendations to prohibit corporal punishment by writing to key NGOs, NHRIs and Government ministers, and undertake ongoing analysis of coverage of the issue in all aspects of the UPR process (for further information email vohito@endcorporalpunishment.org).

During the **Universal Periodic Review's** 30th session, both Cameroon and Djibouti received recommendations to prohibit all corporal punishment of children and will respond before the 39th session of the Human Rights Council in September 2018. Burkina Faso gave a mixed response to recommendations on corporal punishment, supporting one to combat corporal punishment and postponing its response to another to explicitly prohibit it in all settings. Cabo Verde, which achieved prohibition in 2013, received recommendations on the implementation of the ban and will respond by September 2018.

During its 38th session, the **Human Rights Council** adopted the final working group reports of the Universal Periodic Review's 29th session. Burundi had received a recommendation to "take legislative measures to put an end to corporal punishment in all settings" and supported it, stating that supported recommendations were "of priority national interest and Burundi would take all measures needed to implement them".

For information on individual states' upcoming UPR examinations or deadlines for submitting information to the review see the individual [country reports](#).

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4. Can you help?

Promoting positive, non-violent discipline

We are collecting resources for the promotion of positive discipline in homes, schools and other settings in Africa for listing on our website:

contact triona@endcorporalpunishment.org.

Research on corporal punishment of children

We also collect evidence of the nature and prevalence of corporal punishment.

Please send any recent research findings relevant to corporal punishment of children in Africa to: vohito@endcorporalpunishment.org.

And ...

Other ways to contribute to the work of the Global Initiative include:

- sending us information on laws prohibiting or authorising corporal punishment
- letting us know about opportunities for promoting law reform (e.g. if draft legislation is being considered) and when new laws are passed which prohibit corporal punishment
- providing contact details for organisations actively working to promote the prohibition and elimination of corporal punishment of children.

If you can help with any of the above, please email vohito@endcorporalpunishment.org.

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The Global Initiative aims to act as a catalyst to encourage more action and progress towards ending all corporal punishment in all continents. The Africa project aims 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.

We hope you find this newsletter informative and useful and welcome your comments: please email vohito@endcorporalpunishment.org. If your organisation is not listed as supporting the aims of the Initiative, please consider signing up ([on our website](#) or email info@endcorporalpunishment.org).

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