

Working towards the promotion of positive forms of discipline and the abolition of corporal punishment to ensure the realisation of children's rights to dignity and physical integrity.

# article 19

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## STATUS OF CORPORAL PUNISHMENT IN THE SOUTH AFRICAN CHILDREN'S AMENDMENT BILL LAW REFORM PROCESS

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On the 22nd of November 2007, the South African parliament finally passed the Children's Amendment Bill (B19F of 2006). However, to the great disappointment of child rights activists, this Bill, as opposed to earlier versions, no longer contains a clause which addresses the issue of corporal punishment of children by their parents. This article provides a brief overview of the developments concerning the clause on corporal punishment within the parliamentary process from the time the Bill was tabled in the National Council of Provinces until it was passed by parliament.

### **Content of clause 139 of the Children's Amendment Bill (B19 of 2006)**

The Children's Amendment Bill (B19 of 2006),<sup>1</sup> as a section 76 Bill, was first tabled in the National Council of Provinces (NCOP) during 2006. Clause 139 of this Bill addressed the issue of corporal punishment of children. However, this clause did not include an explicit prohibition of parental corporal punishment nor did it abolish the common law defence of reasonable chastisement. The clause, however, required

that parents respect the child's right to physical integrity, the right to be free from all forms of violence from either public or private sources, and the right to be protected from torture, and cruel, inhuman or degrading treatment or punishment as conferred by the South African Constitution.<sup>2</sup>

The clause repealed any legislation and any common or customary law rule authorising corporal punishment of a child by a court, including the court of a traditional leader, and stated further that no person could administer corporal punishment to a child at any child and youth care centre or any other facility for children. It further required that the Department of Social Development (DSD) must ensure education and awareness-raising programmes on the content of the clause and that programmes promoting appropriate discipline at home and at school are available across the country.

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<sup>1</sup> Published in Government Gazette No. 29150 23 August 2006.

<sup>2</sup> Act 108 of 1996.

The last few months have proved quite dramatic as far as progress towards the abolition of corporal punishment in the home is concerned. The Children’s Amendment Bill, which for a while seemed to be moving in the direction of effecting a ban on all forms of corporal punishment, no longer contains a prohibition on corporal punishment of children in the home. This means that the status quo in South Africa is maintained as far as parental corporal punishment is concerned. This is a sad indictment of the extent to which our legislature has forsaken the protection of children from violence. South Africa proclaimed that it was taking all steps necessary to protect children from violence during the UN Global Study, but this now seems to have been forgotten. A clear failure to enact a ban on corporal punishment denies children equal protection under the law and infringes on their basic rights to physical integrity and dignity. We include an article by Sam Waterhouse, which contains a discussion of what transpired during the parliamentary deliberations, as well as what the future might hold.

Significant progress towards motivating for a ban on corporal punishment has emanated from the religious sector, a grouping which in the past has sometimes been regarded as a proponent of corporal punishment. In this edition of Article 19 we feature an article by the South African Council of Churches which seeks to debunk some of the biblical interpretations seen to support the use of physical disciplinary measures against children. We also publish the 2006 Kyoto Resolution of Religions for Peace 8th World Assembly as well as the Coventry Charter for non-violence against children, both of which are international calls by the religious community to end corporal punishment against children.

We invite readers working in the field of child protection to submit articles on research and work being done in relation to the discipline of children. Finally, we take this opportunity to wish all our readers a happy and safe festive season and holiday.

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**Parliamentary processes and deliberations – The National Council of Provinces**

Following the tabling of Bill B19 of 2006, the NCOP encouraged committees in provincial legislatures to hold public hearings on the Bill in the different provinces. These hearings were held in the majority of the provinces during November 2006 to February 2007. Submissions supporting the prohibition of all forms of corporal punishment were made by a range of organisations in the different provinces. Following these hearings, three of the nine provinces included a total prohibition of corporal punishment, including that imposed by parents, in their negotiating mandates for the NCOP.

After limited discussion on Bill B19 of 2006, the NCOP passed the Children’s Amendment Bill (B19B of 2006) on the 29th of May 2007.<sup>3</sup> The content of clause 139 in this Bill reflected many of the recommendations that had been made by various child rights organisations advocating for a ban on corporal punishment. It included an explicit prohibition of any form of corporal or cruel, inhuman or degrading punishment perpetrated against children by a parent or person holding parental rights and responsibilities in respect of a child, and it abolished the existing common law defence of reasonable chastisement that is available to a parent who assaults his or her child. In addition, the clause required the DSD to promote positive discipline programmes throughout the country. The clause further provided that parents who were reported for subjecting a child to inappropriate forms of punishment must be referred to an early intervention service and that only where the punishment constituted abuse of the child, should the parent be prosecuted.<sup>4</sup>

However, various child rights organisations expressed concern at the requirement that the punishment must constitute “abuse” before prosecution is instituted, stating that this undermined children’s rights to equal protection under the law and the use of the word “abuse” in this context tends to affirm the notion that some arbitrary level of corporal punishment is acceptable.<sup>5</sup> Thus, the concern was further expressed that parents and others who have care of children can interpret this clause as meaning that physical punishment is acceptable as long as it does not go too far.

**Parliamentary processes and deliberations – the National Assembly**

The Children’s Amendment Bill (B19B of 2006) was then referred to the National Portfolio Committee on Social Development for debate. The Portfolio Committee held community consultations on Bill B19B in 2006 in eight communities in four provinces. Numerous submissions were made, both for and against the prohibition of corporal punishment. These included submissions from children calling for a prohibition and the promotion of positive relationships between parents and

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3 See *Article 19*, July 2007, Volume 3, Number 2, pp 9-10 for a full discussion on the content of this clause.  
 4 Clause 139 of the Children’s Amendment Bill (B 19B of 2006).  
 5 Submission to the Portfolio Committee on Social Development on the Children’s Amendment Bill: Discipline of Children. This submission was made on behalf of the Sub-Group on Corporal Punishment and Positive Discipline, a sub-group of the Children’s Bill Working Group. June 2007.

children. In addition, the committee held public hearings on Bill B19B of 2006 at parliament during August 2007.

Following these public hearings, the Committee proceeded to deliberate upon the Bill extensively during September and October 2007 and discussion on the prohibition of corporal punishment was amongst the most heated and protracted that had occurred during the parliamentary hearings. It appeared that the committee was divided on the issue.

Those in support of the prohibition comprised primarily ANC members, and those supporting a parent's right to 'spank' if done under certain circumstances, was led by the African Christian Democratic Party and also included members from the Democratic Alliance and the ANC.

At this point on the debate, three different clauses on the issue were drafted to reflect the different positions of the committee members in preparation for a vote by them. The content of these clauses basically is discussed below.<sup>6</sup>

### ***Content of clauses proposed by the National Portfolio Committee on Social Development***

All three of these clauses prohibited the use of corporal punishment at child and youth care facilities and required the DSD to provide education and awareness programmes and programmes on appropriate discipline.

The first option abolished corporal punishment. It required that prosecutors consider diversion as an alternative to prosecution of parents, and this included diversion to early intervention programmes on parenting. It also empowered the National Prosecuting Authority to withdraw charges or decline to prosecute a matter in which diversion was applied depending on the success or failure of the diversion. This option was also more specific in requiring DSD to provide programmes on parenting skills and positive discipline.

The second option appeared to retain the use of corporal punishment by parents. It required that parents must respect the child's right to physical and psychological integrity and that no child may be subjected to corporal punishment that "in its manner or degree, is cruel, inhuman or degrading". It stated that corporal punishment that violates these conditions falls outside of the defence of reasonable chastisement. The clause then set out the circumstances in which corporal punishment may be applied. These circumstances included that it must be applied by a parent or person holding parental rights and responsibilities; that the parent must act in accordance with the child's right to physical and psychological integrity (which many find to be a perplexing contradiction); that it must be applied in a moderate, reasonable and restrained manner, without anger and must take into consideration the child's age, maturity and the circumstances of the offence; that the reason for the punishment must be explained to the child beforehand; and that it must be administered using an open hand or a light, flat object that causes no physical harm.

The third option also retained corporal punishment. While requiring

parents to respect the child's right to physical and psychological integrity, it gave parents the "right to subject a child to discipline that is not excessive, deliberate, abuse or involves a degrading use of force". As with the second option, many aspects of this sub-clause were contradictory and confusing, which may be partially due to poor drafting. This option also required the prosecutor to consider diversion as an alternative to prosecution.

Prior to the Committee voting on the three proposed clauses, the ANC caucus intervened and prevented voting in the Committee from taking place, thus resulting in a delay in the passage of the Bill.

### **Public outcry**

However, it must be noted that at a point during the deliberations, there was huge public outcry when a comment made by the National Prosecuting Authority (NPA) relating to the current management of admission of guilt fines in assault cases between adults was taken out of context by the media. The media, in spite of the fact that the Committee members had discussed and been in agreement that fining parents was not a desirable sanction and that access to programmes to assist in behaviour change was of greater value to families, printed full page headlines in newspapers claiming that parents would be fined R300 for spanking their children. These headlines fuelled public debate and outrage without providing any context to the issue.

Following these events and deliberations, the clause addressing corporal punishment of children was subsequently removed from the Bill. The Committee cited that the reasons for this were that the clause required further investigation; that the matter should have been tagged as a section 75 issue (an issue of national competency) and be included in the original Children's Act 38 of 2005; and that the matter will be "finalised in a proposed amendment Bill to be introduced in 2008", which will follow the parliamentary route outlined for such matters.<sup>7</sup>

### **Conclusion**

The above discussion has sketched the developments which ultimately led to the Children's Amendment Bill (B19F of 2006) being passed without any reference to the issue of corporal punishment. However, it is hoped that the proposed Amendment Bill to the Children's Act 38 of 2005 (to be introduced in 2008) will once again present the opportunity for child rights organisations to advocate for the inclusion of a prohibition of corporal punishment in the private sphere. ●

<sup>6</sup> These three versions were presented in a draft Children's Amendment Bill dated 18 October 2007.

<sup>7</sup> Parliament of the Republic of South Africa Announcements, Tablings and Committee Reports Wednesday 24 October 2007. Committee report by the Social Development Committee.

# Togo and Uganda:

## Research into the prevalence of corporal punishment and other forms of humiliating and degrading punishment of children

The All Africa Report on the Global Initiative to End All Corporal Punishment of Children contained useful references to research undertaken in Africa on corporal punishment. This article is an extract of the Report which focuses on recent research conducted in Togo and Uganda.

### Togo

From mid-2005, Plan Togo commissioned research into violence and abuse in schools (Plan Togo, 2006). This included a joint study with the Forum for African Women Educationalists (FAWE) which involved interviews with 1,000 schoolchildren in 35 villages and with more than 500 mothers of school aged children, teachers, traditional chiefs, members of security services, social workers and others; a case study on violence and abuse in Togolese schools comprising 19 first-person narratives and observations based on interviews with children, parents and teachers in 7 villages and 2 towns; and a discussion of structural violence in the education system in Togo. In the FAWE research, children in their last 3 years of primary school were interviewed: 88% of girls and 87% of boys reported experiencing physical violence at school; 52% of girls and 48% of boys reported experiencing threatening behaviour or psychological violence. A 2003 Human Rights Watch report on child trafficking in Togo noted that many boys had been recruited into agricultural labour and worked very long hours, with many recalling that taking time off for sickness or injury would lead to longer working hours or corporal punishment (Human Rights Watch, 2003).

Most boys interviewed reported suffering physical injuries on the job and some of these resulted from being subjected to corporal punishment at the hands of their

employers. The report notes that girls trafficked for domestic or market labour also experienced frequent beatings, carried out by employers or by other neighbours.

### Uganda

In-depth research into children's experiences of all forms of violence against them was carried out in 2005 (Naker, 2005). A range of methods were used to look at the stories and opinions of 1,406 children aged between 8-18 years (719 girls and 687 boys) and 1,093 adults (520 women and 573 men), including parents, teachers and community leaders, from five different districts. This included the administration of 1,000 questionnaires to children (in and out of school), of which 777 yielded valid returns, and 900 questionnaires to adults, of which 755 yielded valid returns. Other methods used to source information were focus group discussions, narrative role play, journal writing and interviews. Almost all children (98.3%) reported experiencing physical violence at home and/or at school, with a significant percentage reporting experiencing violence at least once a week or more. The most common forms were caning, slapping and pinching, followed by burning, locking up, tying up and "other" (e.g. kneeling, slashing grass, cleaning latrines). All types were more common for boys than girls except slapping, pinching and "other". Older boys were more likely to experience severe physical violence. Almost one third (31.3%) said they experienced physical violence at least once per week and 15% said it happened "every day", 38.8% said it occurred mainly at home, 28.6% said mainly at school and 31.8% said both at school and at home. Nearly all children (98.2%) also reported experiencing emotional violence, with 36.5% experiencing it at least once a week and 16.7% every

day; 42.6% said it was mainly in the home, 21.2% at school and 35.5% both. Most adults (90%) agreed that in their communities children were deliberately beaten, with 37% saying children in their communities were “frequently mistreated” and 55.1% said “sometimes mistreated”. 91.3% of these adults described using a combination of physical and emotional punishment, most commonly caning (78.3%), then slapping (45.7%), pinching (42.8%), assigning excessive work (19.3%), locking children up (11.4%), tying them up (3.4%) and burning them (2.9%). Apart from caning, these figures are significantly lower than those given by the children. Only 1.2% said they themselves never punished children. Parents stated that the reasons they punished children were to make them compliant, obedient and respectful of traditions, although many doubted whether their methods would achieve this. While 87.9% said they punished children to guide their behaviour, only 32.6% believed the punishment would change the behaviour. 81.7% said they punished their own children and 57.9% said they felt comfortable punishing other children in the community. Of the teachers, 80.1% reported punishing their own children and 60.4% their students. Of community leaders, 89.4% punished their own children compared with 22.4% punishing others’ children.

Research carried out by the Mulago Child Health Development Centre in Uganda showed that mothers were the main imposers of corporal punishment, and between 55% and 82% of them reported caning, slapping or beating their children (cited in Economic and Social Council, 1999). Research by the Child Law Review Committee established that of the 129 children in conflict with the law who were found guilty and sentenced, 15.5% were caned (cited in Government of Uganda, 1996). In research conducted by Save the Children UK focusing on deprivation and criminal behaviour in 2002, a total of 116 children who had been convicted of theft and children at the national rehabilitation centre, aged 10-19 years, and 71 parents/guardians were interviewed (Kakama, 2002). The research confirmed that despite the law, children are tortured and beaten in police stations and the prohibition of caning in the juvenile justice system under the Children’s Statute was perceived as a weakness by 14% of parents. ●

The information contained herein was reprinted with the permission of Save the Children Sweden. It appears in: *Ending Legalised Violence Against Children: All Africa Special Report*, Global Initiative to End All Corporal Punishment of Children, Save the Children Sweden (April 2007).

## Children’s views on corporal punishment

### Swaziland

*I wanted to go to church. They hit me with a knobkerrie, and said I should take the goats to the mountain. I ran away.* Boy, 9-12-years

*I was beaten by my mother with a belt that has some metal on it. She hit me 100 times on my buttocks. I broke a glass.* Boy, 6-8-years

*The head teacher hit me 11 times on the same hand with a stick. I had not worn the tassels worn by maidens to observe chastity rite.* Girl, 13-18-years

*My mother beat me with a belt on my back. I came home late from playing with my friends.* Boy, 9-12-years

### Uganda

*You can’t escape it. From when you are born to when you are grown-up, they beat you, shout at you, insult you, and do what they like to control you. I don’t know why it has to be like that.* Boy, 16 years

*I was beaten severely by my stepmother for wetting the bed.* Girl, 12 years

*Teachers beat us badly when we are late, and yet we come from far.* Girl, 10 years

*The teachers should be advised to stop beating the child before they have told you what is in their heart.* Girl, 12 years

### Sudan

*If we laugh, teachers consider this as impolite and accordingly they beat us. They also have many other reasons for which they think we are criminal. When we tease each other by throwing a ball or snatching something from a friend they immediately think we are thieves and have bad intentions.* School children, Sahafa

*A teacher yells at me and she calls me an animal. She loudly shouts and say ya hayawan [animal] and then she immediately starts to beat me.* Disabled child, 12 years

*We face a double punishment every time we have a problem either at school or at home. It’s as if teachers and parents are working interchangeably to punish us. When there’s a problem at home and we fail to do our homework, teachers beat us at school. We fail to do our homework because of the problem at home.* School child, Omburman

These quotes were reprinted with the kind permission of Save the Children Sweden. The Swaziland quotes first appeared in the following report: *Ending Corporal Punishment of Children in Swaziland: He should talk to me, not beat...* Save the Children Sweden (May 2005). The Uganda and Sudanese quotes appeared in *Ending Legalised Violence Against Children: All Africa Special Report*, Global Initiative to End All Corporal Punishment of Children, Save the Children Sweden (April 2007).

# Religions, the Promotion of Positive Discipline and the Abolition of Corporal Punishment

## FREQUENTLY ASKED QUESTIONS

by Christy Hemstreet and Keith Vermeulen

### Introduction

The South African Council of Churches has, with regard to legislation developed in line with children's rights, consistently upheld the principle that policy developments and their impact should always remain in the best interests of the poorest, most vulnerable and marginalised children.

We should not entertain the thought of accepting any level of violence that involves children. Children are humans too. Corporal punishment is frequently seen or portrayed as an effective means of discipline, a deterrent and an act meted out in the best interest of the child. As a result, it has become an accepted and widely used form of "discipline". This ability to disguise corporal punishment as discipline has the effect of softening the harsh realities of both its use and consequences. Some arguments, such as the following, as well as references to a selection of religious texts - especially in some "Judaean-Christian" traditions - are used in support of these principles. We take this opportunity to address some misunderstandings and interpretations that appear to give legitimacy to corporal punishment.

### Frequently Asked Questions

**1. Is there a difference between corporal punishment and beating? Surely I am (as parent/teacher) able to administer a spanking lovingly and in the best interests of the child?**

The common law defence of "reasonable chastisement" and the language often surrounding its implementation as "loving" or "good" is itself contradictory. Can the act of hitting someone, regardless of the context of the relationship, stem from love? We must carefully weigh and consider whether the act of hitting anyone can stem from love. All too often the justification for administering corporal punishment - or just the "ordinary" smack - stems from a justification for the emotions of frustration, irritation and dis-

guised anger. The actor and the action of corporal punishment or - often that "loving smack" - are usually framed within these complex set of emotions.

**2. Corporal punishment is a necessary part of upbringing and education. Does it not help children distinguish between right and wrong and deter a child from persisting in inappropriate behaviour?**

Hitting children teaches them that violence is a legitimate way to sort out conflict or to recognise and impose authority. The misappropriation of hitting as an acceptable response to any situation of conflict sends confusing messages about what really ought to be perceived as dangerous. At the same time, the act of hitting prevents the recipient from learning a clear distinction between right and wrong. There is no scientific or social proof that smacking - or corporal punishment for that matter - is an effective deterrent or a means of changing actions, attitudes or behaviour.

**3. How do we respond to those who claim that their religious or cultural upbringing assures them that they have a moral right and responsibility to use corporal punishment as a means of discipline?**

Children are often told that they need a "good hiding" and that a hiding is as necessary as "jam and bread".<sup>1</sup> This age old use of a sense of the moral "good" and a physical beating - however innocent one may believe that hiding to be - is a moral contradiction in terms. The use of the word "good" together with reference to physical humiliation and punishment in the same sentence is both an oxymoron and - at best - an inconsistent moral claim. In the same vein, we can never argue that an act of indignity and something

<sup>1</sup> The Afrikaans expression "Jy't 'n goeie pakslae, net soos brood en konfyf, nodig" indicates the mixed moral assumption that a hiding can be good for you and that, just as one lives on bread and jam - for those who frequently only have bread and jam as a staple diet - corporal punishment and a reasonable parental "roughing up" is both morally necessary and "good".

that borders on human disrespect - because that is what a smack is when administered by an older person on a child or by a child on a child - is a social and/or moral necessity, right or duty.

#### 4. **But the Bible says ... even commands me ... to administer a beating as a means of discipline.**

There are many persons who draw on a selective use and interpretation of texts from the Hebraic scriptures in order to justify their support of corporal punishment. We quote some of these texts in two different translations and point out how differing interpretations over time can alter the meaning of that text:<sup>2</sup>

- Proverbs 13:24 "He that spareth his rod hateth his son: but her that loveth him chasteneth him betimes (diligently)." / "If you don't punish your son, you don't love him. If you do love him, you will correct him"
- Proverbs 19:18 "Chasten this son while there is hope, let not they should spare for his crying." / "Discipline your children while they are young enough to learn. If you don't, you are helping them to destroy themselves."
- Proverbs 22:15 "Foolishness is bound in the heart of a child; but the rod of correction shall drive it far from him." / "Children just naturally do silly, careless things, but a good spanking will teach them how to behave."
- Proverbs 23:13 "Withhold not correction from the child: for if thou beatest him with the rod, he shall not die." / "Don't hesitate to discipline children. A good spanking won't kill them."
- Proverbs 23:14 "Thou shalt beat him with the rod, and shalt deliver his soul from hell." / This verse is omitted from the contemporary translation.
- Proverbs 29:15 "The rod and reproof give wisdom: but a child left to himself bringeth his mother to shame." / "Correction and discipline are good for children. If they have their own way they shall make their mothers ashamed of them."

The terms "rod", "chastisement", "correction", "discipline" and "reproof" are used - sometimes together, often interchangeably - not only in these passages, but throughout the Hebraic scriptures. We need to remember the patriarchal context within which these scriptures were written. The extent of such patriarchy - supported by and within these texts - maintained an extreme view of the paternal right to obedience by children. Disobedience could easily justify the father, with the support of the community, stoning an "asocial" or "anti-social" child to death.

The book of Proverbs should, then, be read as a radical departure from such ancient, patriarchal and social norms. When we read these passages in a revised context, we may then understand how the book of Proverbs advocates far greater respect for women and children than would otherwise have been the social norm - basically a violent disapproval towards a child's unacceptable actions or inappropriate behaviour.

Furthermore, modern Rabbinical scholarship indicates that the "rod" referred to was not an instrument of degrading punishment but rather a psycho-social and religious measure of dignifying "chastisement", "rebuke", "correction" or "discipline". Human and social discipline was always - and remains - a complex construct that involves a range of social, political, psychological and religious measures of conditioning. Just as the biblical texts were intended to transform the patriarchal culture of their day, so too are they intended to be a dynamic understanding, able to transform our past colonial and racialised understandings of society into one based on building a culture of equity, respect and dignity.

When we read these biblical or traditional passages in the contexts of internationally accepted social, cultural, human and children's rights, we may be able to understand how contemporary interpretations support positive discipline that promotes the bodily integrity of the child. A simple quotation of a religious text in today's world may constitute a necessary means of faith for one or other religious tradition. A more rigorous reading of those texts, however, would constitute a necessary - if not sufficient - condition for understanding their wisdom in a context that seeks to promote the enhancement of human, social and children's rights and dignity.

#### 5. **Those passages are from the Old Testament, say some Christians, but the New Testament also justifies corporal punishment. For example: Hebrews 12:6-7 "...the Lord disciplines those he loves, and he punishes everyone he accepts as a son. Endure hardship as discipline; God is treating you as sons. For what son is not disciplined by his father?"**

Once again, this passage makes a distinction between the act of discipline and that of punishment. It is important, therefore, to understand their origins and traditions in order to clarify their frequent false association. The root of the word "discipline", in the New Testament, comes from the Greek word "disciple" meaning "to guide, instruct, to teach." Discipline functions as a means by which to teach an individual how to live by principle rather than through punishment as a means of dealing with their offence as an infraction of those principles.

Punishment - as opposed to discipline - focuses on dealing with and - where possible - stopping the present offence. Punishment literally means "to cause, to undergo pain" as in "punitive measures". Its concern is not for the future and seldom, if ever, with long-lasting behavioural and attitudinal changes. The "rod" -

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<sup>2</sup> The texts chosen are quoted alternatively from the King James Version, The Holy Bible (KJV) and from Today's English Version (TEV).

if it is to be looked at within this context and understood as a measure of “hardship” and “punishment” - must be understood figuratively, as a tool or measure meant to guide and direct the subject. In this sense, the “rod” as it refers to discipline should be seen figuratively as a “rod of correction” rather than a literal instrument of pain, suffering and retribution.

Discipline, in the New Testament, is never intended as an act of retribution or punishment. Instead its intentions are focussed on teaching and guiding the disciple to act appropriately as human beings with supreme dignity. Discipline for the human being enhances his/her abilities and senses of choice and responsibility rather than treat the person as a robot or automaton whose actions - right or wrong, good or bad - may be programmed through pain and reward. Discipline is the recognition that mistakes may be made and tolerated. As a process of life formation, discipline is about the recognition of life’s difficult choices. Such an understanding of discipline - if only from a Christian context - is essential for the ongoing human and social development of children - in fact, of all people. Contrary to belief, there is no occasion ever in the New Testament where physical punishment is a justifiable means of discipline. So, today, spanking, smacking or beating - in fact any form or degree of corporal punishment - is a poor substitute for the positive and abundant forms of non-violent, life shaping discipline that may be learnt from the New Testament.<sup>3</sup> Any attempt to justify corporal punishment of children through biblical “proof texts” and/or through psycho-social and religious interpretations of the scriptures is unchristian, unorthodox and, in the light of a human rights context, bordering on a dangerous abuse of children’s rights.

## 6 So, what would Jesus’ views on children, discipline and punishment be?

The New Testament does not record one occasion in which Jesus used violence as a way to relate to people, or as a form of discipline, let alone in his treatment of children. In fact, Jesus cautions that the manner in which we treat the “least of society” - namely children - is to be equated with our regard for God’s rule of governance (contemporary translation of “the kingdom of God”). Unless, says Jesus, you become as one of these you cannot enter the kingdom of heaven.<sup>4</sup> Again we are warned that should anyone hinder the spiritual or material well-being and flourishing of children, it would be better for that person to put a millstone around his/her neck and be cast into the depths of the ocean<sup>5</sup>. Even in the dramatic event in which Jesus became angry with the tax collectors in the temple, he refrained from using violence against any person.<sup>6</sup> And, when Jesus was confronted by the

betrayal of one of his disciples - a betrayal that would lead to his execution at the hands of the political and religious establishment - Peter, one of his chief disciples, is said to have struck out with his sword at the apprehending garrison. Jesus’ response was to rebuke Peter, and then command him to put away his sword.<sup>7</sup> It is clear through these examples of Jesus, that he encouraged discipline - even in the face of adversity - rather than punishment or violence, in order to deal with social perceptions and so to change the nature of human and social relationships.

## 7. What other religious views - other than Christian - might address social formation through positive discipline rather than corporal punishment?

There are several other religions, whose teachings oppose the imposition of corporal punishment. During the eighth gathering of Religions for Peace in Kyoto, Japan in August 2006, representatives from various religions stood in accord regarding the inherent dignity of every person, including children.<sup>8</sup> The gathering brought together, Buddhist, Christian, Hindu, Jain, Jew, Muslim, Sikh, Shinto, and Zoroastrian and indigenous leaders. They recognized their responsibility and obligation to protect children from violence, and the importance of inter-religious cooperation in doing so. The shared principles among these religions of compassion, justice, love and solidarity together with their public acknowledgements speak of their commitment to a worldview based on peace-building and for the protection of children against all forms of harm, hurt and punishment.

## CONCLUSION

While corporal punishment may still be practised in some communities and in the home and even though some religious and cultural leaders may insist that their traditions promote and/or permit the practice of corporal punishment, we believe them to be a wrongful interpretation of those traditions. We do not claim to have all the answers to the promotion of positive discipline. We do know, however, that corporal punishment - or any form of “discipline” that contravenes the child’s bodily integrity and/or impairs spiritual or emotional well-being - cannot and will not build the kind of humane, dignified and respectable nation envisaged in our Constitution. We therefore encourage your further reflections and thoughts on children’s rights, positive discipline and the abolition of corporal punishment. ●

3 Soneson, Ulrika. (2005); Ending Corporal Punishment of Children, Pretoria, Save the Children Sweden.

4 Matthew 18:3

5 Mark 9:42

6 John 2 13-16

7 Matthew 26: 47-52

8 World Conference for Religions and Peace. Eighth World Assembly of Religions for Peace. Religious Leaders Confront Violence and Advance Shared Security. Kyoto, Japan 2006. A copy of the Assembly’s resolutions also appears in this edition of *Article 19*.





# A MULTI-RELIGIOUS COMMITMENT TO CONFRONT VIOLENCE AGAINST CHILDREN

AUGUST 2006

As representatives of various religious communities gathered at the Religions for Peace VIII World Assembly in Kyoto, Japan, we are committed to confront the reality of violence that affects children in our societies. We offer our support to mobilizing the international community through the United Nations Study on Violence against Children to address these critical issues, and we are ready to work in partnership with governments, UN agencies, and other civil society actors to implement the recommendations of this study.

We find strong consensus across our religious traditions about the inherent dignity of every person, including children. This requires that we reject all forms of violence against children and protect and promote the sanctity of life in every stage of a child's development. Our religions share principles of compassion, justice, love and solidarity that are great strengths in dealing with the difficult presence of violence in human society.

Our faith traditions take a holistic view of a child's life, and thus seek to uphold all the rights of the child in the context of its family, community and the broader social, economic and political environment. All children hold these rights equally and we must ensure that boys and girls have equal opportunities to enjoy these rights, particularly education, protection, health, social development and participation. Our religious communities are blessed to be multi-generational, and we must use this to support the active participation of children in their own development and to address issues of violence.

We must acknowledge that our religious communities have not fully upheld their obligations to protect our children from violence. Through omission, denial and silence, we have at times tolerated, perpetuated and ignored the reality of violence against children in homes, families, institutions and communities, and not actively confronted the suffering that this violence causes. Even as we have not fully lived up to our responsibilities in this regard, we believe that religious communities must be part of the solution to eradicating violence against children, and we commit ourselves to take leadership in our religious communities and the broader society.

None of us can address this problem alone. It requires partnerships, solidarity, and building alliances. Even as our religions have much to offer, we also are open to learning more about the development and well being of children from other sectors, so that we can each maximize our strengths. We are strongly committed to fostering effective mechanisms for inter-religious cooperation to more effectively combat violence against children.

Based on these principles and guided by the power of the Divine as it is understood in each of our traditions, we make the following recommendations and commitments, speaking to our religious communities, governments, the United Nations, civil society and to all throughout the world who have held a child in love – with tears for its pain, with joy for its life:

1. We will create greater awareness in our communities about the impact of all forms of violence against children, and work actively to change attitudes and practices that perpetuate violence in homes, families, institutions and communities, including corporal punishment, emotional and sexual violence.
2. We will promote the child as a person with rights and dignity, using our religious texts to provide good examples that can help adults to stop using violence in dealing with children.
3. We have an important obligation to teach and train our children, which involves discipline and helping children understand their responsibilities. We will educate and train parents, teachers, religious leaders and others who work with children to find non-violent forms of discipline and education that will ensure their proper upbringing and protect them from violent actions.
4. We will develop curriculum to use in theological training and in parental education to raise awareness about child rights and ways to eliminate the use of violence.
5. We are committed to inter-religious cooperation to address violence and will make use of the synergies among our religious communities to promote methodologies, experiences and practices in preventing violence against children.
6. We call upon our governments to adopt legislation to prohibit all forms of violence against children, including corporal punishment, and to ensure the full rights of children, consistent with the Convention on the Rights of the Child and other international and regional agreements. We urge them to establish appropriate mechanisms to ensure the effective implementation of these laws and to ensure that religious communities participate formally in these mechanisms. Our religious communities are ready to serve as monitors of implementation, making use of national and international bodies to maintain accountability.
7. We encourage religious communities and other public actors to use special days, such as the International Day of the Child, to bring public and media attention to child rights issues, particularly violence against children.
8. We call on UNICEF and the World Conference of Religions for Peace to facilitate the sharing of information and developing of resources to assist our communities to more effectively address violence against children.

Kyoto, Japan  
28 August 2006

# CHURCHES NETWORK FOR NON-VIOLENCE: The Coventry Charter for Children and Non-Violence 2007

This charter is aimed at religious groups and organisations who want to work with others to eliminate violence against children and address the recommendations in the United Nations Secretary General's Global Study on Violence Against Children.

The naming of the Coventry Charter for Children and Non-violence is inspired by the vision of the Coventry Cathedral as a world centre for pilgrimage and spiritual renewal and as a focus for international reconciliation; it is a place of nurture for communities and a beacon for peace and non-violence. The Coventry Charter promotes the child as a person with rights and inherent human dignity.

The Charter also acknowledges the strength and influence of religious communities to create awareness about the effects of violence against children, to learn from others and work in solidarity towards preventing and ending all forms of violence against children.

## The Coventry Charter:

### 1. All children are entitled to equal respect for their inherent human dignity.

Working actively towards a culture of respect for all children is a key towards ending violence against children. We will, in cooperation with others foster respect for all children.

### 2. All children are entitled to grow up in a family and all other settings free from corporal punishment and all other forms of violence and humiliating treatment.

Children are entitled to more not less protection from violence than adults, including protection from physical, spiritual, emotional, verbal, sexual, psychological and gender-based violence. We will use every opportunity to work with others to create awareness about the negative effects of violence against children. Preventing violence against children and urging governments to pass legislation to end legalised violence against chil-

dren, including corporal punishment, will be a priority.

### 3. All children have the right to speak out and be listened to.

The knowledge, ideas, gifts, competence, life experiences and perspectives of children should be respected, encouraged and listened to in both family and community life. We will demonstrate full respect and regard for the dignity of children by facilitating children's participation and involvement in issues of concern to them.

### 4. All adults have the responsibility to enable children to feel safe enough to speak out when they feel hurt or threatened.

All adults who are in contact with children should have an understanding of the needs of children and of different stages of child development. Adults should be aware of the best ways of creating an environment where children feel safe to express themselves. Adults should also develop skills for communicating with children at different life stages. Our training will promote these actions.

### 5. All children are entitled to positive, non-violent relationships with the adults who care for them.

In our work and contact with children we will strive to build relationships between adults and children which are positive and life-enhancing. Adults can teach children by their own example and demonstrate ways

of resolving conflict without the use of hitting or any other form of violence, however supposedly 'reasonable'. Adults are the protectors, guides and supporters of children and as such responsible for their quality of life.

**6. The protection of children from violence is the responsibility of the whole community.**

Children should be active equal participants with adults in solving problems of violence in community whether it is adult to child, child to child or adult to adult violence. We will encourage children to use their capacity to make a positive contribution in keeping with their age and development.

**7. All children are entitled to learn about their Convention (United Nations Convention on the Rights of the Child) in a way that is appropriate to their age and development.**

We will use every opportunity to support initiatives to enable children to become fully conversant with the United Nations Convention on the Rights of the Child and to raise adults' awareness and understanding of the Convention.

**8. All children are entitled to the highest standard of care and protection from those who work with them.**

All adults working with children in our religious communities will receive high standards of training, support, resources and clear lines of accountability for working with children. Adults are responsible for creating networks for the prevention of violence against children.

**9. Children who have endured any form of violence are entitled to emotional, physical, spiritual and psychological support from people qualified to help them.**

Our religious communities will, whenever possible, work with qualified people to bring support, compassion, spiritual help and healing to children who have endured forms of violence.

**10. All children are entitled to learn non-violent ways to resolve conflict.**

We commit ourselves to providing positive guidance in resolving conflict that leads to compassion, justice and fairness and respect for the human rights of others. We commit ourselves to addressing violence against children in all its forms and settings and resolve to work with others towards eliminating violence against children. ●

# Archbishop Desmond Tutu speaks out against corporal punishment of children

I support the global initiative to eliminate all corporal punishment at home, in institutions and community. This worldwide movement has gained prominence through the United Nations Global Study on Violence against Children. Since the launch of the UN Global Report there has been good progress towards eliminating corporal punishment. Churches are increasingly speaking out on behalf of children and during 2007 the South African Council of Churches (SACC) produced a document "Religions, the Promotion of Positive Discipline and the Abolition of Corporal Punishment", which clearly sets out the religious arguments against corporal punishment. At the same time, the Southern Catholic Bishops' Conference made a submission to the South African Parliament arguing for a prohibition of all forms of corporal punishment. But we must do much more if we are to achieve our goal of eliminating all corporal punishment of children. Millions of the world's children still suffer from humiliating acts of violence and these violations of their rights as human beings can have serious and lifelong effects. Violence begets violence and we shall reap a whirlwind. Children can be disciplined without violence that instils fear and misery, and I look forward to church communities working in solidarity with others and using the context of the Study to make further progress towards ending all forms of violence against children.

If we really want a peaceful and compassionate world, we need to build communities of trust where all children are respected, where homes and schools are safe places to be and where discipline is taught by example. May God give us grace to love our children as He loves them and may their trust in us lead them to trust in Him".

Desmond M. Tutu, Archbishop Emeritus

# New Representative appointed to combat violence against children

The NGO Advisory Council for the UN Study on Violence Against Children has welcomed the appointment of a new representative to the UN Secretary General to combat violence against children.

"The decision to create the new position was made under the General Assembly's annual resolution on the Rights of the Child, adopted today in the Third Committee [by a vote of 176 to 1]. The only country voting against was the United States.

Violence is a daily reality for millions of children around the world," said Jo Becker of Human Rights Watch, co-chair of the NGO Advisory Council for follow-up to the UN Study. "The Special Representative to the Secretary-General will provide high-level international leadership to confront this global scourge."

More than 1,000 non-governmental organisations from 134 countries around the world signed a petition launched by the NGO Advisory Council calling for the appointment of the Special Representative.

The mandate for the new Special Representative includes enhancing the visibility of all forms of violence against children, advocating for the elimination of this violence, and supporting the implementation of the Violence Study's recommendations. Other aspects of the mandate include identifying and sharing good practices and enhancing coordination and communication among key actors (including the UN system, member states, NGOs, children and youth).

***For more information visit: <http://www.crin.org/violence/search/closeup.asp?infoID=15677>***

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