

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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## 16 Days of Activism: No Violence Against Women and Children

*by Helene Combrink*

**The date of 25 November has now generally come to be recognised worldwide as the day marking the beginning of the “Sixteen Days of Activism Against Gender Violence” Campaign, and is also honoured as International Day for the Elimination of Violence Against Women (or variations of this title). But why was this specific date selected for this important commemoration? We found that an examination of the history of this International Day gives it a much deeper dimension.**

**T**he observation of 25 November as “International Day Against Violence Against Women” began in Latin America, where it was first declared in Bogota, Colombia in 1981. The date was selected to commemorate the lives of the three Mirabal sisters, political activists from the Dominican Republic who had been violently assassinated on this date in 1960 during the dictatorship of Rafael Trujillo. The day was initially used to pay tribute to these three women, and to encourage global recognition of gender-based violence.

On 17 December 1999, the United Nations General Assembly accepted Resolution 54/134 designating this date as the International Day for the elimination of Violence against Women. This date had already been incorporated in the “16 Days of Activism Against Gender

Violence” Campaign, which was initiated in 1991 through the work of the Centre for Women’s Global Leadership. This period of activism starts every year on 25 November and ends on 10 December (International Human Rights Day). It also incorporates International AIDS Day (on 1 December), and International Day of Persons with Disabilities (on 3 December). The “16 Days” Campaign provides activists with an opportunity to create solidarity, raise awareness and focus specific attention on violence against women.

Since 1999 the South African government has run a parallel campaign that includes issues relating to violence against children. The national convener for the Campaign is currently Ms Nomatyala Hangana, the Deputy Minister of the Department of Provincial and Local Government.

The independent expert for the United Nations study on violence against children, Paulo Sérgio Pinheiro, pointed out in his 2006 report to the UN General Assembly that young children are reportedly at greatest risk of physical violence, while sexual violence predominantly affects those who have reached puberty or adolescence. Boys are at greater risk of physical violence than girls, while girls face greater risk of sexual violence, neglect and forced

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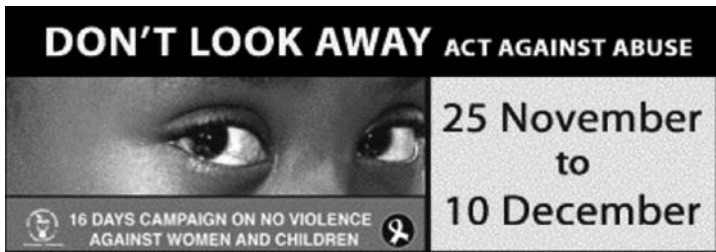
This year has been a rather busy one regarding advocacy around corporal punishment in Africa. In May, the Community Law Centre made a submission to the African Committee on Human and People's Rights and, more specifically, much has been done since by the Southern African Network to End Corporal and Humiliating Punishment of Children.

This edition seeks to highlight some of the advocacy initiatives undertaken in Africa. It contains the statement made to the Committee of Experts on the Rights and Welfare of the Child in November by the Network as well as the press release that was issued in relation to this. It also provides feedback from the 12th session of the Committee of Experts regarding the statement.

The second African initiative of the Southern African Network to End Corporal and Humiliating Punishment of Children is a presentation to the All Africa Council of Churches Conference taking place in Mozambique in December 2008. The faith-based movement is a key role-player in the prohibition of corporal punishment movement and placing the issue on the Conference's agenda is of critical importance.

Finally, this time of year again marks the 16 Days of Activism Campaign, and Helen Combrink reminds us of the relevance of this initiative in ending corporal punishment against children.

We once again thank our readers for their support and wish all a happy and safe holiday season.



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prostitution. Social and cultural patterns of conduct and stereotyped roles and socio-economic factors such as income and education also play an important role. Small-scale studies have shown that some groups of children are especially vulnerable to violence, including children with disabilities, "street children", those in conflict with the law, and refugee and other displaced children.

Pinheiro's report also notes that between 133 and 275 million children worldwide are estimated to witness domestic violence annually. The exposure of children to violence in their homes on a frequent basis, usually through violence between parents or between a mother and her partner, can severely affect a child's well-being, personal development and social interaction in childhood and adulthood. Intimate partner violence also increases the risk of violence against children in the family, with studies from a range of countries showing a strong relationship between violence against women and violence against children. This correlation is of particular importance in the South African context, where the levels of domestic violence are inordinately high.

It is well documented that various manifestations of violence against children - whether sexual violence against very young children, child neglect, corporal punishment or sexual assault at school - are taking on alarming proportions in South Africa. During this period of reflection offered by the "16 Days" campaign, it is therefore appropriate to again reinforce the message emphasised by Pinheiro:

*"The Study should mark a turning point – an end to adult justification of violence against children, whether accepted as 'tradition' or disguised as 'discipline'. There can be no compromise in challenging violence against children. Children's uniqueness – their potential and vulnerability, their dependence on adults – makes it imperative that they have more, not less, protection from violence." [Par 2, 2006 Report.]*

**Note: Sections of this article have also appeared in *Iminyango Vol 2 Issue 2 (2007)* - Newsletter published by the Gender Project, Community Law Centre.**

**[Source of image: Department of Justice and Constitutional Development website - [www.doj.gov.za](http://www.doj.gov.za)]**

# ENDING CORPORAL AND OTHER FORMS OF HUMILIATING PUNISHMENT OF CHILDREN

*drafted by Sam Waterhouse (RAPCAN) and presented by Emily Ruhukwa*

## Introduction

We thank the Committee for the opportunity to address you on this issue. While this submission has been the initiative of the Southern African Network to End Corporal and Humiliating Punishment of Children and the African Child Policy Forum, our submission is supported by a wide range of organisations from across the continent.

Our organisations are concerned with the wide practice of corporal punishment of children in our countries and believe that the support of this committee on the issue is critical to our efforts to protect African children from all forms of discrimination and violence.

This presentation will address a number of themes in relation to this, these are:

- Relevant provisions in international and regional instruments
- Global developments on the issue
- Status of corporal punishment in Africa
- Violence against children in Africa
- Social and religious concerns

## Provisions in international and regional instruments

Article 21(1) of the African Charter on the Rights and Welfare of the Child requires that State parties “take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and those customs and practices prejudicial to the health or life of the child”. Corporal punishment is, as will be demonstrated in this presentation, a social practice, which we believe, negatively affects the dignity,

growth and development as well as the health and survival of many children on this continent.

Article 11(5) of the Charter provides that parties should “Take all appropriate measures to ensure that a child who is subjected to school or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child”. This is echoed in Article 20 of the Charter. It is our submission that the use of any form of corporal punishment is a violation of children’s inherent dignity and their humanity. This has been echoed in various documents of the UN Committee on the Rights of the Child, as will be discussed.

Most would agree that corporal punishment or any form of violence against an adult is considered a violation of the dignity and humanity of that adult, yet children who are physically, emotionally and socially more vulnerable than adults are viewed as being less worthy of protection from these violations and are denied the right to equal protection of the law.

Furthermore, Article 16 of the Charter provides that State parties shall take “specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse while in the care of a parent, legal guardian or school authority or any other person who has the care of the child”.

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The protection of children from cruel, inhuman or degrading treatment is found in a number of other instruments, including: the Universal Declaration of Human Rights; Article 7 of the International Covenant on Civil and Political Rights which has been interpreted by the Human Rights Committee in General Comment No. 20 to include a prohibition of corporal punishment, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which has also been interpreted by the Committee to include a prohibition on corporal punishment.

Article 19 of the UN Convention on the Rights of the Child goes slightly further than the Charter to address the issue by including protection against all forms of physical and mental violence: State parties are required to take: "all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child". Article 19(2) goes further to require the "establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention ...".

In their concluding observations to State reports, the UN Committee on the Rights of the Child has called on many countries on all continents to institute a clear prohibition of all forms of corporal punishment, in the family, in other care settings, in schools and within penal systems.

The Committee on the Rights of the Child (CROC) released General Comment No. 8 in 2006. This relates specifically to the right of the child to protection from corporal punishment and other cruel and degrading forms of punishment in all settings. It highlights the obligation of all state parties to move quickly to prohibit and eliminate all corporal punishment, stating: "Eliminating violent and humiliating punishment of children, through law reform and other necessary measures, is an immediate and unqualified obligation of State parties". The CROC further recognises that corporal punishment is invariably degrading as are other forms of punishment which belittle, humiliate, denigrate, threaten, scare or ridicule children.

The CROC has emphasised that prohibition of corporal punishment must be coupled with educational measures to change attitudes and practice, such as measures to raise awareness on the harmful effects of corporal punishment and to promote alternative forms of

discipline in families which can be administered in a manner consistent with the dignity of the child. Furthermore they state that the purpose of prohibition is educational rather than punitive. Legal prohibition sends a clear message that no form of violence is tolerable and provides the opportunity to change this behaviour.

### Global and Continental Developments

The UN Global Study on Violence Against Children which was released in October 2006, found shocking levels of violence affecting children in all parts of the globe in their families, at schools, in alternative care institutions, detention facilities, at places where children work and in communities. As a result of this, the study emphasises that "No violence against children is justifiable and all violence against children is preventable". The study thus urges State parties to "prohibit all forms of violence against children in all settings, including all corporal punishment ... torture and other cruel, inhuman or degrading treatment or punishment". The study calls on State parties to prohibit all violence against children by 2009.

Similarly, in 2006 the Second International Policy Conference on the African Child: Violence Against Girls in Africa, released the African Declaration on Violence against Girls. This declaration, inter alia, urges member states of the African Union and the African Union itself to take all necessary measures for the effective prohibition of all forms of violence against children, including corporal and other humiliating forms of punishment.

No African state has prohibited corporal punishment by parents, 23 states have prohibited it in schools, it is prohibited as a penal sentence in 36 states and as a disciplinary measure in penal institutions in 22 states, and only three African states have prohibited corporal punishment in alternative care settings.

Based on available population estimates, this means that 52% of Africa's children are not legally protected from corporal punishment in schools and of course no African children are protected in their home environment.

There is growing global progress towards the prohibition of corporal punishment, to date a total of 23 countries have legally prohibited all forms of corporal punishment in all settings, including that imposed by parents. This includes a number of European and Eastern European countries such as Germany, the Netherlands, Romania and Ukraine, as well as Latin American countries.

Globally (including the African continent), 103 states have prohibited the use of corporal punishment in schools, 147 as a penal sentence, 106 states have prohibited in penal institutions, and 35 states have prohibited its use in alternative care settings.

Global progress in prohibition in all settings has accelerated over the past ten years with a number of countries around the world currently involved in law reform processes to address this issue.

### Violence against children in Africa

Studies conducted in 16 African countries create concerns what children experience in the name of punishment, correction and discipline on a daily basis in their homes, at school and in penal institutions.

These studies show that children are slapped, smacked, kicked, beaten with fists, sjamboks, whips, sticks, hosepipes and belts. In addition, children are subjected to many other forms of physical and degrading punishment such as being burnt, tied up, forced to kneel on uneven surfaces and forced to stand in the sun for extended periods of time. In a significant number of cases injury is caused to these children, including injury that requires hospitalisation of the child.

Children provide the following examples of their experiences of corporal punishment:

*"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, Uganda*

*"I was caned on the buttocks with a thick wooden whip because I stole meat from the pot." Boy, Copperbelt, Zambia*

*"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, Sudan*

While corporal punishment is common among people from all social and economic backgrounds, studies clearly indicate that children from poorer households and schools and children from rural areas are subjected to more severe and more frequent corporal punishment than wealthier, urban children. Thus the most vulnerable and marginalised children are those who are affected the worst.

We believe that any use of violence against children, no matter the extent of the violence, is unacceptable and unnecessary. However, we are also concerned that the right of parents to smack, beat or whip children is defended on the basis of an assumption that adults are able to control themselves and use only moderate and reasonable forms of physical punishment. This is clearly not the case; scores of children are exposed to extreme levels of violence, humiliation and indignity daily.

As a result of the fact that the majority of domestic laws attempt to categorise acceptable and unacceptable levels of violence against children, many adults beat children with impunity. It is thus essential that all levels of violence against children be prohibited.

### **Social and cultural issues**

A wealth of research has been conducted on the impact of corporal punishment, showing that at best corporal punishment may ensure the immediate compliance of the child but that it fails to teach the child self-discipline and logical about consequences.

Children report feelings of humiliation, shame, hurt, rejection, fear, resentment and revenge as a result of corporal and humiliating punishment. This is illustrated in the following quotes:

*"The teacher came to me and he wanted to slap me and he took his rope and hit me with the rope. I felt like taking something and breaking him. I was thinking of killing him." Boy, 9-12-year age group, Swaziland*

*"I felt bad. I wished he wasn't my dad. I felt like killing myself or running away." Girl, Lusaka Province, Zambia*

*"If the teacher hits me, everything immediately goes from my head. Even if I had lots of ideas before, the moment he hits me, I lose everything - I can't think". Child, Togo*

*"I feel like my heart will explode if I start saying how I feel about her. She treats me worse than an animal and there is nothing I can do about it. I feel like running away and becoming a prostitute." Girl, 14, Uganda*

These quotes provide a disturbing illustration of the impact of corporal punishment. It is clear that corporal and humiliating punishment teaches children that it is acceptable to resolve conflict and differences with violence; to express frustration, anger and helplessness through violence. On a continent and in a world in which violence and brutality are the daily experience of millions, we must challenge ourselves to find new ways of teaching children.

Corporal punishment undermines children's self-confidence, it undermines the relationship of trust between adult and child. The use of more frequent and severe corporal punishment has been shown to be linked to antisocial, delinquent and criminal behaviour later in life. People who have experienced corporal punishment are more likely to use violence and humiliation against their spouses and children in their adulthood.

But, many people raise the concern that if corporal punishment is prohibited there will be no means of disciplining children. We argue that any poor discipline of children in our society is not the result of too few beatings, but rather a reflection on the state of our societies in general and in many cases it is a reflection of these children receiving too many beatings. Children can be disciplined using more effective and positive methods, that are based on the principle that children learn by example, structure and reward rather than through fear and punishment.

The majority of today's adults were hit or beaten as children and have not had the opportunity to learn other ways of disciplining children. For this reason it is necessary for us as the adults of today to learn new ways of engaging with and disciplining children. It is thus critical that law reform be accompanied by a strategy to provide adults with the support and information they require to provide alternative positive disciplinary measures to children.

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## Faith-based support

We recognise that many concerns are raised against prohibiting corporal punishment on the basis of religious belief. Many religious groups not only support the use of corporal punishment, but actively advocate that this must be used. For example, it is noted that among some radical forms of Christianity it is believed that children come into the world with the negative bias of Original Sin and that this must systematically be corrected out of the child.

However, there is a growing movement in the faith-based community that promotes the necessity to prohibit legalised violence against children. Many modern theologians criticise the translation and common interpretation of ancient texts such as those contained in the Old Testament of the Christian Bible for example, and recognise the necessity of modern, rights-based interpretations of these texts, similar to the reinterpretation of the role and place of women in the family and society. In respect of Christianity, religious scholars indicate that the approach to discipline taught by Jesus in the New Testament is one of guidance and teaching through fairness and gentleness and not retribution and punishment. In light of this it is noted that continued attempts to justify corporal punishment of children through biblical “proof texts” is unchristian and in a human rights context, a dangerous abuse of children’s rights. Similarly, in Islam, to take good care of and show compassion towards children is one of the most commendable deeds. The Prophet of Islam said “Be generous, kind and noble to your children and make their manners good and beautiful”.

In light of these developments, during the eighth gathering of Religions for Peace in Kyoto, Japan (August 2006), representatives from various religions recognised the inherent dignity of every person, including children. The gathering brought together Buddhist, Christian, Hindu, Jain, Jew, Muslim, Sikh, Shinto, Zoroastrian and Indigenous leaders. They recognised their responsibility and obligation to protect children from violence. The shared principles among these religions, of compassion, justice, love and solidarity, speak of their commitment to a world-view based on non-violence and for the protection of children against all forms of harm, hurt and punishment.

## Recommendations

In light of the information and arguments put forward in this submission, we would like to urge the African Committee of Experts on the Rights and Welfare of the Child to:

1. To provide leadership on this issue on the continent by adopting at this session a written statement,

urging states in Africa to prohibit corporal and other forms of humiliating punishment of children in all settings and to urge states to promote measures to implement and promote this prohibition.

2. Ensure that member states provide information on their progress in eradicating the use of corporal and other forms of humiliating punishment of children in all settings in their periodic reports to the Committee.
3. In the Committee’s recommendations to individual member states, draw attention to measures that member states need to undertake to fulfil their obligations under international and African human rights instruments.
4. We urge the Committee to support our position to fully address general societal violence and ensure that children are raised in homes and communities that instil a strong sense of self-discipline and an abiding respect for the rights and dignity of all.
5. We urge members of this Committee to promote a ban on corporal punishment of children in their individual interactions with government officials and other relevant stakeholders.
6. Support the recommendation in the Africa Declaration on Violence Against Girls for the African Union to establish a Special Envoy on Violence against Children to support the efforts of the Committee towards preventing, reporting and monitoring violence against children on the Continent.

The statement was endorsed by the following organisations:

- African Network on the Prevention and Protection against Child Abuse and Neglect, Ethiopia Chapter, Ethiopia
- African Network on the Prevention and Protection against Child Abuse and Neglect, Kenya Chapter, Kenya
- Alliance des Femmes Islamiques du Burkina Faso, Burkina Faso
- Association Cri de Cœur pour les Enfants Déshérités, Burkina Faso.
- Association des Jeunes pour le Bien Etre Familial de Bogoya, Burkina Faso
- Association Nationale pour l’Education et la Réinsertion Sociale des Enfants à Risques, Burkina Faso
- Association d’accompagnement médico-psychosocial aux enfants et jeunes de la rue (Association KEOOGO), Burkina Faso
- Child Protection Alliance, The Gambia
- Child Rights Alliance for Tomorrow - CRAFT, Botswana
- Childline South Africa, South Africa
- Children’s Rights Project, Community Law Centre, University of the Western Cape, South Africa
- Christian Relief and Development Association, Ethiopia
- Coalition Nationale des Associations et ONG en Faveur de l’Enfant (CONAFE), Senegal
- Communauté Musulmane du Burkina Faso, Burkina Faso
- DITSWANELO - The Botswana Centre for Human Rights, Botswana
- Fondation pour le Développement Communautaire du Burkina Faso, Burkina Faso
- Forum des ONG des Droits de l’Enfant au Togo, Togo
- Human Rights Commission, Zambia
- NGO Coalition on the Rights of a Child, Lesotho
- OAK Foundation, Child Abuse East Africa Programme, Ethiopia
- Ombudsperson for Children’s Office, Mauritius
- Rede Came, Mozambique
- Resources Aimed at the Prevention of Child Abuse and Neglect, South Africa
- Save the Children Finland in Ethiopia, Ethiopia
- Save the Children Swaziland, Swaziland
- Save the Children Sweden
- South African Council of Churches, South Africa
- WAO Afrique, Togo
- Zambia Civic Education Association, Zambia
- Zambian Interfaith Working Group on HIV and AIDS, Zambia

# African child rights organisations urge governments in Africa to ban all forms of corporal punishment of children

*Pretoria, 03 November 2008*

A wide range of child rights organisations from across Africa will present a submission to the African Committee of Experts on the Rights and Welfare of the Child in Addis Ababa today requesting the Committee to issue a written statement urging states in Africa to prohibit corporal and other forms of humiliating punishment of children in all settings and to promote measures to implement and promote this prohibition.

An All Africa Special Report (2007) indicates that corporal and other forms of humiliating punishment are widely practiced in Africa. In many African countries corporal punishment is still legally sanctioned as a sentence in the penal system, as a disciplinary measure in alternative care settings and also in schools. Corporal punishment of children by their parents is still permitted in all African countries provided it is reasonable and moderate.

Children are physically, emotionally and socially the most vulnerable members of our society. Despite this, children are given the least protection against physical violence of anyone. In addition to slapping and smacking, children are subjected to being kicked and to beatings with fists, sjamboks, whips, sticks, hosepipes and belts. Children are burnt, tied up, locked up, required to kneel on hard and uneven surfaces, pinched, forced to undertake excessive labour and to stand in the hot sun for long periods of time. All this is done in the name of discipline. This results in a range of injuries to children including fractures, loss of consciousness, burns and permanent disability.

"This state of affairs continues to exist despite various calls made by the United Nations Committee on the Rights of the Child as well as the recent United Nations Study on Violence Against Children calling for an outright ban of all forms of corporal and other forms of humiliating punishment of children as this amounts to a violation of children's human rights to physical integrity, human dignity, equality and their right to be protected from all forms of violence," says Mr Assefa Bequele, director of the African Child Policy Forum. "We are approaching the African Committee of Experts as it is our view that support from this Committee in relation to the provisions of the African Charter on the Rights and Welfare of the Child on the issue, is critical to strengthen efforts to protect African children from these forms of violence," he added.

Members of this group of the child rights organisations also highlighted that disciplining children through violent means may contribute to future societal violence. "Corporal and other forms of humiliating punishment have serious psychological effects as children feel humiliated and

degraded and they become angry and resentful towards those who punish them in this way. This leads to repressed anger which can be manifested in hatred towards themselves and others," says Judith Mulenga, director of the Zambia Civic Education Association.

DITSHWANELO - the Botswana Centre for Human Rights, called for the development and adoption of positive discipline measure as a way of building trust in the child-parent relationship. "We know that children must be disciplined, but this can be achieved through a range of other positive discipline measures which do not cause pain and violence against a child. Children learn from their environment and by copying the behaviour of their parents and immediate relatives and friends," Ms Emily Ruhukwa from DITSHWANELO - the Botswana Centre for Human Rights added.

The African child rights organisations are calling on the African Committee of Experts on the Rights and Welfare of the Child, who is a group of experts overseeing the implementation of the African Charter on the Rights and Welfare of the Child, to take a clear public stance against all forms of corporal and other forms of humiliating punishment and to actively engage with the member states to ensure that Africans states outlaw corporal punishment without delay. The Committee should also support the recommendation in the Africa Declaration on Violence Against Girls for the African Union to establish a Special Envoy on Violence against Children to support the efforts of the Committee towards preventing, reporting and monitoring violence against children on the continent.

The group of African child rights organisations will be represented at the hearing by the African Committee of Experts on the Right and Welfare of the Child by the African Child Policy Forum, DITSHWANELO - The Botswana Centre for Human Rights, the South African Council of Churches and the Zambia Civic Education Association.

**The press release was issued by Save the Children Sweden and was also provided to the Africa Child Policy Forum who forwarded it to 15 electronic and print media houses in Addis Ababa.**

**The release received good coverage in Botswana where it was aired on Radio Botswana 1, Radio Botswana 2 as well as Duma Fm**

# Reportback

## ON THE PRESENTATION ON ENDING CORPORAL AND OTHER FORMS OF HUMILIATING PUNISHMENT OF CHILDREN BY THE SOUTHERN AFRICA NETWORK AGAINST CORPORAL PUNISHMENT TO THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD

*by Judith Mulenga*

**A four-person delegation consisting of Emily Ruhukwa, Judith Mulenga, Keith Vermeulen and Susan Mbugua attended the 12th session of the Committee of Experts held from 3 to 5 November 2008 in Addis Ababa to present the statement on corporal punishment drafted by the Southern African Network to End Corporal and Humiliating Punishment of Children and the African Child Policy Forum. They were also supported by some other organisations that endorsed the statement and who were present at the meeting, such as the Child Protection Alliance from The Gambia.**

The delegation decided that only Emily Ruhukwa should present to the Committee due to the limited time allocated for the presentation and the need to sustain the attention of the Committee and all present. The other members of the delegation supported the presentation by being prepared to respond to questions, clarifications or comments that may arise from the presentation.

The presentation centred on the wide practice of corporal punishment of children in the region and the Network's belief that the support of the Committee of Experts on the issue of eradicating physical violence against children is critical to efforts to protect African children. The presentation also addressed a number of themes in relation to this, namely:

- Relevant provisions in international and regional instruments
- Global and continental developments
- Violence against children in Africa
- Social and religious concerns

### **The Committee's response**

After the presentation, the following issues were raised by members of the Committee:

Mrs Koffi Appoh Marie Chantal, a Committee member from Côte d'Ivoire said that psychological punishment should also be mentioned when discussing corporal punishment. This is in light of the discrimination towards children that goes on within families causing problems for children.

Dr Moussa Sissoko, Committee member from Mali, commented that corporal punishment also concerns Article 20 of the African Charter on the Rights and Welfare of the Child, which deals with parental responsibility, and Article 21, which concerns the protection of children from harmful cultural practices. He asked, "What are we proposing to the African households, especially rural areas, because Africa is primarily rural? What must be done? What must we do as experts? We should view the matter from practical standpoints. There should be a linkage between rights of the child and human rights." [translated]

Mrs Dawlat Ibrahim Hassan, the Committee member from Egypt, said that parents and teachers need to be educated on the effect of violence on children. She informed the gathering about teachers' ill treatment of children in Egypt, which sometimes resulted in the deaths of certain children. She further urged the Committee to take the recommendations of the Southern Africa Network against Corporal Punishment seriously.

Lady Justice Martha Koome of Kenya stated that the call to abolish corporal punishment should be looked at from both sides - the child



*The presentation centred on the wide practice of corporal punishment of children in the region and the Network's belief that the support of the Committee of Experts on the issue of eradicating physical violence against children is critical to efforts to protect African children.*

and the schools - citing secondary school pupils in Kenya who burnt classrooms resulting in a national discussion on the reintroduction of corporal punishment. She asked how human rights advocates can connect with parents, caregivers and teachers and provide them with solutions to problems of discipline.

Committee member Andrianirainy Rosamoely of Madagascar said there was need for education of teachers on a sense of responsibility on how to deal with children because most of them resort to corporal punishment to control their classrooms.

Madame Agnes Kabore of Burkina Faso reported that findings of a study on corporal punishment in Burkina Faso, 'made our skins crawl'. She further reported that the findings revealed that the incidence of corporal punishment was high in Burkina Faso. She said she finds it difficult to see the connection between corporal punishment and correction. She proposed that strategies should be adopted on awareness raising, otherwise corporal punishment will continue to be experienced more in homes and schools in Africa.

At the end of the presentation, ANPPCAN - Ethiopia congratulated the Southern Africa Network against Corporal Punishment and informed the gathering that ANPPCAN has developed a manual on positive discipline.

The Chairperson of the Committee asked Emily to respond to the issues.

### **The decision of the Committee in response to the presentation**

At the end of the session, the Committee stated that it was going to write to all States Parties to prohibit corporal and humiliating punishment of children, but before it does it would come up with guidelines of positive discipline which it will send together with the letters to the States Parties.

### **Organisation of Committee Members**

Of interest is the allocation of duties by members of the Committee of Experts for themselves according to the following thematic areas:

- Children in conflict and natural disaster situations: Dr. Moussa Sissoko
- Violence against Children: Mrs Diakhate Seynabou
- Child Labour, Trafficking and Exploitation: Mrs Agness Kabore
- Education of Children; Mrs Boipelo Sheilthamo
- Administration of Justice to Minors: Mrs Mariam Uwais
- Participation of Children: Mr Cyprian Yanclo
- The Right to an Identity: Mrs Dawlat Hassan
- Integral Early Childhood Development: Mrs Koffi Marie Chantal
- Vulnerable Children: Mrs Martha Koome
- Survival and Development of Children: Mrs Koffi Marie Chantal
- Responsibility of the Family: Mr Andrianirainy Rosamoely

### **Conclusion**

The Southern African Network has now firmly entrenched itself in advocacy initiatives not only at local, but also at regional levels. With the support of the African Child Policy Forum and the range of endorsements by organisations across Africa, the Network has driven the move to place ending corporal punishment of children firmly on the agenda of the Committee of Experts on the Rights and Welfare of the Child. •

## THE SOUTHERN AFRICAN NETWORK TO END CORPORAL AND HUMILIATING PUNISHMENT OF CHILDREN: PROMOTING POSITIVE DISCIPLINE

# SUBMISSION to the ALL AFRICA CONFERENCE OF CHURCHES: Ending corporal and humiliating punishment of children in Africa

by Carol Bower

This submission, which will be presented at the All Africa Council of Churches Conference (AACC) in Maputo, to be held from 7 to 12 December 2008, is made in support of the Network's recommendations that the AACC adopts a statement urging all African states to prohibit all forms of corporal and humiliating punishment of children and to also promote such a ban.

### INTRODUCTION

Violence against children is a global problem and affects children in every country of the world. Millions of children of all ages and from all social backgrounds, religions and cultures experience violence on a daily basis, and much of this is socially accepted and condoned.

The forms of violence to which children are subjected are varied, and include physical punishment at home or at school, and exposure to or experience of sexual violence (including extreme forms of violence such as female genital mutilation or cutting, child trafficking, sexual exploitation, and forced marriage).

Violence against children is often hidden and unreported. This may be because some children believe the violence they suffer is 'normal' and inevitable or they may not know how or where to report violence. A child may have no one to confide in or he or she may be fearful of suffering further harm from the perpetrator. If a perpetrator is a family member or someone who holds a position of leadership and power in the community, children may be afraid of not being believed. Children

who have suffered rape or sexual exploitation may fear isolation, stigma or shame if they speak out. Globally, it is the case that very few children ever report the violence perpetrated against them.

The short-, medium- and long-term consequences for children of such high levels of violence against them, often perpetrated with legal and social sanction, are incalculable. These consequences include growing up assuming that interpersonal and sexual violence are the norm, and the serious negative impact on the ability to live a fulfilled and productive life in adulthood.

Corporal punishment has been identified as one of the most serious forms of violence against children and is widely practised across the length and breadth of our continent. In some countries in Africa, as in countries in every region of the world, corporal punishment is legally sanctioned as a sentence in the penal system, in places of care or as a disciplinary measure in schools. All African countries currently allow for the use of violence against children when committed by their parents and guardians.

### CORPORAL PUNISHMENT IN AFRICAN STATES

The *All Africa Special Report on Ending Legalised Violence against Children*<sup>1</sup> indicates that corporal punishment of children by parents is still legal in all African states. This is despite the fact that all states in Africa, with the exception of Somalia, have ratified the CRC without any reservation to fulfil their obligation to protect children from all forms of violence. Only 23 African countries have prohibited corporal punishment in schools, 36 countries as a sentence in the penal system, 22 countries have prohibited its use in the penal system as a disciplinary measure and only three countries have prohibited it in alternative care settings.<sup>2</sup> This indicates that approximately 95% of

<sup>1</sup> Ending Legalised Violence against Children, All Africa Special Report (2007), Global Initiative to End All Corporal Punishment of Children and Save the Children Sweden.

<sup>2</sup> Progress towards prohibiting all corporal punishment in African states. (2008), Global Initiative to End All Corporal Punishment of Children.

*It has also been shown that the use of more frequent and severe corporal punishment on children is linked to antisocial, delinquent and criminal behaviour later in life ...*

the African child population are not protected from corporal punishment in alternative care settings, and 52% are not protected from corporal punishment in schools.<sup>3</sup>

This is a serious infringement on the human rights of children, particularly upon their right to dignity, physical integrity, equal protection of the law, and their right to be protected from all forms of violence. Law reform in this regard is thus long overdue for children living in Africa.

In light of the fact that many adults defend their “right” to smack, beat or whip children, the extent to which it frequently extends beyond “reasonable” or “moderate” chastisement must be considered. It is essential that domestic laws must be extended to reflect the necessity of providing protection to the most vulnerable and marginalised citizens. While the use of any degree of violence is unacceptable to us, it is also unacceptable that protection is not extended to children on the assumption that adults exercise their self-control to limit themselves to lower levels of violence. Often, in circumstances where parents resort to corporal punishment, tempers are high and this often results in more severe punishment than the parent initially intended.

The 2006 African Declaration on Violence Against Girls urges member states of the African Union and the African Union itself to take all necessary measures for the effective prohibition of all forms of violence against children, including corporal and other humiliating forms of punishment; to place the issue of violence against children and especially girls on the African Union Summit’s agenda as soon as possible; and to establish a Special Envoy on Violence Against Children to serve as a mechanism for preventing reporting and monitoring violence against children in collaboration with the African Committee of Experts on the Rights and Welfare of the Child.<sup>4</sup>

## THE EFFECTS OF CORPORAL AND HUMILIATING PUNISHMENT

According to experts, corporal punishment can have serious psychological effects in that children feel humiliated and degraded and they become angry and resentful towards those who punish them this way. This leads to repressed anger which can be manifested in hatred towards themselves and others.<sup>5</sup>

A wealth of research has been conducted into the impact of corporal punishment, these show that corporal punishment may ensure immediate compliance by the child, but fails to teach a child self-discipline or about logical consequences. In addition, studies show that corporal punishment undermines the child’s self-confidence and self-esteem, leaving them feeling helpless and humiliated, and it also undermines trust between the child and the parent.<sup>6</sup> Corporal punishment is ineffective because children are less likely to learn from this form of punishment and more likely to resist the parent and to develop strategies to avoid getting caught in the future. This is why children often repeatedly receive punishment for the same misdemeanour. It has also been shown that the use of more frequent and severe corporal punishment of children is linked to antisocial, delinquent and criminal behaviour later in life and people who are subjected to corporal punishment are more likely to engage in violence and humiliation against their spouses and children in adulthood.<sup>7</sup>

Corporal punishment is linked to severe physical abuse of children - studies with parents who had physically abused their children indicated that two thirds of the abusive incidents started in an attempt to “teach the child a lesson”.<sup>8</sup>

Many adults defend the use of corporal punishment by saying that they themselves, as children, were hit and beaten by their parents and teachers and that it did not do them any harm. While it is certainly true that the majority of adults have histories of corporal punishment, including severe forms, and that most do continue to live productive and socially engaged lives, it is also true that we, the adults of the present day, are the people inflicting this range of violence on our children and each other. In this way we are responsible for perpetuating violence in

(continued on page 12) »

3 All Africa Special Report, op cit, p 59.

4 The Second International Policy Conference on the African Child, Violence Against Girls in Africa, May 11-13 2006, Record of the Conference Proceedings. The African Child Policy Forum.

5 See Save the Children Publication, op cit, p 18

6 Gershoff E (2002) Corporal Punishment by Parents and Associated Child Behaviors and Experiences: A Meta-Analytic and Theoretical Review. Columbia University p 542

7 Gershoff E (2002) p 542

8 Coontz, P.D. & Martin, J.A. (1998). Understanding Violent Mothers and Fathers: Assessing explanations offered by mothers and fathers of their use of control punishment. In G.T. Hotaling, D. Finkelhor, J.T. Kirkpatrick, & M. A. Straus (Eds), Family abuse and its consequences: New directions in research Newbury Park, CA: Sage and Gil, D.G. (1973). Violence against children: Physical abuse in the United States. Cambridge, MA: Harvard University Press

(continued from page 11) »

our society by sending the message to our children that in order to resolve conflict, one needs to resort to violence.

Thus, disciplining children by using corporal punishment teaches children that it is acceptable to resolve conflict and differences with violence, to express frustration, anger and helplessness through violence and that it is acceptable to harm someone who is smaller and less powerful than yourself. On a continent and indeed in a world where violence and brutality are the daily experience of millions, we must ask if these are the messages that we want to be sending to children as they learn to interact socially.

“Social violence can be viewed as the consequence of abuse experienced in childhood; (it is) the propensity to reinflict childhood traumas upon others in socially approved violence” says psychologist Lloyd de Mause<sup>9</sup>

Many people believe that discipline and corporal punishment are one and the same thing and fear that if corporal punishment is prohibited, children will be undisciplined. However, this is not the case. Disciplining children can be achieved without using physical and humiliating punishment. There are other, more effective positive methods for developing self-discipline in children. Positive discipline is based on the idea that children learn more through co-operation and reward than through conflict and punishment.<sup>10</sup>

## SUPPORT, INFORMATION AND EDUCATION FOR PARENTS

The primary goal of law reform is to change behaviour and current mindsets that children have to be physically punished in order to be disciplined. It is thus critical that a prohibition in law must be accompanied with a strategy to provide parents and other caregivers with the support and information required in order to equip them with alternative positive disciplinary measures. According to research, the strongest factor leading to the use of corporal punishment is social and cultural support for corporal punishment.<sup>11</sup> Many adults were hit as children and do not have knowledge of how to discipline children without hitting them. Yet, there are a variety of methods that can be used and parents, teachers and others who care for children must be exposed to these through education and information. This can be addressed to

some extent by ensuring the availability of programmes promoting parenting skills and appropriate discipline at home and at schools.

The success of broad-based education is evident in the Swedish experience where, at the time that corporal punishment was prohibited in Sweden, 53% of Swedish citizens supported corporal punishment. By 1994, after intensive public education on the issue, only 11% of Swedish people supported the use of corporal punishment.<sup>12</sup>

## SUPPORT FROM THE FAITH-BASED SECTOR

There is a growing movement in the faith-based community that promotes the necessity to prohibit legalised violence against children. This is captured in the following statement which was made by Archbishop Emeritus Desmond Tutu of South Africa:

*“Children can be disciplined without violence that instils fear and misery, and I look forward to church communities working with other organisations to ... make 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 home and school 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.”*

## RECOMMENDATIONS

In light of the information and arguments put forward in this submission, we would like to urge the All Africa Conference of Churches to:

1. At its session in December 2008, include in its Conference Resolutions a commitment to addressing the issues of positive parenting and non-violent discipline in congregations across the continent.
2. Commit to preaching sermons on the issue, including highlighting the gentle, kind and respectful tone of the recorded encounters between Jesus and children.
3. Support the establishment of parenting support groups within congregations, and the promotion of appropriate parenting skills, training and capacity-building within Church membership.
4. Provide faith-based sector support for civil society organisations working with parenting and discipline issues in communities.
5. Advocate within countries for a review of laws which legitimise ‘reasonable corporal punishment’ in any setting.
6. Support our position to fully address general societal violence and ensure that children are raised in homes and communities that instil a strong sense of self-discipline and an abiding respect for the rights and dignity of all.

- **This submission has been edited for length - Eds**

9 (1998) The History of Child Abuse Journal of Psychohistory 25

10 Alexandrecu G, Bhavania YG, Derib A, Habasch R, Horno P, Nilsson M, Noueri R, Pierre-Plateau D, Sequeira L, Sonesson U & Stuckenbruck D (2005). Ending Physical and Humiliating Punishment of Children Making it Happen, Global submission with recommendations, prevalence and attitudes and good practice examples to the UN Study on Violence Against Children. International Save the Children Alliance

11 Dawes A, De Sass Kropiwnicki Z, Kafaar Z & Richter L (2005), Corporal Punishment of Children, A South African National Survey and Thompson Gershoff, E. (2002). Corporal Punishment by Parents and Associated Child Behaviors and Experiences: A Meta-Analytic and Theoretical Review

12 Barn Ombudsmannen The Swedish Corporal Punishment Ban,

# CHILDREN'S RIGHTS IN AFRICA: A LEGAL PERSPECTIVE

edited by Julia Sloth-Nielsen

This collection is anchored in an African conception of children's rights and the law, and reflects contemporary discourses taking place in the region of the children's rights sphere. The majority of the contributors are African and adopt an individual approach to their topic which reflects their first-hand experience. The book focuses on child rights issues which have particular resonance on the continent and the chapters span themes which are both broad and narrow, containing subject matter which is both theoretical and illuminated by practice. For instance, Daksha Kassan deals with the protection of children from all forms of violence and Louise Ehlers and Cheryl Frank write on child participation in Africa.

The book profiles recent developments and experiences in furthering children's legal rights in the African context, and distills from these future trends regarding the specific role the law can play in the African children's rights environment.

In reviewing the book, Bernadine Dohrn from Northwestern University School of Law in Chicago stated:

'A virtuoso and indispensable resource on children's legal and human rights from the unique perspective of the African context. This volume breaks new ground, firmly rooting the tragic and too familiar calamities of child hunger, displacement, AIDS, and violence in the surprisingly fresh terrain being cultivated to promote a vibrant child-rights agenda with specifically African solutions'.

Likewise, Jaap Doek, former Chairperson of the UN Committee on the Rights of the Child, had the following to say:

'This book not only reflects the many problems African children are facing but also elaborates on the strong potential of child rights implementation illustrated with concrete examples. It provides a unique and comprehensive overview of the many aspects of the developments and experiences in furthering the respect for and the implementation of the rights of African

children. A very welcome tool for practitioners, politicians and researchers in the field of children's rights in Africa'.

The book was launched in Cape Town at a function hosted by the Children's Rights Project at the Community Law Centre, University of the Western Cape, and introduced by Judge Belinda van Heerden of the Supreme Court of Appeal.

- **The book can be ordered from Ashgate Publishers:**  
[www.ashgate.com](http://www.ashgate.com)



*The editor, Julia Sloth-Nielsen (right) with Judge Belinda van Heerden (left) and Zenobia du Toit of Miller Du Toit Inc.*



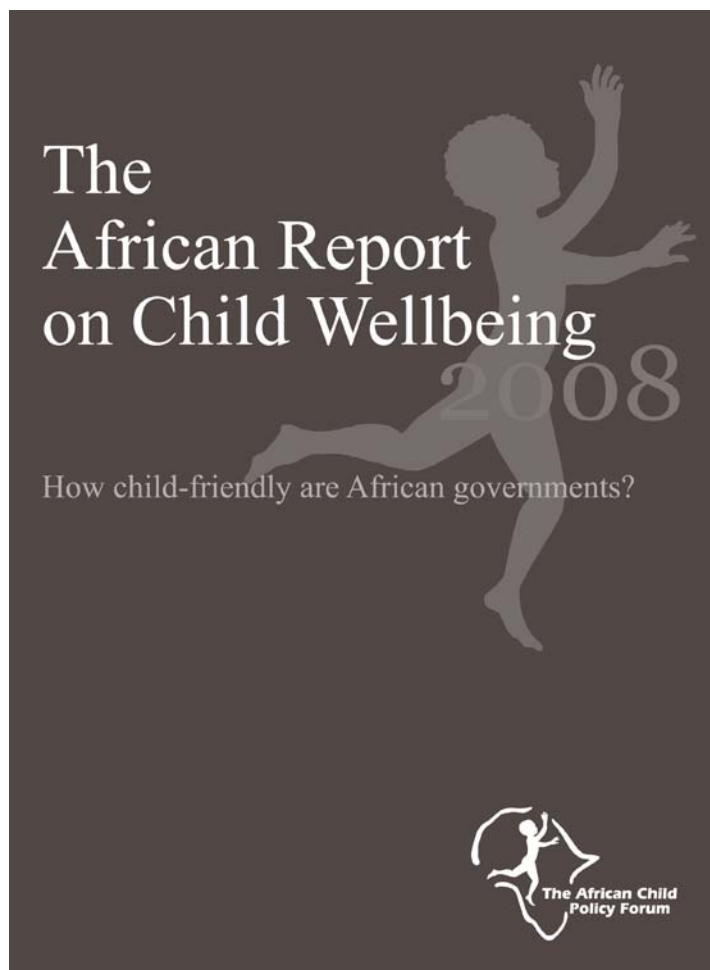
*Two of the authors: Ann Skelton (left) and Cheryl Frank (right).*

# NEW REPORT LAUNCHED

Launched in Nairobi, Burkino Faso and the Netherlands on 20 November 2008

In introducing the report, the African Child Policy Forum stated as follows: "African governments have an impressive record in their formal accession to the relevant child-focused international treaties. But the extent of their commitment to children's issues varies widely, and the gap between promises and reality remains wide in many countries. Why is this so? How well are African governments doing in meeting their national and international obligations? Which governments are doing well and which ones are not? How do countries rank in relation to each other? What is it that is right that child-friendly governments are doing, which poorly performing countries can emulate? The report - The African Report on Child Wellbeing 2008: How child-friendly are African governments? - prepared by The African Child Policy Forum (ACPF), addresses these questions. It reviews and compares the performance of 52 African governments using a common set of indicators and an innovative Child-friendliness Index developed by ACPF."

The report can be downloaded at:  
<http://www.africanchildforum.org/index.asp>



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