

CAMPAIGNS MANUAL

# Ending corporal punishment

*and other  
cruel and degrading  
punishment of children  
through law reform  
and social change*

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# Executive summary

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All over the world, children are hit and hurt by adults responsible for their care and education. In a minority of countries – though far too many – children in conflict with the law may be sentenced by the courts to corporal punishment when they are convicted of a crime. Corporal punishment – the most pervasive and too often legally endorsed form of punishment – is a serious breach of children’s rights, as human beings, to respect for their human dignity and physical and mental integrity. It breaches their rights to protection from all forms of violence and to equal protection under the law. This Campaigns Manual guides and supports child rights advocates in challenging the legality and practice of corporal punishment of children in all settings – in the home, in schools, and in justice and care settings.

The Manual is organised into six main sections.

**Section 1**, “*Understanding the problem of corporal punishment*”, defines corporal punishment and outlines the reasons why it should be prohibited and eliminated, focusing on the human rights imperative. It describes what we know from research about the prevalence of corporal punishment in all regions and the negative effects it has on children and their development, why prohibiting all corporal punishment is the only safe foundation for child protection, and the differences between physical punishment and positive discipline. It ends with some counter arguments to claims commonly made by those who are in favour of corporal punishment.

**Section 2**, “*Analysing the situation and campaigning for reform*”, explains how to carry out a rights-based analysis of the situation, including a review of the laws relating to corporal punishment, finding out about its prevalence, identifying obstacles to reform, and using this information to set priorities for action. It addresses how to include children in this work.

**Section 3**, “*Ending the legality of corporal punishment*”, focuses on promoting law reform to prohibit corporal punishment in all settings, including the home. It describes how to draft legislation which would achieve prohibition, how to develop a strategy to promote law reform, and how to work with government and parliament. It also looks at how legal action can be taken to push for reform. Understanding how prohibition would work in practice is vital to campaigning for law reform: the section describes implementation of prohibition in the home and in other settings.

**Section 4**, “*Ending the practice of corporal punishment*”, addresses how to change people’s attitudes towards, and use of, corporal punishment. It provides detailed guidance on developing strategies to achieve this in the home and in schools.

**Section 5**, “*Assessing the effectiveness of the campaign*”, explains why it is important to evaluate the campaign and how to do this.

**Section 6**, “*Resources*”, lists available resources which will be useful to support campaigning for law reform and for behavioural and attitudinal change, many of which are freely available on the internet.

It is important to note that it is not always necessary to systematically complete all these “stages” in order to achieve law reform. If an immediate opportunity arises to prohibit corporal punishment, there can be few reasons not to put all efforts into using it to promote law reform.

# Understanding the problem of corporal punishment



- I.1 Defining corporal punishment
- I.2 Why corporal punishment should be prohibited and eliminated
- I.3 The global picture
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  - (b) Progress towards prohibition
- I.4 Human rights law on corporal punishment
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- I.7 The difference between corporal punishment and positive discipline
- I.8 Overcoming resistance to prohibition

## 1.1 Defining corporal punishment

Put simply, corporal punishment is “any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light”. This is the definition adopted by the UN Committee on the Rights of the Child, the monitoring body for the UN Convention on the Rights of the Child, in 2006 (see box below for the full definition).<sup>1</sup>

To make it absolutely clear that the definition covers all forms of corporal punishment and all degrees of severity without exception – including “light” physical punishments which are often lawful, widely practised and not commonly understood as “violence” – the Committee explains:

*“Most [corporal punishment] involves hitting (‘smacking’, ‘slapping’, ‘spanking’) children, with the hand or with an implement – a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, burning, scalding or forced ingestion (for example, washing children’s mouths out with soap or forcing them to swallow hot spices). In the view of the Committee, corporal punishment is invariably degrading.”*

The Committee also recognises non-physical forms of punishment which are harmful for children and from which they have a right to protection:

*“In addition, there are other non-physical forms of punishment that are also cruel and degrading and thus incompatible with the Convention. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.”*

**When we talk about ending corporal punishment of children, we are talking about ending all corporal punishment and other cruel or degrading forms of punishment, in all settings, including the home, schools, juvenile justice systems, alternative care settings and situations where children are working.**

“The Committee defines ‘corporal’ or ‘physical’ punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting (‘smacking’, ‘slapping’, ‘spanking’) children, with the hand or with an implement – a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children’s mouths out with soap or forcing them to swallow hot spices). In the view of the Committee, corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment that are also cruel and degrading and thus incompatible with the Convention. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.”

*Committee on the Rights of the Child, General Comment No. 8, para. 11*

## 1.2 Why corporal punishment should be prohibited and eliminated

Fundamentally, corporal punishment should be eliminated because **children have a right to respect for their human dignity and physical and mental integrity and a right to protection from all forms of violence, including equal protection from assault under the law**. Children also have basic human rights to education, development, health and survival, which can be threatened when they are subjected to corporal punishment.

The existence of laws all over the world which allow children to be physically assaulted in the name of “discipline” reflects the low status traditionally given to children. Violence against adults has long been seen as unacceptable. As societies have developed, recognition has been given to groups of adults which have been particularly vulnerable to violence – such

<sup>1</sup> Committee on the Rights of the Child (2006), General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia)”, para. 11. Available in English, French and Spanish at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm), and in these languages plus Arabic, Chinese and Russian in *International Human Rights Instruments, Volume II, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, HRI/GEN/1/Rev.9 (Vol. II), available at [www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx](http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx)

as women and disabled people – and laws and practices have been changed to ensure respect for their human dignity and protection from all forms of violence. But children, whose developmental status and dependence on adults make them most vulnerable, have largely been excluded from this process.

Now that children are recognised as being holders of human rights, there can be no justification for continuing to give them less legal protection from assault than adults. Cultural attitudes and practices must be changed to make all forms of violence unacceptable. Laws which permit and even authorise corporal punishment of children must be repealed and reformed.

The human rights imperative to end corporal punishment of children is supported by a number of other reasons for eliminating it:

- Corporal punishment has negative short- and long-term effects on children and their development (see section 1.5).
- Responding to unacceptable behaviour by using corporal punishment teaches children that violence is an appropriate strategy for resolving conflict or getting people to do what you want.
- Corporal punishment is ineffective as a means of discipline. Any change in behaviour is likely to be due to fear of punishment rather than to understanding right from wrong. There are positive ways to teach, correct and discipline children which are better for the child’s development and relationships with parents and others, without using corporal punishment (see section 1.7).
- The legality of corporal punishment undermines child protection because it reinforces and perpetuates the idea that a certain degree of violence against children is acceptable and that children should not have the same respect for their human dignity as adults. In doing so, it makes other forms of abuse and exploitation more likely. For example, where national laws prohibit violence above a certain threshold as “physical abuse”, the use of corporal punishment as a “disciplinary” method is a major risk factor for crossing that threshold. Research has also found that approval of corporal punishment is related to a lower likelihood of identifying abuse of children and of reporting it.<sup>2</sup> As the Committee on the Rights of the Child emphasises, eliminating corporal punishment is “a key strategy for reducing and preventing all forms of violence in societies”.<sup>3</sup> Prohibition of corporal punishment is the only safe foundation for an effective child protection system. No country can claim to have an effective child protection system in place while its laws continue to authorise hitting a hurting children (see section 1.6).

All these reasons are important, but it cannot be emphasised enough that **the core reason for prohibiting and eliminating corporal punishment of children is in recognition of their human rights**.

<sup>2</sup> Ashton, V. (2001), “The relationship between attitudes toward corporal punishment and the perception and reporting of child maltreatment”, *Child Abuse & Neglect*, vol. 25, pp. 389-399

<sup>3</sup> Committee on the Rights of the Child (2006), General Comment No. 8, para. 3



*Marta Santos Pais speaking at the opening of the Middle East and North Africa law reform workshop, Beirut, 2010*



### 1.3 The global picture

#### (a) The nature and extent of corporal punishment

Children experience corporal punishment and other cruel or degrading punishment in almost all societies and across all cultures. Most progress in prohibiting and eliminating it has been in juvenile justice systems, but even in this setting many states have not yet enacted legislation to ensure children convicted of an offence cannot be sentenced to corporal punishment. Corporal punishment continues to be used – and legally sanctioned – as a disciplinary method against children in detention, in schools and in residential care. Laws in most countries allow corporal punishment of children in the family home and other home-based forms of care.

What has long been a hidden problem is gradually coming to light, as the extent and nature of corporal punishment of children is uncovered by research all over the world. The summaries below represent a sample of studies from all regions, demonstrating the high prevalence of corporal punishment in schools and family homes, and the wide range of types and severity of punishments inflicted. This is probably only the tip of the iceberg: the sensitivity of the issue and children's loyalty to their parents can make it difficult for children to give us a full picture of what goes on. Parents and teachers are likely to under-report, and babies and young toddlers – the most vulnerable of all – simply cannot tell us directly what they experience.

#### The prevalence and nature of corporal punishment of children

A UNICEF review of data from 37 countries which participated in the child discipline module of the Multiple Indicator Cluster Surveys (2005-2006) found that 86% of children aged 2-14 experience physical punishment and/or psychological aggression in the home.<sup>4</sup> In many countries more than 7 out of 10 children experienced this, including Algeria, Azerbaijan, Belarus, Burkina Faso, Cameroon, Central African Republic, Côte d'Ivoire, Djibouti, Dominican Republic, Egypt, Gambia, Ghana, Guinea-Bissau, Guyana, Iraq, Jamaica, Lao People's Democratic Republic, Mongolia, the Occupied Palestinian Territories, Serbia, Sierra Leone, Suriname, Syrian Arab Republic, Tajikistan, Togo, Trinidad and Tobago, Viet Nam, Yemen and Ukraine.

<b>Afghanistan</b>	In interviews with children, 82% reported that slapping, kicking and hitting with a stick are common forms of punishment. <sup>5</sup>
<b>Algeria</b>	Of 1,700 families, 70% whip their children and use violence for disciplinary reasons, often resulting in injuries and bruising. <sup>6</sup>
<b>Australia (Queensland)</b>	In telephone interviews with over 700 adults in 2006, 45% of respondents believed it was reasonable to leave a mark on a child as a result of physical punishment, and one in 10 believed it appropriate to use implements such as canes, sticks, belts, or slippers to punish a child. <sup>7</sup>
<b>Botswana</b>	A baseline study found that 92% of students had been beaten at school. <sup>8</sup> In another survey, about 90% of respondents said they used corporal punishment on children. <sup>9</sup>

4 UNICEF (2009), *Progress for Children: A Report Card on Child Protection*, Number 8, September 2009, NY: UNICEF

5 Save the Children Sweden Afghanistan (2003), *Mini Survey Report on Corporal Punishment*, Kabul: Save the Children

6 Reported in *Echorouk Online*, 6 January 2008

7 Tucci, J., Mitchell, J. & Goddard, C. (2006), *Crossing the Line: Making the case for changing Australian laws about the physical punishment of children*, Ringwood, Victoria, Australia: Australian Childhood Foundation

8 Announced by the Education Secretary for Ngami region, reported in *Daily News*, 13 June 2007

9 Survey by DITSHWANELO, reported in correspondence with the Global Initiative, February 2006

<b>Colombia</b>	In interview research, 64% of parents reported inflicting corporal punishment on their children, 44% with a belt; 83% of children reported experiencing corporal punishment, 70% with a belt. <sup>10</sup>
<b>Czech Republic</b>	In a public poll in 2007, only 31% of parents said they had never beaten their children. <sup>11</sup>
<b>Ethiopia</b>	In interviews with more than 1,200 children, only 17 (1.4%) said they had never experienced corporal punishment in the home. <sup>12</sup>
<b>France</b>	A survey of 2,000 grandparents, parents and children found that 96% of children had been smacked; 84% of grandparents and 87% of parents have administered corporal punishment. <sup>13</sup> One in ten parents admitted to using a "martinet" (a small whip); 30% of children said they had been punished with a martinet.
<b>Georgia</b>	In interviews with more than 4,300 children, 39% reported being subjected to corporal punishment within the family; 32% in schools. <sup>14</sup>
<b>Guyana</b>	Government-commissioned research found that 87% of 7-17 year olds had experienced corporal punishment in the home, most (81%) being hit with a belt, cane, whip or other object, including children as young as 3. <sup>15</sup> Another survey found that 56% of children had been whipped by their teachers. <sup>16</sup>
<b>India</b>	A national study on child abuse, involving over 12,000 children, revealed that 72% of 5-12 year olds and 62% of 15-18 year olds had experienced corporal punishment. <sup>17</sup> The most common punishment was being slapped and kicked (64%), followed by being beaten with a stick (31%).
<b>Jamaica</b>	Of over 1,700 children, 97% had experienced verbal aggression or violence from adults in the home, 86% from teachers. <sup>18</sup>
<b>Kazakhstan</b>	In large scale national research in 2002, specialists estimated that 60-80% of children were subject to violence by parents, adults and children, and that the number was increasing. <sup>19</sup>
<b>Nepal</b>	In a study in the schools of Kathmandu, 82% of students were found to suffer physical punishment in schools. <sup>20</sup>

10 Pineda, N. et al. (2005), *Evaluación de Algunas Modalidades de Atención a la Primera Infancia en el ICBF y el DABS*, Bogotá, Cinde, Save the Children UK/UNICEF/Colombian Institute for Family Welfare/Bogotá Social Welfare Department

11 Survey conducted by the Median agency for the daily *Lidove noviny*, reported in *Ceske Noviny*, 8 April 2008

12 African Child Policy Forum on Violence Against Children & Save the Children Sweden (2005), *Report on Violence against Children*, cited in Government response to UN Study on Violence Against Children Questionnaire, 2005

13 Union of Families in Europe (2007), *POUR ou CONTRE les fessés*, Tassin: UFE

14 Red Cross Committee of Georgia (2000), *Child Abuse and Neglect*, Red Cross/UNICEF

15 Cabral, C. & Speek-Warnery, V. (2005), *Voices of Children: Experiences with Violence*, Georgetown: Ministry of Labour, Human Services and Social Security/Red Thread Women's Development Programme/UNICEF-Guyana

16 Gill-Marshall (2000), "Child Abuse in Guyana: A study of teacher abuse of children", University of Guyana Thesis, cited in NGO Report to the Committee on the Rights of the Child, 2003

17 Kacker, L., Varadan, S. & Kumar, P. (2007), *Study on Child Abuse: India 2007*, New Delhi: Ministry of Women and Child Development

18 Samms-Vaughan, M. et al. (2004), "Jamaican Children's Experiences of Corporal Punishment at Home and School", University of the West Indies/Ministry of Health, University of Missouri-Columbia

19 Association of Social Scientists and Politologists & UNICEF (2002), *Violence against Children in the Republic of Kazakhstan February - March 2002*, Almaty: ASSAP/UNICEF

20 Reported in *The Rising Nepal*, 24 December 2006

<b>Nigeria</b>	83% of young people in conflict with the law reported being flogged in custody; others reported being made to kneel for long periods (73%) and to do frog jumps (70%). <sup>21</sup>
<b>Pakistan</b>	In consultations with more than 3,500 children, not one child reported never having experienced corporal punishment. <sup>22</sup> In other research, all 4,200 children had been physically punished in the home. <sup>23</sup>
<b>Peru</b>	In interviews with children aged 4-5 years, 96% reported having been physically punished for "bad behaviour". <sup>24</sup> In a survey in 2002 of more than 1,500 children, 53% reported experiencing corporal punishment in the home. <sup>25</sup>
<b>Poland</b>	Government-commissioned research in 2001 found that more than half (54%) of the 1,116 people surveyed considered beating children with a belt acceptable, and 77% felt it was acceptable to shout at and threaten children. <sup>26</sup>
<b>Republic of Korea</b>	When questioned about their behaviour towards their children, two thirds of parents reported whipping them, and 45% confirmed that they had hit, kicked or beaten them. <sup>27</sup>
<b>Slovakia</b>	Of more than 2,400 13-17 year olds, 40% experienced corporal punishment. <sup>28</sup> In other research, 99% of adults believed corporal punishment to be acceptable, with 42% believing that occasional beating with an implement was acceptable. <sup>29</sup>
<b>Switzerland</b>	Based on interviews with 1,240 parents, researchers estimated that 13,000 children under the age of 30 months have been slapped, nearly 18,000 have been pulled by the hair and about 1,700 hit with objects. <sup>30</sup>
<b>Timor-Leste</b>	One study revealed that 67% of children had been beaten with a stick by teachers, 39% slapped on the face; 60% had been beaten with a stick by their parents. <sup>31</sup>

- 21 Alemika, E.E.O. & Chukwuma, I.C. (2001), *Juvenile Justice Administration in Nigeria: Philosophy and practice*, Lagos: CLEEN
- 22 April 2005, *Disciplining the Child: Practices and Impacts*, Save the Children/UNICEF/Schools and Literacy Dept, Government of North West Frontier Province
- 23 NCCR (2001), *Violence against children in the family and in schools: Submission by NGOs Coalition on Child Rights - Pakistan (1) to the CRC Day of General Discussion, 28 September 2001*, NGOs Coalition on Child Rights/UNICEF
- 24 Base line project sponsored by Save the Children Canada and Save the Children UK in San Juan de Lurigancho - Lima, reported in International Save the Children Alliance (2005), *Ending Physical and Humiliating Punishment of Children - Making it Happen: Global Submission to the UN Study on Violence against Children*, Save the Children Sweden
- 25 Reported in International Save the Children Alliance (2005), *Ending Physical and Humiliating Punishment of Children - Making it Happen: Global Submission to the UN Study on Violence against Children*, Save the Children Sweden
- 26 Research commissioned by the State Agency for Prevention of Alcohol Related Problems, reported in Government Response to UN Study on Violence Against Children Questionnaire, May 2005
- 27 Hahm, H. & Guterman, N. (2001), "The emerging problem of physical child abuse in South Korea", *Child Maltreatment*, vol. 6, pp. 169-179, cited in Krug, E. G. et al., eds (2002), *World report on violence and health*, Geneva: World Health Organization
- 28 International Centre for Family Studies (2002), "The children's rights applying in the praxis. Preliminary survey report", Bratislava: International Centre for Family Studies
- 29 International Centre for Family Studies (2003), "The prevalence of violence in Slovakia", Bratislava: International Centre for Family Studies
- 30 Schöbi, D. & Perrez, M. (2004), *Bestrafungsverhalten von Erziehungsberechtigten in der Schweiz: Eine vergleichende Analyse des Bestrafungsverhaltens von Erziehungsberechtigten 1990 und 2004*, Universität Fribourg
- 31 UNICEF (2006) *Speak Nicely to Me - A Study on Practices and Attitudes about Discipline of Children in Timor-Leste*, Dili, Timor-Leste: UNICEF

<b>Uganda</b>	Of 1,500 children, 98% reported experiencing physical punishment at home and/or school, most commonly caning, slapping and pinching. <sup>32</sup>
<b>US</b>	A nationwide survey found that 72% of adults supported the use of spanking as a disciplinary method by parents, 23% believed it acceptable for teachers to spank a child, and 31% felt that washing a child's mouth out with soap is acceptable. <sup>33</sup> In 2006-2007, over 223,000 children were subjected to corporal punishment (paddling) in schools, with almost 40% of these in Texas and Mississippi. <sup>34</sup>
<b>Viet Nam</b>	Of 500 9-14 year olds surveyed, 94% reported receiving corporal punishment and emotional punishment at home, 93% at school. <sup>35</sup>
<b>Yemen</b>	A questionnaire survey of over 1,600 schoolchildren, together with their parents and teachers, revealed that 80% of mothers in the rural area and 59% in the city use corporal punishment to discipline their children. <sup>36</sup> A synthesis of research in 2005 found that almost 90% of children experienced corporal punishment as the main method of discipline in the family and in schools. <sup>37</sup>



Outside classrooms in Mia Omar High School in Jalalabad. This school is one of three selected for a pilot project with Save the Children on violence free schools in the district

- 32 Naker, D. (2005), *Violence Against Children - The Voices of Ugandan Children and Adults*, Raising Voices/Save the Children in Uganda
- 33 SurveyUSA, Verona NJ, (August 2005), *Disciplining a Child 08/24/05*, [www.surveysusa.com/50StateDisciplineChild0805SortedbyTeacher.htm](http://www.surveysusa.com/50StateDisciplineChild0805SortedbyTeacher.htm)
- 34 US Department of Education, Office for Civil Rights, analysis of data from the Center for Effective Discipline, [www.stophitting.com/index.php?page=statesbanning](http://www.stophitting.com/index.php?page=statesbanning)
- 35 Tran Ban Hung et al. (2005), *Educating or Abusing? Physical and emotional punishment of children in Vietnam*, Save the Children Sweden/Plan in Vietnam/UNICEF
- 36 Alyhari, A. (2004), "Mental health, education and corporal punishment in Yemeni school-aged children", Institute of Psychiatry, King's College London
- 37 Habasch, R. (2005), *Physical and Humiliating Punishment of Children in Yemen*, Save the Children Sweden



**(b) Progress towards prohibition**

Since Sweden became the first country to prohibit all corporal punishment explicitly in 1979, other countries have followed. In the context of the UN Secretary General's Study on Violence against Children and its follow-up (see section 1.4d), progress towards universal prohibition has accelerated. The list of countries where children have equal protection from assault now covers Africa, Europe, Latin America, East Asia and Pacific and the Middle East. Other governments in these and other regions are actively pursuing legal reform. In the best cases, law reform is accompanied by widespread awareness raising of the new law and of children's rights, together with public education and professional training on positive discipline.

Research in countries which have achieved prohibition is encouraging. For example, in Sweden there has been a marked decline in the social acceptance and use of corporal punishment in childrearing.

Investigation of the impact of prohibition by the Committee on Child Abuse, established by the Swedish Government, revealed that adult support for corporal punishment declined from 53% in 1965 to 7% in 2006. In 1994, 65% of children reported that they had never experienced corporal punishment; by 2000 this had grown to 86%.<sup>38</sup>

In Germany, which prohibited corporal punishment in the home in 2000, large scale government research found a substantial decrease in corporal punishment of children at all degrees of severity, based on parents' reports. For example, in 1996, 33% of parents said they had hit their child's bottom, compared with 26% in 2001 soon after prohibition.<sup>39</sup>

For further information on the legality of corporal punishment worldwide, progress towards universal prohibition and prevalence and other research, see the website of the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)).



Child campaigning in Côte d'Ivoire

## 1.4 Human rights law on corporal punishment

International human rights treaties, especially the UN Convention on the Rights of the Child, set the standards and provide legal obligations for states to protect children from all forms of violence, including all corporal punishment. This international law is increasingly referred to in national and regional courts in cases concerning children. It is important to remember that when governments ratify these treaties, whether or not they incorporate them into state law, they become legally bound to implement them.<sup>40</sup> This means that **by law, governments must prohibit all corporal punishment of children in all settings, including the home.**

<sup>38</sup> Reported in Kapoor, G. & Owen, S. (2008), *Towards the universal prohibition of all violent punishment of children*, Stockholm: Save the Children Sweden. See also Modig, C. (2009), *Never Violence: Thirty Years on from Sweden's Abolition of Corporal Punishment*, Stockholm: Government Office of Sweden/Save the Children Sweden

<sup>39</sup> Ministry of Justice & Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2003), *Violence in upbringing: An assessment after the introduction of the right to a non-violent upbringing*

<sup>40</sup> See the Vienna Convention on the Law on Treaties, at [www.worldtradelaw.net/misc/viennaconvention.pdf](http://www.worldtradelaw.net/misc/viennaconvention.pdf)

**(a) The UN Convention on the Rights of the Child**

Article 19 of the UN Convention on the Rights of the Child requires states parties to "protect the child from all forms of physical or mental violence while in the care of their parent(s), legal guardian(s) or any other person who has the care of the child".

Other relevant articles require that states parties:

- recognise that in all actions concerning children, "the best interests of the child shall be a primary consideration" (article 3)
- "ensure to the maximum extent possible the survival and development of the child" (article 6)
- "take measures to encourage regular attendance at school and the reduction of drop-out rates" (article 28.1e)
- ensure that school discipline is "consistent with the child's human dignity and in conformity with the present Convention" (article 28.2)
- ensure that "no child be subjected to torture or other cruel, inhuman or degrading treatment or punishment" (article 37)
- ensure that children in juvenile justice systems are "treated in a manner consistent with the promotion of the child's sense of dignity and worth" (article 40).

In implementing the rights in the Convention, states parties "shall undertake all appropriate legislative, administrative, and other measures" (article 4).

The Committee on the Rights of the Child has consistently stated that legal and social acceptance of corporal punishment of children, however light and wherever children are, is not compatible with the Convention. When it examines states parties on their implementation of the Convention, the Committee routinely recommends prohibition of all corporal punishment, including in the family, together with campaigns to raise awareness of the negative effects of corporal punishment and the promotion of positive, non-violent childrearing and education.<sup>41</sup>

In 2006, the Committee adopted General Comment No. 8 on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment".<sup>42</sup> The Comment clarifies the Committee's interpretation of the Convention as requiring prohibition of all corporal punishment, highlighting "the obligation of all States parties to move quickly to prohibit and eliminate all corporal punishment and all other cruel or degrading forms of punishment of children" and outlining "the legislative and other awareness-raising and educational measures that States must take" (para. 2).

Some people who are opposed to prohibiting corporal punishment, especially in the home, argue that the Convention does not actually use the words "corporal punishment". But the Committee's jurisprudence



Child's drawing, Romania

<sup>41</sup> Recommendations of the Committee concerning corporal punishment can be found on the website of the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

<sup>42</sup> Available in English, French and Spanish at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm), and in these languages plus Arabic, Chinese and Russian in *International Human Rights Instruments, Volume II, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, HRI/GEN/1/Rev.9 (Vol. II), which can be downloaded at [www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx](http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx)



shows clearly and unequivocally that the Convention is interpreted as requiring prohibition in law. The Committee reinforces this in its General Comment No. 8 (paras. 20 and 21):

*“Article 19 and article 28, paragraph 2, do not refer explicitly to corporal punishment. The travaux préparatoires for the Convention do not record any discussion of corporal punishment during the drafting sessions. But the Convention, like all human rights instruments, must be regarded as a living instrument, whose interpretation develops over time. In the 17 years since the Convention was adopted, the prevalence of corporal punishment of children in their homes, schools and other institutions has become more visible, through the reporting process under the Convention and through research and advocacy by, among others, national human rights institutions and non-governmental organizations (NGOs).*

*“Once visible, it is clear that the practice directly conflicts with the equal and inalienable rights of children to respect for their human dignity and physical integrity. The distinct nature of children, their initial dependent and developmental state, their unique human potential as well as their vulnerability, all demand the need for more, rather than less, legal and other protection from all forms of violence.”*

The Committee’s earlier General Comment No. 1 on “The aims of education” (2001) stresses that compliance with article 28 of the Convention requires prohibition of corporal punishment in school (para. 8).<sup>43</sup> General Comment No. 10 on “Children’s rights in juvenile justice” (2007) reiterates the obligation to prohibit corporal punishment as a judicial sentence and as a disciplinary measure in places of detention under articles 37 and 40 of the Convention (paras. 71 and 89).<sup>44</sup>

### (b) Other international human rights instruments

The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture all prohibit inhuman or degrading treatment or punishment. The International Covenant on Economic, Social and Cultural Rights stresses that educational institutions have an obligation to promote the dignity of the individual (article 13). The Committee on the Elimination of Discrimination against Women, the Committee against Torture, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights have all condemned corporal punishment of children and recommended explicit prohibition in law and other measures to eliminate it.<sup>45</sup>

International standards relating to the administration of justice are clear that corporal punishment should be strictly prohibited within the justice system and other settings. Rule 17.3 of the UN Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”) states that “juveniles shall not be subject to corporal punishment”.

The UN Guidelines for the Prevention of Juvenile Delinquency (“The Riyadh Guidelines”) state that “No young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions” (article 54). They also require education systems to devote special



Cover of report on child protection, including protection from corporal punishment, in South Asia

<sup>43</sup> Available in English, French and Spanish at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm), and in these languages plus Arabic, Chinese and Russian in *International Human Rights Instruments, Volume II, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, HRI/GEN/1/Rev.9 (Vol. II), which can be downloaded at [www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx](http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx)

<sup>44</sup> Available in English, French, Russian, Spanish, Chinese and Arabic at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm)

<sup>45</sup> For details of these Committees’ recommendations relating to corporal punishment, see [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)

attention to the “avoidance of harsh disciplinary measures, particularly corporal punishment” (article 21).

The UN Rules for the Protection of Juveniles Deprived of their Liberty make it clear that “all disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment ... and any other punishment that may compromise the physical or mental health of the juvenile concerned” (Rule 67).



Campaigning in the Philippines

### (c) Regional human rights instruments

The European Court of Human Rights has progressively condemned corporal punishment in a series of judgments concerning the European Convention on Human Rights since the 1970s.<sup>46</sup> The European Committee of Social Rights has found a number of European states to be not in conformity with the European Social Charter and the Revised European Social Charter because they have not prohibited all corporal punishment in the home and other settings.<sup>47</sup> In 2008, the Council of Europe became the first regional inter-governmental organisation to campaign for full prohibition across all 47 member states.<sup>48</sup> The Commissioner for Human Rights for the Council of Europe regularly recommends prohibition and elimination of corporal punishment following visits to member states.<sup>49</sup>

An Advisory Opinion of the Inter-American Court of Human Rights concerning the rights of the child quotes the Convention on the Rights of the Child, the concluding observations of the Committee on the Rights of the Child and judgments of the European Court of Human

<sup>46</sup> Council of Europe (2007), *Eliminating corporal punishment: A human rights imperative for Europe’s children*, 2nd edition, Strasbourg: Council of Europe Publishing. Judgments of the European Court are available at <http://echr.coe.int/echr/en/hudoc>

<sup>47</sup> The Committee’s website is at [www.coe.int/T/DGHL/Monitoring/SocialCharter/](http://www.coe.int/T/DGHL/Monitoring/SocialCharter/)

<sup>48</sup> The campaign websites are at [www.coe.int/t/dc/files/themes/chatiments\\_corporels/default\\_en.asp](http://www.coe.int/t/dc/files/themes/chatiments_corporels/default_en.asp) (English), [www.coe.int/t/dc/files/themes/chatiments\\_corporels/default\\_FR.asp?](http://www.coe.int/t/dc/files/themes/chatiments_corporels/default_FR.asp?) (French), [www.coe.int/t/dc/files/themes/chatiments\\_corporels/default\\_DE.asp?](http://www.coe.int/t/dc/files/themes/chatiments_corporels/default_DE.asp?) (Dutch), [www.coe.int/t/dc/files/themes/chatiments\\_corporels/default\\_IT.asp?](http://www.coe.int/t/dc/files/themes/chatiments_corporels/default_IT.asp?) (Italian), and [www.coe.int/t/dc/files/themes/chatiments\\_corporels/default\\_RU.asp?](http://www.coe.int/t/dc/files/themes/chatiments_corporels/default_RU.asp?) (Russian)

<sup>49</sup> The Commissioner’s website is at [www.coe.int/t/commissioner/default\\_en.asp](http://www.coe.int/t/commissioner/default_en.asp)

Rights in emphasising that states parties to the American Convention on Human Rights are under the obligation “to adopt all positive measures required to ensure protection of children against mistreatment, whether in their relations with public authorities, or in relations with individuals or with non-governmental entities”.<sup>50</sup> In 2008, the Inter-American Commission on Human Rights<sup>51</sup> petitioned the Court for a Consultative Opinion on the legality of corporal punishment. The Court confirmed the human rights obligations of the 35 member states of the Organization of American States (OAS) – including Latin America, North America and the Caribbean – to prohibit and eliminate all corporal punishment, stating there was no need to issue an Advisory Opinion because the obligation is clear from the Court’s existing jurisprudence “as well as from the obligations issued by other international instruments ratified by the States in the region”.<sup>52</sup> In 2009, the Commission’s office of the Rapporteur on the Rights of the Child, Professor Paulo Pinheiro, prepared a thematic report on the issue. It includes an analysis of state responsibility for corporal punishment by private citizens and of corporal punishment in relation to adults with parental authority, and makes detailed recommendations to member states on how to achieve prohibition.<sup>53</sup>



Marching for children’s rights in Mongolia

In a decision in 2003 on an individual communication under the African Charter on Human and Peoples’ Rights concerning a sentence of lashes imposed on students, the African Commission on Human and Peoples’ Rights found that the punishment violated article 5 of the Charter, which prohibits cruel, inhuman or degrading punishment. The Commission stated: “There is no right for individuals, and particularly the government of a country to apply physical violence to individuals for offences. Such a right would be tantamount to sanctioning State-sponsored torture under the Charter and contrary to the very nature of this human rights treaty.”<sup>54</sup>

In 2008, following a submission by the Southern African Network to End Corporal and Humiliating Punishment of Children and the African Child Policy Forum, endorsed by organisations from across Africa, the African Committee of Experts on the Rights and Welfare of the Child, which monitors implementation of the African Charter on the Rights and Welfare of the Child, agreed to draft guidelines on positive discipline and advise states parties to prohibit corporal punishment and other cruel and degrading punishment of children.<sup>55</sup> In its first concluding observations published following examination of a state party, the Committee recommended prohibition of corporal punishment.<sup>56</sup>

<sup>50</sup> Inter-American Court of Human Rights, Advisory Opinion OC-17/2002 of 28 August 2002, para. 87

<sup>51</sup> The IACHR website is at [www.cidh.oas.org/DefaultE.htm](http://www.cidh.oas.org/DefaultE.htm) (English), [www.cidh.oas.org/Default.htm](http://www.cidh.oas.org/Default.htm) (Spanish), [www.cidh.oas.org/french.htm](http://www.cidh.oas.org/french.htm) (French), and [www.cidh.oas.org/comissao.htm](http://www.cidh.oas.org/comissao.htm) (Portuguese)

<sup>52</sup> The Resolution of the Court is available in English ([www.endcorporalpunishment.org/pages/pdfs/ResolutionIACHR.pdf](http://www.endcorporalpunishment.org/pages/pdfs/ResolutionIACHR.pdf)) and Spanish ([www.endcorporalpunishment.org/pages/pdfs/IACHR-Res\\_esp.pdf](http://www.endcorporalpunishment.org/pages/pdfs/IACHR-Res_esp.pdf))

<sup>53</sup> The report is available in English ([www.endcorporalpunishment.org/pages/pdfs/briefings/IACHR-report2009-ENGLISH.pdf](http://www.endcorporalpunishment.org/pages/pdfs/briefings/IACHR-report2009-ENGLISH.pdf)) and Spanish ([www.endcorporalpunishment.org/pages/pdfs/briefings/IACHR-report2009-SPANISH.pdf](http://www.endcorporalpunishment.org/pages/pdfs/briefings/IACHR-report2009-SPANISH.pdf))

<sup>54</sup> African Commission on Human and Peoples’ Rights, *Curtis Francis Doebbler v. Sudan*, Comm. No. 236/2000 (2003), para. 42

<sup>55</sup> The submission is available at [www.rapcan.co.za/File\\_uploads/Resources/CP%20Submission%20ACERWC%203010%20English.pdf](http://www.rapcan.co.za/File_uploads/Resources/CP%20Submission%20ACERWC%203010%20English.pdf). The African Committee’s website is at [www.africa-union.org/child/home.htm](http://www.africa-union.org/child/home.htm)

<sup>56</sup> November 2009, *Concluding observations on initial report of Egypt*, recommendation 10

In 2009, to mark the 20th year of the Convention on the Rights of the Child, a conference was organised by the Egyptian Ministry of State for Family and Population and co-sponsored by the Organisation of the Islamic Conference (OIC) and UNICEF. The resulting Cairo Declaration on the Convention and Islamic Jurisprudence included the recommendation to all OIC Member states to “urgently review and reform their legislation to ensure the prohibition of all forms of violence against children and to link law reform with promotion of positive, non-violent forms of discipline”.<sup>57</sup>

#### (d) The UN Secretary General’s Study on Violence against Children

In October 2006, the report of the UN Secretary General’s Study on Violence against Children<sup>58</sup> was presented to the General Assembly by the Independent Expert Professor Paulo Sérgio Pinheiro.<sup>59</sup> The Study was originally proposed by the Committee on the Rights of the Child, and then requested by the General Assembly. The UN Secretary General appointed Professor Paulo Sérgio Pinheiro as Independent Expert to lead the Study. The Study revealed the extent and nature of the violence being perpetrated against children all over the world. It included nine regional consultations, actively involving children. Recommendations developed at every consultation included calls for the prohibition and elimination of all corporal punishment.

The key message of the Study is that “no violence against children is justifiable; all violence against children is preventable”. Drawing the attention of states to the Committee on the Rights of the Child’s General Comment No. 8 (see section 1.4a), the Report recommends prohibition of all forms of violence against children in all settings, including all corporal punishment and all other cruel, inhuman or degrading forms of punishment.

“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....

... The core message of the Study is that no violence against children is justifiable; all violence against children is preventable. There should be no more excuses. Member States must act now with urgency to fulfil their human rights obligations and other commitments to ensure protection from all forms of violence.”

*Report of the independent expert for the United Nations Study on Violence against Children, 2006, A/61/299, paras. 2 and 91*

The Study has been a hugely important catalyst for change. It has confronted governments the world over with violence against children in their countries, and challenged them to prohibit and eliminate all of it. In following up the Study, Save the Children and many other NGOs have used it as a platform to denounce all violence against children and to promote legal reform to prohibit corporal punishment.<sup>60</sup> The Study recommended the appointment of a Special Representative to the UN Secretary General on Violence against Children, to act as a high profile global advocate and follow up the recommendations. In 2009, Marta Santos Pais was appointed Special Representative, with an initial three-year term.<sup>61</sup>

<sup>57</sup> The OIC website is at [www.oic-oci.org](http://www.oic-oci.org), in English, French and Arabic

<sup>58</sup> See [www2.ohchr.org/english/bodies/crc/study.htm](http://www2.ohchr.org/english/bodies/crc/study.htm)

<sup>59</sup> For further information on the Study see [www.unviolencestudy.org](http://www.unviolencestudy.org)

<sup>60</sup> For example, see Owen, S. (2008), *Save the Children’s Worldwide Day of Action against Violence, 20 October 2008*, Stockholm: Save the Children Sweden ([www.crin.org/docs/Day\\_of\\_Action\\_2008-final%5b1%5d.pdf](http://www.crin.org/docs/Day_of_Action_2008-final%5b1%5d.pdf))

<sup>61</sup> For further information see [www.crin.org/violence/SRSG/index.asp](http://www.crin.org/violence/SRSG/index.asp). The first report of the Special Representative is at [www.crin.org/docs/SRSG\\_HRC\\_Report\\_2010.pdf](http://www.crin.org/docs/SRSG_HRC_Report_2010.pdf)



## 1.5 The effects of corporal punishment

Corporal punishment has negative effects on children and their development in the short and long term.<sup>62</sup>

### (a) Physical effects

The consequences of corporal punishment range from physical pain, minor cuts and bruises to serious injuries resulting in disability and even death.

When administered in the context of discipline in the home and schools, corporal punishment tends to escalate in frequency and/or severity. Two reasons have been identified for this:

- Its ineffectiveness as a disciplinary strategy becomes more pronounced the more it is used, so its severity tends to be increased. As parents, teachers and other carers become desensitised to what they are doing and frustrated by the child's diminishing compliance, they may move from light slaps to hard blows, leaving children vulnerable to injuries, disability and even death. Corporal punishment is a major risk factor for more serious abuse.<sup>63</sup> Analysis of child deaths and serious injuries in Australia has highlighted how many of them began with "disciplinary" beating.<sup>64</sup>
- Escalation is a natural result of the way the brain processes information about physical force. Research has found that people are unable to judge accurately the strength of directly applied force, making them apply greater force than they think they are applying.<sup>65</sup>

So we can never be certain that adults who use "light" corporal punishment - in itself a violation of children's right to respect for their human dignity - will not progress to inflicting ever harsher forms, or that what begins as an "occasional slap" will not become a daily occurrence.

When children are ordered to receive corporal punishment as a sentence of the courts, the dangers of serious injury are evident from the requirement in many countries that medical personnel are involved before, during and after the punishment is inflicted.



Campaigning in Peru

62 For an overview, see Gershoff, E. T. (2002), "Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review", *Psychological Bulletin*, vol. 128, no. 4, pp. 539-579 ([www.endcorporalpunishment.org/pages/pdfs/Gershoff-2002.pdf](http://www.endcorporalpunishment.org/pages/pdfs/Gershoff-2002.pdf)), and Gershoff, E. T. (2008), *Report on Physical Punishment in the United States: What Research Tells Us About Its Effects on Children*, Columbus, OH: Center for Effective Discipline ([www.phoenixchildrens.com/PDFs/principles\\_and\\_practices\\_of\\_effective\\_discipline.pdf](http://www.phoenixchildrens.com/PDFs/principles_and_practices_of_effective_discipline.pdf))

63 For example, see Gershoff, E. T. (2002), "Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review", *Psychological Bulletin*, vol. 128, no. 4, pp. 539-579, and Klevens, J. & Whitaker, D. J. (2007), "Primary Prevention of Child Physical Abuse and Neglect: Gaps and Promising Directions", *Child Maltreatment*, vol. 12, no. 4, pp. 364-377

64 Nielssen, O. B. et al. (2009), "Child homicide in New South Wales from 1991 to 2005", *Medical Journal of Australia*, vol. 190, no. 1, pp. 7-11

65 Shergill, S. S. et al. (2003), "Two eyes for an eye: The neuroscience of force escalation", *Science*, vol. 301, 11 July 2003, p. 187

### (b) Emotional effects

Corporal punishment also has emotional and developmental consequences. No matter what their age, children's developing minds are damaged by violent and other humiliating treatment. There is a correlation between corporal punishment and other cruel and degrading punishment and poor mental health - depression, low self-esteem, negative psychological adjustment and poor relationships with parents and others. The following list indicates some of the better understood psycho-social effects of corporal punishment on children.

- **It lowers children's self esteem**, teaching them poor self-control and promoting negative expectations of themselves.
- **It interferes with the learning process** and with children's cognitive, sensory and emotional development. Harsh corporal punishment is significantly associated with poor school performance and behavioural and emotional difficulties.<sup>66</sup> Corporal punishment is associated in many countries with school drop out and truancy.<sup>67</sup>
- **It discourages the use of reasoning.** By precluding dialogue and reflection, it hampers the capacity to understand the relationship between behaviour and its consequences.
- **It makes children feel lonely, sad and abandoned**, diminishing their confidence in society as a protective environment. It promotes a negative view of other people and of society as a threatening place. The prevalence of self-harm among children increases with the frequency of corporal punishment.<sup>68</sup>
- **It creates barriers that impede parent-child communication** and damages the emotional links established between them. Corporal punishment erodes the trust between a parent and child, and increases the risk of more serious abuse (see sections 1.2 and 1.5a).
- **It teaches children to link love with violence.** The very people who are supposed to love them are also hurting them, and this can lead children to accept that violence is possible and even normal in a loving relationship.<sup>69</sup> Research has shown a link between corporal punishment in childhood and the tendency to link sex with violence in adulthood.<sup>70</sup>
- **It can stimulate anger** and for some a desire to run away from home.
- The strongest, usually unintended, message that corporal punishment sends to the mind of a child is that **violence is acceptable behaviour**, and that it is OK for a stronger person to use force to coerce a weaker one.
- **Violence begets violence.** Corporal punishment teaches violence and revenge as solutions to problems, and it perpetuates itself, as children imitate what they see adults doing. Childhood victimisation of boys and girls is predictive of later antisocial behaviour, criminality and violence. Children exposed to high levels of violence while they are growing up are more likely to use violence to solve problems when they are older.<sup>71</sup>
- Children who have been subjected to punishment may manifest **difficulties with social integration**.

66 Alyahri, A. & Goodman, R. (2008), "Harsh corporal punishment of Yemeni children: Occurrence, type and associations", *Child Abuse & Neglect*, vol. 32, no. 8, pp. 766-773

67 Porteus et al. (1998), *Vuk'yithathe: Needs and Circumstances of Our of School Children and Out of Age Learners*, Johannesburg: Gauteng Dept of Education, Impila Project

68 Meltzer, H. et al. (2001), *Children and adolescents who try to harm, hurt or kill themselves*, London: HMSO

69 For example, see Douglas, E. M. & Straus, M. A. (2006), "Assault and injury of dating partners by university students in 19 countries and its relation to corporal punishment experienced as a child", *European Journal of Criminology*, vol. 3, no. 3, pp. 293-318; Woods, K. & Jewkes, R. (1998), *Love is a dangerous thing: micro-dynamics of violence in sexual relationships of young people in Umtata*, CERSA Women's Health Medical Research Council

70 Strauss, M. (2001), *Beating the Devil out of them: Corporal punishment in American families and its effects on children*, 2nd edition, New Brunswick, NJ: Transaction Publishers

71 Porteus, K. et al. (2001), *Alternatives to corporal punishment: Growing discipline and respect in our classrooms*, Witwatersrand University and South Africa Human Rights Commission, Heinemann Publishers



- It does not teach children to co-operate with authority; it teaches them to fear it or to resent it. They learn to comply with rules, or infringe them, but they do not learn to make ethical decisions or develop self-discipline.<sup>72</sup>



“Supporting a child’s will to accomplish his goal”, positive discipline illustration, Japan

Save the Children UK consulted children in Scotland about physical punishment and recorded over 40 adjectives to describe how corporal punishment made them feel. This list underlines the ineffectiveness of corporal punishment and the emotional damage it causes. None of these children used adjectives like “wiser” or even “sorry” to describe how they felt after being hit.<sup>73</sup>

Children said they felt:

*“Hurt, sore, scared, upset, unloved, terrified, worried, lonely, sad, angry, alone, abandoned, afraid, cross, frightened, sick, stunned, threatened, annoyed, bad, physically abused, hateful, emotionally hurt, unhappy, terrible, ashamed, disliked, confused, embarrassed, resentful, neglected, overpowered, humiliated, grumpy, disappointed, painful, miserable, intimidated, uncared-for, unwelcome, heartbroken, bullied, depressed, worried, shocked.”*

These feelings have been echoed in research across the world. Other studies are listed in section 6 of this Manual. Summaries of the research are available on the website of the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)).

## 1.6 Corporal punishment and child protection

Legalised violence against children in the guise of “discipline” or “reasonable” punishment or correction undermines effective child protection. There are many reasons for this:

- There is always a risk that mild smacking will escalate to serious assault (see section 1.5a).

<sup>72</sup> *ibid.*

<sup>73</sup> Cutting, E. (2001), “It doesn’t sort anything!” A report on the views of children and young people about the use of physical punishment, Edinburgh: Save the Children

- Professionals working with families cannot give a clear message that hitting and hurting children is unacceptable when the law allows a certain degree of violence against them.
- Children do not complain about something which they are told is justified and not against the law.
- Adults who witness other adults hitting or beating children are unlikely to feel able to intervene themselves or report what they see to the authorities when they do not have the backing of the law.
- Parents receive confusing messages about the legitimacy of hurting their children, and children themselves receiving confusing messages about the acceptability of violence.
- Trying to draw a line between lawful physical punishment and unlawful “abuse” results in arbitrary and inconsistent distinctions which fail to protect all children, such as those with darker skin who do not bruise as readily, or those who are subjected to repeated and habitual assault and humiliation which does not cross the threshold for intervention.
- Physical punishment makes children more vulnerable to other forms of violence in the home and elsewhere, including sexual abuse and exploitation (see section 1.2).
- Even a “light smack” teaches children that hitting people is acceptable.

**Prohibiting all corporal punishment is the only safe foundation for child protection.**

## 1.7 The difference between corporal punishment and positive discipline

**Punishment** focuses on what a child has done wrong. It is based on the principle that you have to make a child suffer to make them understand what they have done and discourage them from doing it again. Many people confuse discipline and punishment, but they are not the same thing.

As noted above, because corporal punishment is often used by people whom children love and who have responsibility for them, it establishes a link between love and violence. When someone loves us or we are stronger than them or we have authority over them, we hold power which can be abused. Corporal punishment is in reality an abuse of power. It is important for parents and others to understand the difference between having the authority to use positive disciplinary techniques, and abusing their power by using corporal punishment.

Corporal punishment does sometimes secure immediate compliance from a child, but this “easy” solution for parents and teachers is not to their own or the child’s long-term advantage. The negative effects listed above outweigh any perceived benefit. Ideally, we want children to develop self-discipline; we want them to want to behave; we want to give them positive alternative behaviours from which to choose. Many behaviour theorists question the validity of punishment as a tool for learning, recommending instead systems of reinforcement and reward for positive behaviour.

In its General Comment No. 8, the Committee on the Rights of the Child explains that while corporal punishment is rejected, discipline is recognised as fundamentally important in a healthy childhood (para. 13):

*“In rejecting any justification of violence and humiliation as forms of punishment for children, the Committee is not in any sense rejecting the positive concept of discipline. The healthy development of children depends on parents and other adults for necessary guidance and direction, in line with children’s evolving capacities, to assist their growth towards responsible life in society.”*

People sometimes think that prohibiting corporal punishment means parents will not be able to use reasonable force to protect their children. But there is a world of difference between using physical force to protect a child from immediate danger and using it in a

punitive way to somehow “teach” them about danger. As the Committee explains (paras. 14 and 15):

*“The Committee recognizes that parenting and caring for children, especially babies and young children, demand frequent physical actions and interventions to protect them. This is quite distinct from the deliberate and punitive use of force to cause some degree of pain, discomfort or humiliation. As adults, we know for ourselves the difference between a protective physical action and a punitive assault; it is no more difficult to make a distinction in relation to actions involving children. The law in all States, explicitly or implicitly, allows for the use of non-punitive and necessary force to protect people.”*

*“The Committee recognizes that there are exceptional circumstances in which teachers and others, e.g. those working with children in institutions and with children in conflict with the law, may be confronted by dangerous behaviour which justifies the use of reasonable restraint to control it. Here too there is a clear distinction between the use of force motivated by the need to protect a child or others and the use of force to punish. The principle of the minimum necessary use of force for the shortest necessary period of time must always apply. Detailed guidance and training is also required, both to minimize the necessity to use restraint and to ensure that any methods used are safe and proportionate to the situation and do not involve the deliberate infliction of pain as a form of control.”*

**Positive discipline**

assumes that children want to behave well, but need help in understanding how to do so. It works on the principle that children learn more through co-operation and rewards than through conflict and punishment. It builds on the idea that when children feel good, they tend to behave well and when they feel bad they are likely to behave badly. This approach means:

- acceptable behaviour is modelled by parents and other adults, and when children behave well they are rewarded with attention and praise
- it is always the behaviour that is criticised and defined as wrong, not the child
- bad behaviour is given as little attention as possible, and is not rewarded
- parents and others have realistic expectations of what children are capable of at different ages, and do not ask for more than children can achieve
- limits or rules are clearly stated and consistently enforced in a non-violent way, so the child understands what is expected of him or her. Requests are framed positively - there are more do's than don'ts
- clear limits are set on important things but negotiation is possible on matters of less importance
- parents get to know their own flashpoints and develop strategies for dealing with them that avoid hitting or verbally abusing children
- children are listened to, their views are given proper consideration and they are treated fairly and with respect
- discipline has a clear and proportional relationship to the behaviour that requires changing
- sanctions which are not physical or humiliating can be used.



Participants at International Youth Rights 2010 conference, China

**1.8 Overcoming resistance to prohibition**

Many people have difficulty in accepting the need to prohibit and eliminate all corporal punishment of children. This is even found among some child rights advocates. The reasons for this are likely to include a mix of personal experience of being punished as a child and of punishing their own children and the seemingly enormous task of changing a deeply rooted set of traditional beliefs and practices.

But children have an immediate and unqualified right to protection from all corporal punishment and other cruel or degrading treatment, and states have a legal and moral obligation to ensure this right is realised. Just because something has always been done does not mean it must continue. Societies move on, and this positive development for children is long overdue.

Nevertheless, there will be resistance to addressing the issue. Some of the most common objections are listed below, together with counter arguments.

Reasons used to defend corporal punishment	Counter arguments
<i>Corporal punishment doesn't really hurt</i>	Through research studies in all regions, children tell us that it hurts them both physically and emotionally. Research also tells us about the many negative short- and long-term effects on individuals and society.
<i>Opinion polls say that most people are against banning corporal punishment</i>	There are many issues (e.g. violence against women, race discrimination) where politicians should lead public opinion, not follow it. Governments have a legal obligation to prohibit corporal punishment under international human rights law, and this does not depend on the results of opinion polls. In any case, results of polls generally depend on how crudely questions are phrased and on how much information the respondents have.
<i>Some children and young people are in favour of corporal punishment</i>	Children who support the use of corporal punishment should be listened to carefully and efforts made to understand why they are advocating that adults treat them in ways which are hurtful. Children have a right to respect for their human dignity and physical integrity, and they will be helped to understand this when governments fulfil their obligation to prohibit corporal punishment.
<i>My parents hit me and it didn't do me any harm. It's helped me to be where I am today</i>	None of us knows how we would have turned out if our parents hadn't physically punished us. Adults who hit their children in the name of discipline usually began doing so because they themselves were hit as children. Research shows they often feel guilty afterwards. Previous generations were acting in accordance with the pervasive culture of their time, but societies move on. Recognition of children as rights holders requires action to end the legality and social acceptance of all violence against children, just as violence against women has been rejected.



Reasons used to defend corporal punishment	Counter arguments
<i>Parents have a right to bring up their children as they see fit. They should only be challenged in cases of extreme abuse</i>	<p>Societies are moving on from seeing children as their parents' property to seeing them as people in their own right - and therefore as holders of human rights. This includes the right to respect for their human dignity and physical integrity. It is no more invasive of privacy and family life to insist that the law protects children from being hit in the home than to protect women from domestic violence at the hands of their husbands/partners.</p> <p>The Convention on the Rights of the Child upholds the importance of the family. Within this, the child's best interests must be paramount, and this means excluding corporal punishment.</p>
<i>There is a big difference between beating a child and a loving smack. Why not define safe smacking? Prohibiting all corporal punishment is taking things too far</i>	<p>Beating a child and inflicting a "loving smack" both violate a child's right to respect and physical integrity, whatever the intention behind the violence or the severity of it. The association of violence and love in the concept of a "loving smack" is damaging to children's development. Violence that is commonly identified as "child abuse" is corporal punishment - adults hurting children to punish them and gain control.</p> <p>There is no such thing as "safe" smacking. Numerous studies have established that milder forms of corporal punishment by parents are a risk factor for more severe violence. Research has also demonstrated the tendency of physical punishment to escalate and the difficulty in accurately judging the degree of force being used.</p> <p>Societies do not try to justify any level of violence when challenging violence against women or against elderly people, and this shouldn't be attempted in the case of children. Children have a right to the same protection from assault as adults enjoy.</p>
<i>We need to educate parents away from using corporal punishment but there's no need to ban it in legislation</i>	<p>Teaching people to stop doing something is incredibly difficult when the law allows it. Education will be much more effective when the law gives the same message.</p> <p>In any case, education alone does not meet children's right to equal protection under the law. Governments have an obligation to ensure that children have the same legal protection from assault as adults.</p>
<i>Corporal punishment is part of our culture, tradition and religion</i>	<p>Corporal punishment is not a culture-specific issue. It happens all over the world.</p> <p>Some people believe that their religion endorses the use of corporal punishment or even obliges them to use it. But religious freedom cannot run counter to human rights and, as the Committee on the Rights of the Child has stated (General Comment No. 8, para. 29), "freedom to practise one's religion or belief may be legitimately limited in order to protect the fundamental rights and freedoms of others".</p>

Reasons used to defend corporal punishment	Counter arguments
<i>Many parents are bringing up their children in desperate conditions, teachers are under stress from overcrowding and lack of resources, and in conflict-ridden countries adults themselves are frequently the victims of violence and humiliation. Prohibiting corporal punishment would add to the stress so we should wait until conditions improve</i>	<p>Corporal punishment is often an outlet for adults' stress, although it is usually ineffective in reducing that stress and can make it worse by adding feelings of guilt. In many homes and institutions, adults urgently need more resources and support but this does not justify hitting children. The needs of adults everywhere, and the rights of those facing daily violence, should of course be addressed, but children are equal human beings. They should not have to wait for adults' lives to improve before their own rights are realised. Governments are under an immediate obligation to prohibit corporal punishment and other cruel or degrading punishment of children.</p>
<i>If parents can't use corporal punishment, children will end up spoilt and undisciplined, with no respect for anyone or anything</i>	<p>There is a big difference between positive discipline techniques which do not breach a child's fundamental human rights, and corporal punishment. Discipline is necessary for good child development, but it grows from understanding, mutual respect and tolerance. Hitting children contradicts these positive qualities and undermines messages about violence being wrong and about treating one another with respect. There are many materials available for promoting positive, non-violent parenting and classroom discipline techniques.</p>
<i>If parents can't use corporal punishment, they will resort to worse treatment of children - emotional abuse, humiliation, locking them up</i>	<p>Children's right to protection from corporal punishment includes protection from all cruel or degrading treatment or punishment.</p>
<i>Criminalising corporal punishment will result in thousands of parents being prosecuted and children being taken into care</i>	<p>The primary purpose of prohibiting corporal punishment is not to punish and prosecute parents. The aim is to protect children's rights and change behaviour to promote greater respect for children. Changing the law gives a clear message that hitting children is wrong, and supports the promotion of positive parenting and non-violent discipline. Evidence from all the countries that have banned corporal punishment is that it does change behaviour but it does not result in more parents being prosecuted.</p>
<i>Parents need to be able to smack their children to stop them from hurting themselves</i>	<p>Using physical actions to protect children, especially babies and toddlers, is a natural part of parenting - it may involve grabbing them or picking them up and then explaining the danger, but it should not involve smacking and hurting them. There is a clear distinction between using force to protect children and using it to punish and deliberately hurt them. The law in all states, explicitly or implicitly, allows for the use of non-punitive and necessary force to protect people. Removing the right to use force for punishment does not interfere with this at all.</p>



Familiarising yourself with the remainder of this Manual will help you to respond positively to objections that are raised as you campaign to prohibit and eliminate corporal punishment (see especially sections 3.2 and 4). The Global Initiative has published a useful booklet answering frequently asked questions about prohibition – *Prohibiting all corporal punishment of children: Frequently Asked Questions* (2009);<sup>74</sup> a child friendly version is also available.<sup>75</sup> Responses have also been developed to FAQs commonly raised in relation to prohibiting school corporal punishment – *Prohibiting corporal punishment in schools: Positive responses to common arguments* (2009).<sup>76</sup> Further sources of information are listed in section 6 of this Manual.

### Summary of section I

Corporal punishment breaches children’s human right to respect for their human dignity and physical integrity. Its legality breaches their right to equal protection from assault under the law. For these reasons it should be prohibited and eliminated.

There are other aspects of corporal punishment which make it a problem for individuals and society, including:

- the negative effects of corporal punishment on children’s short- and long-term development
- the ineffectiveness of corporal punishment as a disciplinary measure
- the message it gives that violence is a legitimate way to try and resolve problems
- the way legal and social acceptance of corporal punishment in childrearing seriously undermines child protection

Prevalence research shows the alarmingly widespread use of corporal punishment in childrearing all over the world. But there is also considerable progress being made as countries reform their laws to give children equal legal protection from assault, including by their parents, supported by public education and awareness raising on the negative effects of corporal punishment and the promotion of positive, non-violent disciplinary methods.

74 Available at [www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-English.pdf](http://www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-English.pdf) (English), [www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-French.pdf](http://www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-French.pdf) (French) and [www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-Spanish.pdf](http://www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-Spanish.pdf) (Spanish)

75 Available at [www.endcorporalpunishment.org/pages/pdfs/FAQ-Children-English.pdf](http://www.endcorporalpunishment.org/pages/pdfs/FAQ-Children-English.pdf) (English), [www.endcorporalpunishment.org/pages/pdfs/FAQ-Children-French.pdf](http://www.endcorporalpunishment.org/pages/pdfs/FAQ-Children-French.pdf) (French) and [www.endcorporalpunishment.org/pages/pdfs/FAQ-Children-Spanish.pdf](http://www.endcorporalpunishment.org/pages/pdfs/FAQ-Children-Spanish.pdf) (Spanish)

76 Available at [www.endcorporalpunishment.org/pages/pdfs/SchoolsBriefing.pdf](http://www.endcorporalpunishment.org/pages/pdfs/SchoolsBriefing.pdf)

# Analysing the situation and campaigning for reform

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# 2

- 2.1 Carrying out a rights-based analysis
  - (a) Reviewing the legality of corporal punishment in all settings
  - (b) Mapping the prevalence of corporal punishment
  - (c) Identifying the factors contributing to the use of corporal punishment and the obstacles to reform
- 2.2 Setting priorities for action
  - (a) Ending the legality of corporal punishment
  - (b) Ending the practice of corporal punishment
- 2.3 Involving children
  - (a) When to involve children
  - (b) How to involve children
  - (c) Issues to consider when working with children to end corporal punishment

This section explains how to carry out a rights-based analysis of the situation, including reviewing the laws relating to corporal punishment, finding out about its prevalence, identifying obstacles to reform, and using this information to set priorities for action. It also addresses how to include children in this work. But it is important to understand that action to promote law reform does not need to be delayed until the analysis is complete. Advocates should be alert to all opportunities for promoting prohibition, and will need to be prepared to act quickly should an immediate opportunity be presented.

## 2.1 Carrying out a rights-based analysis

To effectively challenge corporal punishment and other cruel or degrading punishment of children, it is important for advocates and partners to work together to develop a strategy for prohibiting and eliminating it. This should be based on an analysis of children's experiences, the existing law and how it is implemented, public and other attitudes towards corporal punishment, any existing advocacy activities, etc. In addition to informing the strategy, the analysis will provide useful information against which to assess progress and evaluate the effectiveness of the campaign (see section 5).

To understand the situation facing children – both in terms of the law and of children's everyday experiences – and how best to challenge corporal punishment, you will need to carry out a rights-based analysis of the situation. This will involve:

- mapping the violations of children's right to be protected from all corporal punishment in law and practice
- identifying and analysing the factors contributing to the use of corporal punishment and the obstacles which need to be overcome to prohibit and eliminate it
- identifying the awareness raising and public and professional education and training that is necessary
- setting priorities for action within a coherent strategy to prohibit and eliminate all corporal punishment and other cruel or degrading punishment of children in all settings, including the home.

These elements are explained in detail below.

### (a) *Reviewing the legality of corporal punishment in all settings*

The first stage in analysing the situation is to find out what is happening to children and build up a picture of the corporal punishment and other cruel or degrading punishments inflicted on them. Because the law both reflects and sets the norms for society, the legality of corporal punishment provides the immediate context for this form of violence against children and reviewing the law should be an integral part of the analysis.

#### What you need to know

It is important to establish definitively whether or not corporal punishment is currently prohibited in all settings where there are children:

- in the home, by parents and others with parental responsibility
- in schools, including private and religious schools as well as state schools
- in other institutions and forms of alternative care, foster care, day care, etc
- in the penal system, as a sentence of the courts and as a disciplinary measure in penal institutions
- in situations where children are working.

It is also important to find out if there has been any significant progress towards challenging corporal punishment in any of these settings, such as relevant government

consultations, official reports recommending reform, parliamentary discussion, campaigns by NGOs or human rights institutions, legal challenges, etc.

#### How to find out whether or not corporal punishment is prohibited

The Global Initiative has developed reports on the legality of corporal punishment in every country in the world, together with outline information on the reforms needed to prohibit corporal punishment in all settings: see [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org). These reports are regularly updated and provide a good starting point for building a detailed picture of the legal situation in your country. The following describes how to research the law further. This will not only provide the necessary detail but is itself useful in raising awareness about the need for law reform and what needs to be changed.



Child campaigning in Afghanistan

All countries have assault laws which make it a crime to hit or otherwise assault another person. Many have child protection laws prohibiting cruelty to children. Some have constitutions which guarantee protection from cruel, inhuman or degrading punishment. Many countries, when they ratify international human rights instruments like the Convention on the Rights of the Child, incorporate them into their law so that they take precedence over domestic law. But in very few countries, if any, will this legislation effectively protect children from being hit by parents and other carers.

In many countries, the right of certain adults to use “reasonable” corporal punishment is actually written into the law, with special defences available so that the law on assault does not apply to “disciplinary” assaults on children by parents, teachers or others. The English common law defence of “reasonable chastisement” exists in very many countries across the world – if a parent is charged with assaulting their child, they can claim that the assault was “reasonable chastisement”.

In other countries, there is no reference to corporal punishment in education law or family law – the law is silent. This does not mean corporal punishment is prohibited. In such countries the “right” to use corporal punishment may have been confirmed in court judgments, or is simply accepted throughout society.

Systems of customary, local, regional or religious law which authorise physical punishment may need to be reviewed as well. Human rights apply equally to all children: there can be no justification for local or customary laws to allow corporal punishment and other cruel and degrading punishment of children.

In some states, governments have issued policies, guidance or circulars stating that corporal punishment must not be used. These are positive, and should be analysed in the review, but they do not amount to prohibition. Prohibition must be achieved through legislation which has been passed by parliament and can be enforced.

#### If corporal punishment is already prohibited ...

If you believe corporal punishment is prohibited, it is not enough simply to assert this – the legislation should be specifically identified and the exact wording of the relevant provisions should be examined. **If the law does not clearly say that corporal punishment is prohibited, then it almost certainly is not.**

It is also important to find out what systems are in place to enforce the law. For example, implementing prohibition in schools could involve independent inspection, complaints procedures that students can use, advocates to support them, the ability to prosecute teachers who continue to assault students, etc.



**If corporal punishment is not prohibited ...**

If you find corporal punishment is not prohibited, you should identify the legal provisions which make it lawful. These include:

- laws which authorise corporal punishment and/or regulate how it should be carried out, e.g. in schools or as a sentence of the courts
- laws (including common law, or case law) which provide legal defences or justifications such as “reasonable chastisement”, “the use of force for purposes of correction”, “moderate correction”, etc.
- laws which are silent on the issue, e.g. education law which does not authorise or prohibit corporal punishment in schools.

Once this information is gathered, it is a relatively straightforward step to identify which laws to target in pursuing legal reform.

If you find the law is silent on the issue of corporal punishment, you will need to identify the most appropriate law in which to insert a statement explicitly prohibiting corporal punishment.

National constitutions usually refer generally to the right not to be subjected to torture and other cruel treatment or the right to protection from violence. This is not adequate to prohibit all corporal punishment but it does not need to be changed if other sectoral laws include explicit prohibition. In a very few cases constitutions specifically authorise corporal punishment, in which case of course they must be amended.

**Examples of laws authorising corporal punishment**

“The Court may order the child, if a male, to be whipped with not more than ten strokes of a light cane - (i) within the Court premises; and (ii) in the presence, if he desires to be present, of the parent or guardian of the child.” (Malaysia, Child Act, 2001, article 91)

“No corporal punishment shall be administered to any pupil ... unless the following conditions are complied with - (i) the punishment shall be administered either by the headmaster or by some other teacher in the presence of the headmaster; (ii) no instrument of punishment other than a light cane shall be used and no punishment shall exceed 10 strokes with the cane; (iii) no male teacher may inflict corporal punishment upon any girl whom he has grounds for believing is over the age of 10 years; (iv) no punishment shall be administered except for offences of a serious or repeated nature.” (Botswana, Education (Corporal Punishment) Regulations, 1968, article 2)

**Examples of legal defences and justifications**

“Parents are authorised to reprimand and adequately and moderately correct their children.” (Honduras, Civil Code, 1906, article 231)

“A parent may correct his or her legitimate or illegitimate child, being under sixteen years of age, or any guardian or person acting as a guardian, his ward, being under sixteen years of age, for misconduct or disobedience to any lawful command” (Bahamas, Penal Code, 1927, article 110)

**Examples of common law - case law - allowing corporal punishment**

The old English common law defence of “reasonable chastisement” is used in many countries. In 1860, in a case in which a teacher had beaten a boy to death, the teacher was convicted of manslaughter, but the judge stated that English law allows “moderate and reasonable chastisement”. This judgment has been cited around the world.

Ancient Roman law gave fathers the right to kill their child. When this right was removed, around 365 AD, it was replaced by permission for male relatives to inflict “reasonable” physical punishment on their children.

More examples can be found on the website of the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)).

**Reviewing the law allowing corporal punishment in different settings**

Analysis should be undertaken of all relevant laws and regulations, including the national constitution, applicable to:

- the **home**, in relation to parents, carers and others with parental responsibility
- **schools and other education settings**, in relation to state schools, religious schools and private schools, pre-school, primary and secondary education, full and part time provision
- **alternative care settings**, in relation to day care, residential institutions, foster care, childminders, nurseries and crèches, covering care run by the state, religious organisations, private including profit-making organisations, and informal arrangements. Where prohibition of corporal punishment is a condition of licensing, it is important to establish whether all providers of care must be licensed or only certain ones. Sometimes laws or regulations prohibit corporal punishment by staff, but discipline policies allow parents to smack their own children on the premises
- the **penal system**, in relation to the sentencing of children to corporal punishment by the courts and under customary, traditional, religious or informal systems of justice, and to the use of corporal punishment as a “disciplinary” measure in penal institutions (prisons, juvenile detention centres, approved schools, etc)
- **situations where children are working**, in relation to domestic labour, agricultural labour, factory work and all other employment or work
- **other institutions**, in relation to state or private institutions caring for or providing treatment for children, including health or mental health (psychiatric) institutions, etc.

Once you have completed your review, compile a list of laws which need to be amended to achieve prohibition. This will ensure that campaigning is based on a full understanding of the current legal situation and what needs to change. It will provide a reference point for drafting prohibiting legislation (see section 3.1), and will help in identifying which government departments to lobby (see section 3.4).

**(b) Mapping the prevalence of corporal punishment**

If corporal punishment of children has not been prohibited and systematically challenged through public education, you can be confident it is very commonly used, even if research has not yet made it visible. Where corporal punishment has been prohibited, if the prohibition has not been accompanied by sustained public education and awareness raising and professional training then it may still be widely prevalent.

**Useful information**

It will be valuable for advocacy to be able to demonstrate the scale and form of corporal punishment. For example:

- How extensive is corporal punishment of children – in the home, in schools, in residential institutions, in penal institutions, in situations of employment? Has there been any formal or informal research to make it visible? How many children are affected, and how often do they experience corporal punishment?
- What types of punishments are used in what settings?
- How severe are the punishments?
- How do children respond to being punished in this way? How does it make them feel? What do they think about corporal punishment and other cruel or degrading punishments?
- Are there differences between the patterns and types of punishment experienced by different groups of children, e.g. girls, boys, disabled children, children from particular ethnic groups?

### How to find out about the nature and extent of corporal punishment

#### Using existing data

There may be existing studies which document corporal punishment of children, either through research specifically on the issue or research on violence against children more generally which includes information on corporal punishment. You should identify these studies and include them in the analysis.

#### Listening to children

Children should be involved in providing information about their experiences of corporal punishment. They are likely to give a very different story about corporal punishment than that provided by adults. Adults may describe what they do to children but cannot comment on how it feels for the children. They may also be reluctant to admit to using corporal punishment, or may not recognise it for what it is. And while a parent may describe how often they hit an individual child, they cannot give a full picture of the child's total exposure to corporal punishment from other adults such as teachers – or even from another parent. This information can only be contributed by children themselves.

Children can provide a unique insight into:

- who punishes them and how
- what they understand to be the reasons for the punishment
- how they feel when they are punished
- how it affects their behaviour
- how adults behave when they inflict corporal punishment on a child
- what can be done to stop children being punished in these ways.

The only way to research corporal punishment in the home is through interview research with children and with parents in situations of trust and confidentiality. Retrospective studies of childhood experiences, interviewing young adults, are possible but will fail to reveal early childhood experiences that are not remembered.

#### Which children to listen to

The views and experiences of a wide range of children should be gathered, e.g. children of different ages, boys and girls, disabled and non-disabled children, children in rural and urban environments, from different social classes, castes and ethnic groups, and living at home, in care and on the streets. They will all have different stories to tell. For example, the limited research data available indicates that disabled children experience disproportionately greater levels of both physical and sexual violence. Their low social status, higher levels of dependency and greater invisibility, together with widespread discrimination against them, render them very vulnerable to violence. At the same time, it should be remembered that the legality of corporal punishment is first and foremost a reflection of the low status that all children share (see section 1.2). Small-scale studies can also provide valuable information to support advocacy.



Campaigning in Côte d'Ivoire

### How to gather information from children

It is imperative, when working directly with children on this issue, that appropriate consideration is given to their protection. Remember, when children talk about violence they have experienced, they may be exposing themselves to further risk.

Research methods must allow children to express their own views, experiences and perceptions and should help children to do this in a variety of ways. Children (and adults) have different abilities and experiences. Verbal methods (interviews and discussions) may not work with younger children. Drawings and other visual methods, such as diagrams, photographs and drawings, as well as role plays, recall, ranking and focus group discussions can be helpful alternatives. But it is important to be sure that methods are understood and take account of cultural sensitivities. It is vital that all participants work voluntarily with researchers and feel free to say “no”.

Most research methods can be participatory or non-participatory, depending on how they are used. A questionnaire can be participatory if children are involved in its design, and especially if they use it to do their own research. Drawings or role plays can discourage children if they have to follow adult instructions without understanding the reasons, and they can be completely non-participatory if children are not given the opportunity to explain their drawings or have no confidence in how the information will be used.

The words used by children give important insights into their views of the world. Children may have their own ways of talking, as may other members of the communities in which they live. Researchers should use words people understand and use in everyday speech, and be careful to avoid jargon.

A number of guides and reports on consulting with children are listed in section 6. *Children's right to be heard and effective child protection*, written by Carolyne Willow and published by Save the Children Sweden, is particularly useful in discussing how to listen to children in the context of violence prevention.<sup>77</sup>

“... States parties should monitor their progress towards eliminating corporal punishment and other cruel or degrading forms of punishment and thus realizing children's right to protection. Research using interviews with children, their parents and other carers, in conditions of confidentiality and with appropriate ethical safeguards, is essential in order to accurately assess the prevalence of these forms of violence within the family and attitudes to them. The Committee encourages every State to carry out/commission such research, as far as possible with groups representative of the whole population, to provide baseline information and then at regular intervals to measure progress. The results of this research can also provide valuable guidance for the development of universal and targeted awareness-raising campaigns and training for professionals working with or for children.”

*Committee on the Rights of the Child, General Comment No. 8, para. 51*

#### Listening to adults

You may also need to find out more from the many adults who influence the lives of children. Evidence of adults' attitudes and behaviour is not needed to justify campaigning for change – the impetus for change is rights-based – but it can be valuable as an advocacy tool. Depending on what information you feel is needed, you may decide to undertake surveys, focus groups or individual interviews.

Despite the considerable amount of research that has already been conducted, there are some issues that are underexplored, including:

- the prevalence of violence against babies and young children
- gender differences in the prevalence, forms and impact of corporal punishment
- links between disability and corporal punishment

<sup>77</sup> Willow, C. (2010), *Children's right to be heard and effective child protection: A guide for Governments and children's rights advocates on involving children and young people in ending all forms of violence*, Bangkok: Save the Children Sweden, Regional Office for Southeast Asia and the Pacific, at <http://resourcecentre.savethechildren.se>



- racial, ethnic and caste discrimination and the use of corporal punishment
- corporal punishment in institutions and detention centres
- systems and structures associated with the use of corporal punishment (e.g. poor training, motivation and supervision of staff in institutions and schools, and lack of public education and promotion of positive parenting).



Children's drama about corporal punishment in school, Bangladesh

### (c) Identifying the factors contributing to the use of corporal punishment and the obstacles to reform

To develop a strategy for the prohibition and elimination of corporal punishment which effectively identifies the appropriate targets for law reform and public education measures, it can be useful to understand why corporal punishment is inflicted on children.

The fundamental reasons for children's routine exposure to corporal punishment, in all regions and most countries, are their low status in society and a punitive approach to discipline. This is confirmed in national laws and regulations and in public and professional attitudes towards childrearing, education, justice and care. There are also likely to be structures, systems, conditions and religious and other beliefs that favour the use of corporal punishment in particular settings or against particular children. Understanding these can help in developing the necessary strategies to prohibit and eliminate all corporal punishment and other cruel or degrading punishment of children.

The following questions provide a starting point to help you build a picture of why children experience violence at the hands of those with responsibilities for them. **The purpose of understanding the factors which contribute to the use of corporal punishment is to ensure that the strategy to prohibit and eliminate it is effective and well targeted. It is not the case that certain conditions must be rectified before corporal punishment is addressed directly. Children's right to protection from all corporal punishment is immediate and unqualified.**

#### 1. Does legislation encourage or discourage the use of corporal punishment?

In many countries, the law fails to prohibit corporal punishment in all settings, sending the message that it is an acceptable means of controlling or punishing children.

In settings outside the home, such as schools and other institutions, the law often sets out exactly how the punishment should be inflicted, by whom and using which kind of implement.

Within the family, corporal punishment is in most countries explicitly condoned in the law, giving parents active encouragement and legitimacy in using it in bringing up their children. In some countries, the law is silent on the issue, failing to challenge traditional assumptions that hitting children is acceptable. Only where the law expressly bans its use is there a clear message to parents and others that hitting children is wrong.

For further information about the law and corporal punishment see sections 2.1a and 3.

#### 2. What are the prevailing attitudes (of adults and children) towards children and parenting practices?

The following attitudes are widespread in countries in all regions. They influence parental behaviour and are used to justify the use of corporal punishment and other cruel or degrading punishment of children.

- "Children belong to parents and parents are entitled to bring up children as they see fit - parenting is a private matter"

- "Children need strong discipline if they are to be educated in the right way"
- "Corporal punishment was how we were disciplined as children, and it did us no harm"
- "Children only learn morality and discipline through corporal punishment"
- "Children can only be protected from danger through corporal punishment"

For guidance on how to counter these and other beliefs, see section 1.7.

### 3. How do gender relations and prevailing power structures influence attitudes towards childrearing and the experiences of children?

The problem of corporal punishment of children is closely linked to that of violence against women. Laws against domestic violence are being enacted all over the world, recognising that women are equal human beings, not inferior people to be controlled, dominated and beaten by men. This represents huge progress. In practice, however, women continue to be subjected to violence at the hands of men. Deeply embedded power inequalities between men and women together with gender stereotyping of women as the weaker sex can prove obstacles to the promotion of non-violent relationships and implementation of legislation on violence against women. They can encourage the use of violence to address conflict and an acceptance as "normal" of a stronger person hitting a weaker person in the context of an intimate relationship. The links with beliefs about corporal punishment in childrearing are obvious.

In most countries, children do not have equal protection from violence in law. Not even the law says that all violence against them, including all corporal punishment and other cruel or degrading punishment, is wrong. Domestic violence against children - their parents hitting them to discipline or punish them - is not condemned in law as a crime and as unacceptable. This strongly undermines public promotion of positive parenting that is not accompanied by campaigning for law reform.

### 4. How do local traditions and beliefs inform attitudes towards children and their treatment? Does customary/religious law encourage or discourage the use of corporal punishment?

Some followers of some religions interpret them as justifying or even requiring corporal punishment of children, e.g. some fundamentalist approaches to Christianity and some interpretations of Islam. But while everyone has a right to freedom of religious belief, this does not mean they have a right to express that belief in a way which violates the rights of others. And within every religion there are leaders who challenge the idea that violence against children is justified. Fundamental human rights to respect for physical integrity and human dignity are universal.

It will be important to identify any groups who defend corporal punishment on grounds of religion, and to seek support from other religious leaders in challenging all corporal punishment and other cruel or degrading treatment. Working with faith groups is discussed further in section 4.2e.

"Some raise faith-based justifications for corporal punishment, suggesting that certain interpretations of religious texts not only justify its use, but provide a duty to use it. Freedom of religious belief is upheld for everyone in the International Covenant on Civil and Political Rights (art. 18), but practice of a religion or belief must be consistent with respect for others' human dignity and physical integrity. Freedom to practise one's own religion or belief may be legitimately limited in order to protect the fundamental rights and freedoms of others. In certain States, the Committee has found that children, in some cases from a very young age, in other cases from the time that they are judged to have reached puberty, may be sentenced to punishments of extreme violence, including stoning and amputation, prescribed under certain interpretations of religious law. Such punishments plainly violate the Convention and other international human rights standards, as has been highlighted also by the Human Rights Committee and the Committee against Torture, and must be prohibited."

*Committee on the Rights of the Child, General Comment No. 8, para. 29*



### Challenging faith-based defences of corporal punishment

In every state in the world, there are some who assert that their faith approves of, or even requires, corporal punishment of children. But there are respected authorities in all the world's major faiths who assert there is nothing inherent in their faith which justifies the continued legality and social approval of corporal punishment of children. All religious traditions have rich resources within religious texts and teachings to promote positive non-violent approaches to parenting.

To take good care of and show compassion towards children is one of the most commendable deeds in Islam. Islam encourages every human being to place the needs of others above their own. Corporal punishment and other cruel or degrading punishments conflict directly with the advice of the Prophet, which is about treating those who are under the age of seven as children (employing tenderness and compassion), treating those from seven to 14 as siblings (with care and concern) and from 14 onwards as close friends (with trust and co-operation). The noble Prophet of Islam emphasised: "Be generous, kind and noble to your children and make their manners good and beautiful."

Anas (R), the Prophet's companion said: "I never saw anyone who was more compassionate towards children than the messenger of Allah." Children are regarded as *amanat* (trust) from Allah. Islam does not advocate violence against children. The Prophet said: "The strong is not the one who overcomes people by his strength, but the strong is the one who controls himself while in anger."

A study entitled *Children in Islam - Their Care, Upbringing and Protection*, sponsored by the late internationally respected scholar and religious leader Imam Doctor Muhammad Sayyid Tantawi, Sheikh of Al-Azhar, and published by Al-Azhar University in co-operation with UNICEF (2009), states (pages 55-56):<sup>78</sup>

*"Disciplining the child should take place without the use of violence or abusive language...."*

*"Given that it is not permissible to incur harm, no parent (or teacher or employer) has the right to smack a child; this would inevitably inflict psychological and physical damage. Both psychological and physical damage have been banned by the Islamic Sharia. In handling children, the Sharia urges us to embrace them, and show them love and compassion. We should take into consideration the natural development of the child and what each stage of its development requires along with the different needs that necessitates understanding and awareness on our part. We are expected to respect the child's personality, and to wisely reinforce his or her self-confidence and ability to confront life and its challenges."*

Following its publication, prominent religious leaders, including the Grand Sheikh of Cairo's Al-Azhar mosque, Sayyed Mohammed Tantawi, and the Coptic Pope Shenouda 111, declared publicly that harmful traditional practices have "no foundation in religious texts" of either Islam or Christianity.

In Mauritania, the Imams and Religious Leaders Network for Child Rights in collaboration with UNICEF carried out a study to assess whether corporal punishment is allowed in Islam. The study concluded that violence has no place in the *Qur'an* and thus in Islam. The results of the study have formed the basis of a fatwa barring physical and verbal violence against children in the educational system and in the home.<sup>79</sup>

Hindu culture is essentially a culture of kindness that teaches *ahimsa* (non-injury) and preaches against *himsa* (hurtfulness). A Hindu ideal has been described as: "Never injure others." In the Hindu tradition there is no greater good than a child. Hindu parents are to lift their children into the higher nature of love, forgiveness, friendliness and security. Parents are urged to love their children and demonstrate the principle of *ahimsa*. Children should be allowed to develop without

<sup>78</sup> Full text available at [www.churchesfornon-violence.org](http://www.churchesfornon-violence.org). See also UNICEF (2008), *Disciplining Children with Kindness: A Shiite Shari'a Perspective*, Iran: UNICEF

<sup>79</sup> *On the Prohibition of Excessive Child Beating in Islamic Sharia (Law): Abstract of a comprehensive social, educational and legal study of the negative impact of child beating, and the rules governing it in Islamic Sharia (law)*, prepared by Professor Imam Hadd Amin Ould Al-Salek, Imam of the Old Mosque, Nouakchott, and President of the Imams and Ulema Coalition for the Rights of Women and Children in Mauritania, June 2009

being hurt physically, emotionally or psychologically. Parents who are avowed to *ahimsa* are able to guide and teach children without hitting them.

There is a saying in Hinduism: "Siva's followers never govern youth through fear. They are forbidden to hit children, use harsh words, neglect or abuse them. They know you can't make children better by making them feel worse."

The basic tenets of **Buddhism** are completely against imposing pain on others and there is no room for violence in the *Dharma* (teachings of Buddha). Buddhism is concerned with the welfare of all beings. Sigâllovâda Sutta makes the point that if everyone develops compassion, mutual respect, courtesy (*sammânanâya*) and loving kindness (*mettâ*) children will not suffer corporal punishment.

*Chesed* (kindness), compassion and justice are the classic **Jewish** values and the nourishing and protecting of human life is of prime importance in Jewish law. Historically, by the end of the talmudic period (500 CE), any doctrines of harsh parental discipline were replaced with an emphasis on kindness and compassion. As a result of these rabbinic teachings traditional Jewish homes were noted for treating their children with love and warmth.

In all regions of the world there are minority groups of **Christians** who defend corporal punishment of children as their parental duty, using texts from the book of Proverbs to support this form of punishment, which is often called "Biblical discipline". But Christians look to the example of Jesus for the way to live their lives. Jesus was a teacher and Rabbi and an expert in interpreting the scriptures. There is no evidence to suggest that he cited the scriptures to justify hitting children. Jesus always treated the vulnerable and defenceless with love and compassion. All the recorded encounters between children and Jesus were kind, gentle and respectful. Positive non-violent parenting best models Christ's teachings.

Internationally and nationally, there is rapidly growing faith-based support for non-violent relationships with children and prohibition of all corporal punishment. A Declaration, endorsed in 2006 at the 8th World Assembly of Religions for Peace in Kyoto, Japan, calls for governments "to adopt legislation to prohibit all forms of violence against children, including corporal punishment" and "to establish appropriate mechanisms to ensure the effective implementation of these laws and to ensure that religious communities participate formally in these mechanisms".<sup>80</sup>

A number of faith bodies have given their support to ending corporal punishment in the course of national and regional campaigns for law reform to prohibit corporal punishment.

The Zambia Episcopal Conference for the Catholic Church is officially opposed to corporal punishment, seeing it as degrading to the physical and psychological integrity and well-being of a child. New Zealand Anglican Bishops declared their support for equal protection for children, presenting a signed statement to the Prime Minister during the passage of the law which eventually achieved full prohibition in 2007. The South African Council of Churches and the Southern African Catholic Bishops' Conference Parliamentary Liaison Office have also expressed their support for prohibition during debate on law reform. And church leaders in Norway support the proposal by the Norwegian Ombudsman for Children to update references to "chastisement" in new translations of the Bible with more appropriate language.

For further information on building faith based support for prohibition see the website of the Churches' Network for Non-violence ([www.churchesfornon-violence.org](http://www.churchesfornon-violence.org)). A global handbook on working with faith-based organisations to prohibit and eliminate corporal punishment is in preparation: for details email [info@churchesfornon-violence.org](mailto:info@churchesfornon-violence.org).

<sup>80</sup> "A Multi-Religious Commitment to Confront Violence Against Children", August 2006, para. 6, available at [www.churchesfornon-violence.org/Violence Against Children-FINAL.pdf](http://www.churchesfornon-violence.org/Violence%20Against%20Children-FINAL.pdf)



Photo from "Stop violence against children. Now!" exhibition, Mongolia

### 5. Are there social or economic factors that contribute to the use of corporal punishment?

Even if parents do not believe corporal punishment is necessary, they may resort to it under pressure. For example:

- in some families, inconsistent disciplinary techniques may result from poor communication and disagreements about childrearing between parents who are not getting on, or who are using their children to “score points” against each other. This may alter parenting behaviour in the presence of the other parent or result in inconsistent behaviour by one parent
- parents or other carers may use corporal punishment because they are unaware of the effects this might have on the physical and mental development of the child
- alcohol or substance abuse can contribute to loss of control and greater propensity for violence
- many parents and carers live in very difficult situations (poverty, overcrowding, insecurity, marital or work stresses, illnesses) where their own rights are being denied or violated. They don't intend to shout at or hit their children but they lose control and lack the emotional or physical resources to manage this behaviour more creatively.

Similarly, teachers may use corporal punishment because they are unaware of alternative positive methods of classroom management, or are working in stressful conditions with large numbers of children and few resources, or do not understand that experiencing physical violence will impede rather than enhance a pupil's learning.

None of this excuses continued use of corporal punishment, but it is important to understand the context and it may be relevant to developing appropriate programmes and materials.

For a full discussion of the factors contributing to corporal punishment by parents and teachers see sections 4.2a and 4.3a.

### 6. How is the issue portrayed in the media and in civil society?

The media plays a powerful role in influencing public attitudes. In understanding the factors contributing to corporal punishment of children, it is useful to look at how the media portrays the issue. For example:

- does the media show an interest in the issue?
- if so, what approach is taken:
  - » Are there particular journalists actively promoting respect for children's rights?
  - » Is the issue of corporal punishment treated as trivial or humorous?
  - » Are there campaigns insisting on the necessity of corporal punishment?

## 2.2 Setting priorities for action

Children's right to respect for their human dignity and physical integrity and to protection from all corporal punishment is an immediate, unqualified right. It is vitally important to understand that action towards ending corporal punishment should tackle both its legality *and* its practice.

### (a) Ending the legality of corporal punishment

A clear objective must be to advocate for or support existing campaigns to prohibit all corporal punishment of children in all settings, including the family home. The human rights basis for prohibiting and eliminating corporal punishment of children was described in section 1.4, but it is worth re-emphasising here the importance of *legal* reform. Without this, the law itself violates children's fundamental rights and undermines child protection.

In all but a small minority of states worldwide, hitting children, unlike hitting adults, remains lawful. The imperative for prohibiting all corporal punishment and other cruel and degrading punishment of children is one of fundamental human rights: to assert children's right to respect for their physical integrity and human dignity, and to equal protection under the law.

The legality of corporal punishment of children is a highly symbolic reflection of their low status in society, just as in the past the legality of physical punishment of wives by their husbands and slaves by their masters reflected their low status as “possessions” rather than people. It implies a sense of ownership and control of the victim by the perpetrator.

Promoting children's status as individual people and, therefore, holders of human rights, demands an immediate challenge to laws which condone or authorise violence against them. In a logical and humane world, children – the smallest and most vulnerable of people – would naturally be given special, additional protection. International human rights law clearly affirms that human rights apply to everyone, without discrimination, and that everyone is entitled to equal protection under the law.

But it is only now that moves to accord children equal legal protection are gaining strength. The near universal acceptance of the UN Convention on the Rights of the Child has contributed to this process, along with the consistent interpretation by the Committee on the Rights of the Child that the Convention requires prohibition of all corporal punishment, linked to awareness raising and public education campaigns to eliminate its use.

Prohibition of corporal punishment is necessary to ensure that national child protection systems have a clear legal foundation on which to base interventions. Legal reform to prohibit all corporal punishment and give children equal protection from assault will:

- fulfil children's human rights to respect for their physical integrity and human dignity, and to equal protection under the law
- provide a clear and logical basis for child protection, enabling child protection workers, and others working with or for parents and children, to give parents, other carers, teachers, etc, a clear message that hitting children is no more lawful or acceptable than hitting adults
- support parents, teachers and others by providing a clear, legal basis for awareness raising on children's right to protection and for public education to promote positive, non-violent forms of discipline. There is no evidence to suggest that education programmes substantially change parental and others' attitudes and practice in a context in which the law still condones physical punishment
- help to ensure enforcement of the law protecting children in ways that are in the best interests of the child. In many states, the law currently allows parents, other carers and teachers to justify assaults as “reasonable chastisement” or “lawful correction”. This provides a significant loophole in the legislative basis of child protection systems which allows adults to go on hitting children, lawfully. It also creates confusion as to what is and is not acceptable, as it is left to the courts to decide what is considered “reasonable”.



Vice-President of Costa Rica, Laura Chinchilla, signs law prohibiting all corporal punishment in 2008

Children's right to equal protection under the law means criminalising corporal punishment within the family as well as elsewhere. **But the primary purposes of this legal reform are to send a clear message that hitting children is as unacceptable as hitting anyone else, to change attitudes and practice, and to reduce violence against children.**



Prosecuting and punishing parents for assaults on their children is unlikely to be in children's best interests, given their dependent status. This does not reduce the need for clear legal reform. But it does emphasise the need for implementation of the law to be sensitive to



"If you love your cow, tie it up; if you love your child, use positive discipline", slogan from campaign in Laos

the special relationships within the family, and to be focused on support rather than punishment. For detailed discussion of implementation of prohibition in the home and other settings see section 3.2.

It is also important to understand that it is not enough for governments to advise parents and others that corporal punishment should not be used – it must be written into the law. Otherwise, the idea persists that breaching a child's human dignity and physical integrity is acceptable, normal or even – as some still suggest – "in their best interests". This perpetuates children's status as objects or property.

Campaigning for legal reform is the subject of section 3.

### (b) Ending the practice of corporal punishment

Hand in hand with advocacy for legal reform is the need to engage in campaigns to achieve changes in attitudes and behaviour, through awareness raising and public and professional education and training. Campaigning for this social change involves:

- building alliances with other organisations working with children in order to broaden the base of support
- producing materials explaining children's right to equal protection and setting out the evidence about the nature of corporal punishment and its harmful effects
- promoting the case for change
- providing guidance on positive discipline
- working with the government at all levels
- working with the media, NGOs, religious and community leaders, professional organisations, parents' organisations, and children.

As well as awareness raising, there is a need for sustained education and training to ensure understanding of children's right to respect for their physical and personal integrity. All professionals working with children – teachers, care workers, nurses, paediatricians, prison wardens, police, judges, academics – need to understand children's rights. They also need to understand their role in promoting and protecting those rights, including the right to protection from all forms of violence. Parents, too, can be helped through education and support to understand children's right to protection and the value of positive discipline as a more effective and respectful approach to providing direction and guidance to their children.

Developing a strategy for social change is discussed in detail in section 4.

## 2.3 Involving children

The importance of including children in the rights-based analysis of the situation has already been discussed (see section 2.1b). It is equally important that children are enabled to play a key role in the strategies for achieving change outlined above. Children are not only a unique source of information about the nature and scope of corporal punishment – **they have a right to have their views heard and taken seriously**. In addition, children:

- can be powerful and effective advocates for change
- are more likely to feel confident and protect themselves from violence when they are informed and empowered
- can help to make their issues more visible, which in turn helps to improve the accountability of governments and others responsible for their wellbeing and end the silence which has for too long allowed children to be exploited and abused
- can help to identify effective and positive disciplinary measures.

Many handbooks and guidance tools are available to support the promotion of children's participation in influencing public policy to promote greater respect for their rights (see section 6).

This section sets out, very briefly, the case for involving children in ending corporal punishment against them, highlighting some of the key issues to consider. It includes some suggestions for children's participation at each stage of the campaign.

### (a) When to involve children

Children's participation is a process, not a single event. Ideally, children should be involved throughout the campaign to end corporal punishment. The campaign will be strengthened if it is fully informed by children's involvement, including in the rights-based analysis and planning of the campaign, campaigning itself, and in assessing the success of the campaign.

- **Analysing the situation and campaigning for reform.** As already discussed (section 2.1b), children's experiences must necessarily inform the process of building an understanding of the prevalence, severity, nature and frequency of corporal punishment and other cruel or degrading punishment. Children can contribute a vital perspective on its impact on their lives and how it influences their behaviour. Their views can also be given consideration in planning for the campaign.



Cover of handbook for awareness raising with parents and carers, Brazil

- **Carrying out the campaign.** Children can play a key role in advocating legal and social reform. They can make a valuable contribution in building the case that corporal punishment is both harmful and ineffective as a form of discipline, and that its continued legitimacy discriminates against them – denying them, as the most vulnerable members of society, the same legal protection afforded to adults. They can be effective advocates for change through participation in media events, conferences, seminars and workshops. They can be involved in developing their own campaign strategies.



- **Assessing the success of the campaign.** Children should be involved in assessing the progress of the campaign and can give important feedback on how effective it has been.

### (b) How to involve children

There are many practical ways in which children can be meaningfully involved in campaigning to end corporal punishment. The following list illustrates just some of the activities in which children can take part. Children can:

- be involved in participatory research and consultations which will provide the baseline for planning the campaign
- develop their own media initiatives, e.g. producing their own newsletter, radio programme, TV show, or theatre piece
- be trained to work as peer educators, raising awareness among other children of their right to protection from all forms of violence
- work as peer mediators, helping other children to explore non-violent approaches to conflict resolution
- help to develop child-friendly campaign and awareness-raising materials
- be encouraged and helped to form their own organisations to campaign for change, e.g. clubs, unions, parliaments, committees
- get involved in school management and be supported to form school councils to work towards creating a safe environment in schools
- get involved in local government, e.g. participating in village committees to raise awareness locally of the extent and nature of the problem and help explore local solutions
- discuss and advocate ending corporal punishment in a range of forums, e.g. in children's clubs, at conferences, with government officials and groups of professional working with children
- report cases of violence, including corporal punishment
- be involved in community-based child protection monitoring and responses.

The reports of the Save the Children's Worldwide Day of Action against violence against children provide useful examples of children's involvement in campaigning against corporal punishment.<sup>81</sup> The principles underpinning children's involvement and how adults can ensure participation is authentic and not tokenistic are discussed in the report *Children's right to be heard and effective child protection*.<sup>82</sup> Further resources are listed in section 6 of this Manual.



Photo from "Stop violence against children. Now!" exhibition, Mongolia

### (c) Issues to consider when working with children to end corporal punishment

#### Understanding the context for children

Corporal punishment is a highly sensitive issue, touching people's lives in very personal ways. The issue goes to the very heart of power relationships between children and adults. Children may feel a strong sense of loyalty to their parents, making it difficult to talk about how they are treated. They may also feel fear, shame and hurt, which can get in the way of being able to express their views. These difficulties can be compounded in countries where children and young people are not encouraged to express their views or participate in decision-making at any level. They may be seen as the property of parents, expected to respect and do what elders tell them.

One strategy to help address these sensitivities is to avoid asking children to describe their own personal experiences and, instead, to create a make-believe character who is interested in finding out about children's lives. The children are then asked questions neutrally, such as:

- What do children feel like when they are smacked?
- Why do children get smacked?

This approach enables young children to talk freely without exposing themselves or their parents. It has been used successfully in a number of studies.<sup>83</sup>



Children campaigning in Peru

<sup>81</sup> For example, see Owen, S. (2008), *Save the Children's Worldwide Day of Action against Violence 20 October 2008*, Stockholm: Save the Children Sweden ([www.endcorporalpunishment.org/pages/pdfs/legalreform/SC Day of Action 2008.pdf](http://www.endcorporalpunishment.org/pages/pdfs/legalreform/SC%20Day%20of%20Action%202008.pdf))

<sup>82</sup> Willow, C. (2010), *Children's right to be heard and effective child protection: A guide for Governments and children's rights advocates on involving children and young people in ending all forms of violence*, Bangkok: Save the Children Sweden, Regional Office for Southeast Asia and the Pacific, at <http://resourcecentre.savethechildren.se>

<sup>83</sup> For example see Willow, C. & Hyder, T. (1998) *It Hurts You Inside: Children Talking about Smacking*, London: Save the Children UK/National Children's Bureau, and Dobbs, T. A. et al. (2006), "No, we don't get a say, children just suffer the consequences: Children talk about family discipline", *The International Journal of Children's Rights*, vol. 14, pp. 137-156

**Bringing the appropriate skills**

Personal commitment and communication skills are essential for working in this sensitive area. Consulting children on any aspect of corporal punishment requires understanding, patience and sensitivity. The nature of what children share may also have an emotional impact on staff. Time and resources should be allocated to ensuring staff are adequately prepared for and supported in this work. Involving children in planning and carrying out the campaign is complex and time consuming. The following skills will enhance the quality of communication with children:

- the ability to feel comfortable with children and to engage with them in whatever style of communication suits the individual or group – e.g. by sitting on the ground with the children, using play, and being able to tolerate expressions of distress, aggression, etc
- the ability to use language and concepts appropriate to the child's age, development and culture
- an acceptance that children who have had distressing experiences may find it extremely difficult to trust an unfamiliar adult. It may take a great deal of time and patience before the child can feel sufficient trust to communicate openly
- an ability to appreciate that children may view their situation very differently from the way adults might see it. Children may fantasise, invent explanations for unfamiliar or frightening events, express themselves in symbolic ways, emphasise issues which may seem unimportant to adults, etc.



*Children Advisory Board elections, Zanzibar*

**Practical considerations for principled participation**

Working with children demands high standards of behaviour. Your organisation's child protection codes, codes of conduct, and so on, should inform all participatory activities with children. In addition, in any activity conducted with children, whether it is research for analysing the situation or involving them in campaign activities, the following points should be considered:

- **Participation and protection.** Ensure that all work with children is in their best interests and does them no harm. There is an automatic power imbalance between adult and child, and the adult's essential duty is to protect the child as well as to give them support throughout the process.
- **Conflicting agendas.** Adults will often accept children's views, but only if they fit in with their own ideas. It is important to be honest in this work, even if the results are not what you or your organisation want to hear. If children appear to support the use of corporal punishment and other breaches of their rights, efforts should be made to understand why this might be and to guide them to a better understanding and acceptance of their worth as human beings and what this means. Protection from violence and humiliation is an inalienable right. Helping children to understand and accept this is vital, but it should not divert or slow down campaigns to prohibit and eliminate all corporal punishment.

- **Informed consent.** Ensure that children know what they are being asked to do and that they have the right to say no. Where children are judged not to have the capacity to consent for themselves, ensure their parents'/carers' consent is obtained for elements of the work which require it. Informed consent means having:
  - » the right to say no without consequences for their personal lives
  - » the right to take enough time to decide whether or not they want to participate
  - » the right not to answer some questions
  - » the right to leave the project any time they want to.
- **Purpose of research.** It is important to be sure that children know the purpose of the activity in which they are being asked to take part, and what contribution their involvement will make to the whole process.
- **Confidentiality and trust.** Because this is such a sensitive area, it is of paramount importance that the information children provide, in whatever format, is treated with respect and within agreed boundaries of confidentiality.
- **Clarity.** Be clear about how much time each activity will take and what the outcomes will be.
- **Payment or compensation.** Consider whether young people will be paid for actively contributing to the process. If so, how much? There are no set answers here, but the issue must be considered in each context.
- **Personal welfare of participants and researchers.** Children's welfare must be properly promoted, by giving them all necessary support throughout the process.
- **An inclusive focus.** Ensure equal participation of boys and girls, children with disabilities or any other special needs, minority ethnic children, etc.



*Postcard from Children Are Unbeatable! campaign in UK*



### Summary of section 2

We already know a great deal about corporal punishment of children, in terms of its widespread use, its negative effects, and the laws underpinning its acceptability. We already know that to realise children's human rights, to ensure states fulfil their international human rights obligations, and to provide a safe foundation for child protection, corporal punishment must be prohibited and eliminated. A rights-based analysis of the situation in your country is an important aspect of addressing the problem of corporal punishment, though it does not need to be completed before work can begin on promoting legal and social change.

A rights-based analysis involves:

- reviewing the legality of corporal punishment of children in all settings, finding the relevant laws in relation to the home, schools, alternative care settings, the penal system, etc. A good place to start is with the Global Initiative to End All Corporal Punishment of Children which publishes reports on the legality of corporal punishment in every country on its website ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)) and is always pleased to offer support and guidance on reviewing the law (email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org));
- mapping the prevalence of corporal punishment, including by asking children themselves. You can be confident that, unless the problem has already been addressed, corporal punishment will be widely used. Proper research will help to make the problem visible, and can be particularly useful in the face of official denial and resistance to law reform;
- identifying factors contributing to the use of corporal punishment and the obstacles to reform. Understanding why people hit and hurt children in the name of discipline will help you to develop a strategy for prohibiting and eliminating it that is effective and well targeted, addressing people's real concerns, etc. But remember that children's right to protection from all corporal punishment is immediate and change should not have to wait for other conditions to be dealt with first.

The analysis will inform your priorities for action. In setting your priorities, again involving children themselves, efforts should focus simultaneously on promoting law reform and social - behavioural and attitudinal - change. The ultimate goals are law reform to prohibit all corporal punishment, including in the home, and a significant decrease in the use and severity of corporal punishment.



# 3

## Ending the legality of corporal punishment

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- 3.1 Drafting prohibiting legislation
  - (a) Repealing all defences and authorisations of corporal punishment
  - (b) Enacting explicit prohibition
- 3.2 Understanding implementation of prohibition
  - (a) Implementing prohibition in the home
  - (b) Implementing prohibition in settings outside the home
- 3.3 Developing a strategy for achieving prohibition
  - (a) Establishing the context for the strategy
  - (b) Identifying objectives and how to achieve them
- 3.4 Working with government and parliament
  - (a) The roles of government and parliament in law reform
  - (b) How to lobby government
  - (c) How to lobby parliament
- 3.5 Using legal action to achieve reform
  - (a) Using the UNCRC as a legal instrument
  - (b) Using national legal systems to challenge corporal punishment
  - (c) Getting and using an expert legal opinion
  - (d) Using international and regional human rights mechanisms

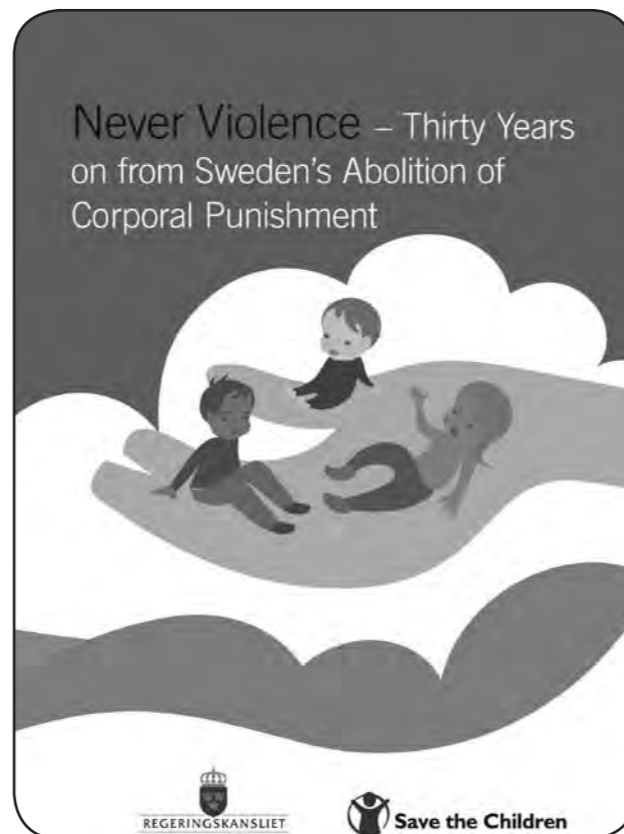
### 3.1 Drafting prohibiting legislation

Once a thorough review of existing relevant law has been completed as part of the rights-based analysis (see section 2.1a), the next steps are to identify exactly what is needed in the place of the laws allowing corporal punishment and to draft new legislation. The task of prohibiting corporal punishment is often overcomplicated. **The aim is simply to make sure that the law is clear and unambiguous and explicitly prohibits all corporal punishment and other cruel or degrading punishment of children in all settings.**

The extent to which you are directly involved in drafting new legislation will depend on the particular process of law reform in your country (see section 3.3) but it is important to understand what is required so that you can ensure law reform does actually achieve prohibition. And drafting and publicising concrete proposals for new legislation is an important and useful step when initiating advocacy for law reform from scratch. It also ensures you have proposals for changes in legislation ready to hand to enable you to respond to opportunities as they arise (see section 3.3a).

The necessary legislation to prohibit all corporal punishment should be drafted as soon as possible after the review. This is because:

- the process of reviewing existing legislation may have revealed immediate opportunities to achieve reform, such as bills under discussion relating to the family, juvenile justice, education, domestic violence, etc. You will need to approach this carefully. Hasty and ill-thought through moves can cause a serious backlash. But trying to amend laws only recently enacted can be difficult if you have not engaged with earlier debates
- you will have proposals ready to hand to inform your policies and to enable you to respond to opportunities as they arise
- it ensures the draft is based on the law as it currently stands - if you delay it too long, other laws/regulations may come into force which may make your proposals out of date or incomplete.



Cover of book celebrating 30th anniversary of prohibition in Sweden

There are **two essential components of law reform** to achieve prohibition:

- removing (repealing) all defences and authorisations of corporal punishment
- enacting explicit prohibition of corporal punishment and other cruel and degrading punishment.

#### (a) Repealing all defences and authorisations of corporal punishment

One outcome of your review of existing law should be a comprehensive list of all legal provisions authorising corporal punishment and all legal defences for its use. This list should include precise legal references - the name of the law, the number of the section or article, and the text (see section 2.1a). These are the legal provisions which must be repealed (removed from the law).

Once all authorisations and defences for corporal punishment are removed, the basic criminal law on assault will apply to children. This means that any assault, including in the

context of punishment or discipline, will be unlawful. Children, like adults, will be protected by the criminal law wherever they are and whoever the perpetrator. But to send a clear message, explicit prohibition of corporal punishment should also be stated in legislation applying to the family, juvenile justice, education, child protection and so on.

“When the Committee on the Rights of the Child has raised eliminating corporal punishment with certain States during the examination of their reports, governmental representatives have sometimes suggested that some level of ‘reasonable’ or ‘moderate’ corporal punishment can be justified as in the ‘best interests’ of the child. The Committee has identified, as an important general principle, the Convention’s requirement that the best interests of the child should be a primary consideration in all actions concerning children (art. 3, para. 4). The Convention also asserts, in article 18, that the best interests of the child will be parents’ basic concern. But interpretation of a child’s best interests must be consistent with the whole Convention, including the obligation to protect children from all forms of violence and the requirement to give due weight to the child’s views; it cannot be used to justify practices, including corporal punishment and other forms of cruel or degrading punishment, which conflict with the child’s human dignity and right to physical integrity.

“The preamble to the Convention upholds the family as ‘the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children’. The Convention requires States to respect and support families. There is no conflict whatsoever with States’ obligation to ensure that the human dignity and physical integrity of children within the family receive full protection alongside other family members.”

*Committee on the Rights of the Child, General Comment No. 8, paras. 26 and 27*

#### (b) Enacting explicit prohibition

The two most important tasks in enacting explicit prohibition are:

- deciding whether to amend existing laws or enact new legislation or both
- getting the language right.

#### Amending existing law and enacting new legislation

Simply removing legal defences and authorisations for corporal punishment is a “silent” reform. It does not send a clear educational message to society that corporal punishment is unlawful. The law needs to be clear and explicit so that adults and courts cannot misinterpret it. Prohibition is achieved when the repeal of the defence is accompanied by the insertion of a statement which makes it clear that assault can no longer be justified as punishment or correction.

Where there are no defences to be repealed, the task is to bring in new legislation to explicitly prohibit all corporal punishment. Ideally, prohibition is included in legislation which recognises children’s rights wherever they are - home, school, workplace, institutions. This can be achieved by inserting an article into existing child law, or by enacting a new law specifically to achieve prohibition.

There is an irrational logic behind banning corporal punishment first in penal systems, then in schools, and lastly in homes. The home is where children spend most of their time. But prohibition of corporal punishment in the home is usually left until last because traditional attitudes to children and to the privacy of family life make it the most difficult reform for governments to pursue.

Some countries which have achieved prohibition have enacted a new law prohibiting all corporal punishment and other cruel and degrading punishment, and included in this a series of amendments and repeals to other legal provisions on corporal punishment. **The important thing is to ensure no loopholes are left which could be construed as allowing corporal punishment in any setting.**

Finally, although not strictly necessary, some governments have found that parents and others are reassured if the legislation which prohibits all corporal punishment also confirms that reasonable force may be used for protective purposes.

### Getting the language right

Many people believe corporal punishment is already unlawful under legislation which prohibits “violence” or “inhuman or degrading treatment”, or which protects “physical integrity” or “personal honour and dignity”. These phrases are sometimes included in draft legislation in the belief that they do the job of prohibiting all corporal punishment.

But because corporal punishment is almost universally socially and culturally accepted as a disciplinary measure in childrearing, it has typically not been viewed as harmful, abusive or even violent. To explicitly prohibit corporal punishment, the law must use the words “corporal punishment”.

Ideally, the law should simply state that “all corporal punishment and other cruel or degrading punishment of children is prohibited”. This statement should be found in legislation relating to children in all settings and applicable to all adults with any kind of authority over children.

If it is necessary to define corporal punishment, the definition adopted by the Committee on the Rights of the Child should be the reference point (see section 1.1). This makes clear that all forms and degrees of corporal punishment should be prohibited. States do not compromise over protecting other population groups – e.g. women or older people – from all forms of violence. Children have a right to equal protection.

Sometimes legislation is drafted which prohibits only corporal punishment that causes harm. This misleadingly implies that there is a form of corporal punishment that does not cause harm. It supports the common belief that a certain degree of corporal punishment in childrearing is acceptable and even for a child’s own “good”.

The terms “corporal punishment” and “physical punishment” have exactly the same meaning and are interchangeable. The phrase “physical and humiliating punishment” misleadingly suggests that physical punishment is not itself humiliating. It is preferable to spell out that law reform is aimed at prohibiting “corporal/physical punishment and all other forms of cruel or degrading punishment”. This reflects the language in article 37 of the Convention on the Rights of the Child and in the Committee’s General Comment No. 8.

Occasionally, it appears that a country may face the situation of not having words for “corporal punishment” in the language. This does not mean, of course, that physical punishment is not used in childrearing. The challenge is to find a way to make explicitly clear in legislation that existing prohibitions of, for example, violence, assault, and humiliation, apply in the context of disciplining children.

**The only way to ensure clear, uncompromising prohibition of all corporal punishment is to use clear, uncompromising language in legislation.**

#### Examples of explicit prohibition

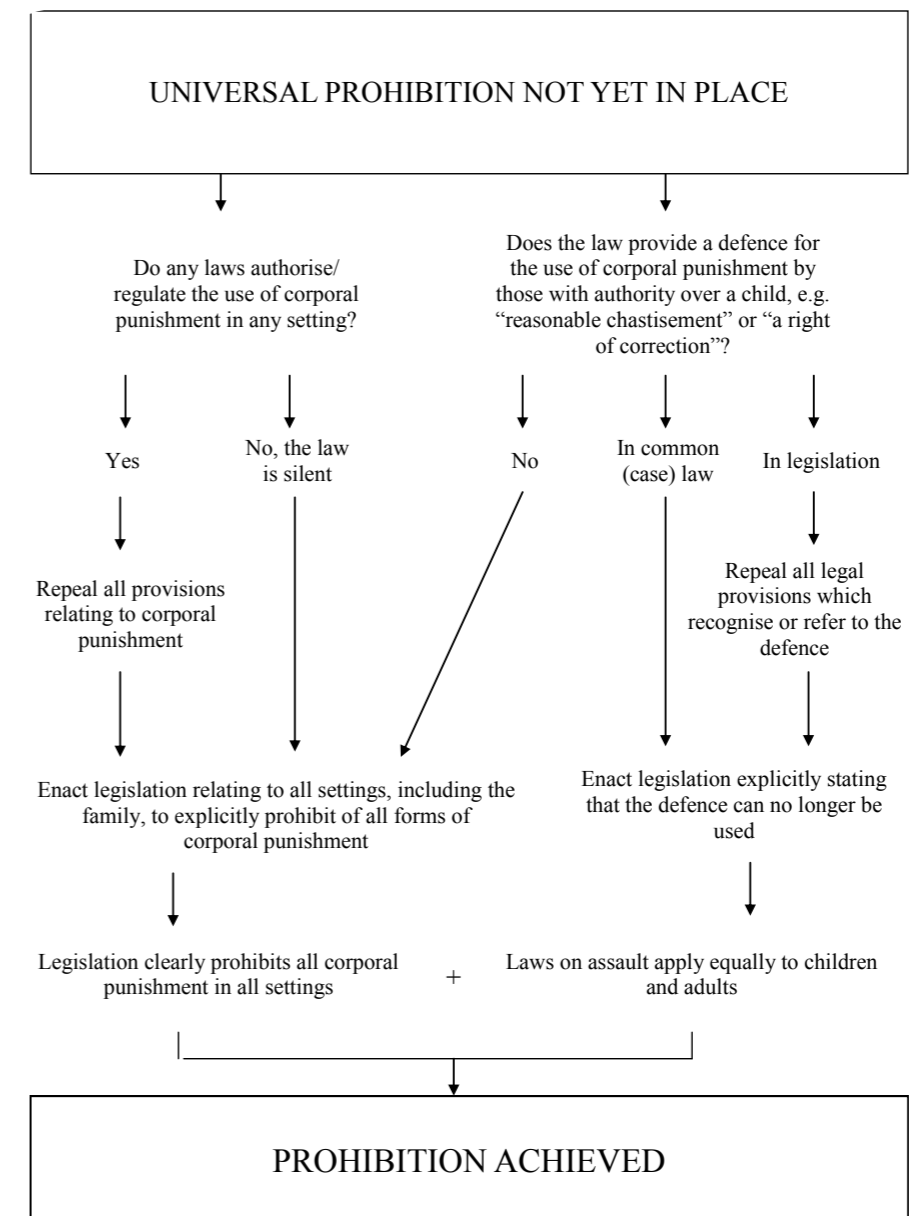
“Children are entitled to care, security and a good upbringing. Children are to be treated with respect for their person and individuality and may not be subjected to corporal punishment or any other humiliating treatment.” (Sweden, Parenthood and Guardianship Code, amended 1979, article 1)

“Physical punishment of the child by the parents, as well as other inhuman or degrading treatment or punishment are prohibited.” (Ukraine, Family Code, 2003, article 150)

“Parental authority confers the rights and imposes the duties to orient, educate, care, supervise and discipline the children, which in no case authorises the use of corporal punishment or any other form of degrading treatment against the minors.” (Costa Rica, Family Code, amended 2008, article 143)

The following diagram summarises the process of law reform to achieve explicit prohibition of all corporal punishment and other cruel or degrading punishment of children.

For further information on law reform, see the legal reform handbook, *Prohibiting corporal punishment of children: A guide to legal reform and other measures*, published by the Global Initiative to End All Corporal Punishment of Children in January 2008, revised February 2009,<sup>84</sup> and other resources listed in section 6.1 of this Manual.



## 3.2 Understanding implementation of prohibition

Campaigning effectively for law reform must involve an understanding of how the new law will work in practice. Once the law explicitly prohibits all corporal punishment of children, their rights to equal protection under the law, to respect for their human dignity and physical integrity and to legal protection from all forms of violence will be realised. But many people

<sup>84</sup> Available at [www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbook2008.pdf](http://www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbook2008.pdf) (English), [www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbookFrench.pdf](http://www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbookFrench.pdf) (French) and [www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbookSpanish.pdf](http://www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbookSpanish.pdf) (Spanish)



will question how such legislation could be enforced and/or will have anxieties about the negative effects of enforcement.

Understanding the key issues in implementing prohibition will help you to address the concerns raised. It will also help you begin to break down the barriers to achieving law reform by countering misinformation and unfounded fears.

### (a) Implementing prohibition in the home

The ultimate aim of prohibition is education and deterrence – to achieve protection rather than simply to prosecute perpetrators. Implementation of the law should always be guided by the best interests of the child. Prosecution signifies the failure of the law effectively to deter and prevent a child being assaulted. To deter parents from using corporal punishment in the privacy of their homes, the law needs to send a very clear message: that is its real purpose. A clear law that prohibits all corporal punishment enables all those working with and for families and children to promote this message.

But fear of increased prosecutions of parents as a consequence of legal reform can be a significant barrier. How to address this and similar concerns must form part of your campaign strategy.



Launch of law reform campaign in the Philippines

### Focusing on equal protection

When law reform to prohibit corporal punishment in the home is advocated, opponents tend to suggest it will lead to parents being prosecuted and imprisoned, or children being taken into care or turning against their parents etc. But states which have achieved law reform offer no evidence to support this view.

Equal protection for children means that assault of a child which would be considered a criminal assault if directed at an adult, will be a criminal offence. But criminalising all parental corporal punishment does not mean automatic or frequent prosecution of parents.

Prosecution of parents is very seldom in the interests of children, because children are dependent on their parents. In extreme cases of serious and continuing abuse, separating children from their parents may be the only way to protect them, but in those cases, according to the Convention on the Rights of the Child (article 9), there must be a court hearing, with the parents and child represented, focusing on the best interests of the child. In exceptional cases, where it is believed the child is at risk of severe violence, it may be necessary immediately to remove the child – or the perpetrator – to protect the child; but such measures should be temporary and only continued following a court hearing.

In every case in which corporal punishment in the family comes to light, the first aim must be to seek help for parents and children through voluntary positive interventions – offers of advice, discussions with other parents, etc – which can help to stop corporal punishment of children.

### Controlling prosecution policy in relation to corporal punishment by parents

In most countries, there is some sort of code or advice which determines the point at which prosecution for a crime should go ahead. There are usually certain tests that must be satisfied, for example:

- that there is sufficient evidence to make conviction likely
- that prosecution is in the public interest.

Although a government's human rights obligations require all assaults of children to be criminalised, the special status of children means there should be guidance to ensure that charging parents with offences and proceeding to prosecute them is an exceptional measure. Prosecution should only proceed when it appears to be the only way to protect the child effectively and when other supportive interventions have failed. Detailed guidance may be required for all those involved in child protection, including social workers, health workers, teachers, police, etc.

In campaigning for legal reform, it can usefully be emphasised that minor assaults on adults by adults, while clearly unlawful, very seldom get to court. In many states, the *de minimis* principle is recognised, i.e. the law does not concern itself with trivial matters. Minor assaults on children, and particularly on babies and young children who are probably the most frequent victims of physical punishment, are even less likely to go to court because of the lack of suitable evidence. Calling assaults “minor” does not mean they are unimportant or should be ignored or considered lawful. It means that the response needs to be positive and supportive, not negative and punitive. Some opponents of law reform will then respond: “But what is the point of a law if it is unenforceable?” The answer is that the law is enforceable if the required evidence exists, just as the law on assault is used to prosecute adults who assault other adults, men who assault women, etc. In the few cases in which prosecution is necessary to protect a child, it will be easier because there will no longer be any defence available to parents and others.



Children reading comic about positive discipline, Namibia

### Strengthening the deterrent effect of prohibition

The responses to parents who physically punish their children discussed above address what should happen when the educative function of the law fails. But prevention is better. When prohibition in law has been achieved, the “message” of the law reform – that hitting children is never acceptable in childrearing – can be significantly strengthened by the following measures:

- comprehensive and sustained awareness raising and public education about the law
- widespread promotion of positive parenting
- the provision of information about the law and about non-violent parenting techniques at all points of contact between professionals and families, including health centres, pre-school and education settings, prenatal and antenatal services, libraries, youth centres, etc
- information on the law and education and training on positive ways to raise children for all professionals working with and for families and children.

The promotion of positive parenting is an integral part of effective implementation of prohibition in law. It builds on your experiences of promoting attitudinal and behavioural change alongside the promotion of law reform (see section 4). But it is not a prerequisite for law reform. **There is no justification for delaying law reform until sufficient awareness has been raised about the alternatives.** The argument that corporal punishment cannot be prohibited until parents have developed the skills to bring up their children without it is unacceptable. If we had waited for universal anger management for men before enacting laws against domestic violence, women would still be being lawfully beaten in the home.

“The principle of equal protection of children and adults from assault, including within the family, does not mean that all cases of corporal punishment of children by their parents that come to light should lead to prosecution of parents. The *de minimis* principle - that the law does not concern itself with trivial matters - ensures that minor assaults between adults only come to court in very exceptional circumstances; the same will be true of minor assaults on children. States need to develop effective reporting and referral mechanisms. While all reports of violence against children should be appropriately investigated and their protection from significant harm assured, the aim should be to stop parents from using violent or other cruel or degrading punishments through supportive and educational, not punitive, interventions.

“Children’s dependent status and the unique intimacy of family relations demand that decisions to prosecute parents, or to formally intervene in the family in other ways, should be taken with very great care. Prosecuting parents is in most cases unlikely to be in their children’s best interests. It is the Committee’s view that prosecution and other formal interventions (for example, to remove the child or remove the perpetrator) should only proceed when they are regarded both as necessary to protect the child from significant harm and as being in the best interests of the affected child. The affected child’s views should be given due weight, according to his or her age and maturity.”

*Committee on the Rights of the Child, General Comment No. 8, paras. 40 and 41*

### (b) Implementing prohibition in settings outside the home

When corporal punishment has been explicitly prohibited and legal defences and authorisations for its use have been repealed, the criminal law on assault will apply equally to children wherever they are. The criminal law can therefore be relied upon in the prosecution of teachers, professionals and other adults working with children who inflict corporal punishment on children.

Obviously, the best outcome for children is to prevent the use of corporal punishment in the first place, and prohibition in law can be supported by:

- ensuring that one condition of employment for adults working with children in schools and other settings is a commitment to not using corporal punishment or any other cruel or degrading forms of punishment
- incorporating in employment conditions a system of formal warning, suspension and ultimately dismissal for those who use corporal punishment, together with the threat of prosecution, to act as a deterrent
- guidance, if it is felt necessary, regarding when reasonable physical force may be used - only for protection purposes
- establishing independent inspection and monitoring of schools and care and justice settings, including discussions with children in private about their experiences
- developing complaints procedures accessible to staff and children
- ensuring protection against reprisals for those who report the use of corporal punishment
- government directions to all providers of services for children to develop codes of conduct for staff that confirm and reinforce the prohibition of corporal punishment and other cruel or degrading punishment of children

- awareness raising for staff on the law, the negative effects of corporal punishment and children’s rights to respect for their human dignity and physical integrity, and education and training on positive discipline, non-violent conflict resolution, etc.

As with prohibition in the home, efforts to achieve law reform to prohibit corporal punishment in schools and other settings should not be delayed in the belief that teachers and others first need to be convinced about the alternatives. The promotion of positive discipline should happen alongside the campaign for law reform and then continue beyond it.

“Where, despite prohibition and positive education and training programmes, cases of corporal punishment come to light outside the family home - in schools, other institutions and forms of alternative care, for example - prosecution may be a reasonable response. The threat to the perpetrator of other disciplinary action or dismissal should also act as a clear deterrent. It is essential that the prohibition of all corporal punishment and other cruel or degrading punishment, and the sanctions that may be imposed if it is inflicted, should be well disseminated to children and to all those working with or for children in all settings. Monitoring disciplinary systems and the treatment of children must be part of the sustained supervision of all institutions and placements which is required by the Convention. Children and their representatives in all such placements must have immediate and confidential access to child-sensitive advice, advocacy and complaints procedures and ultimately to the courts, with necessary legal and other assistance. In institutions, there should be a requirement to report and to review any violent incidents.”

*Committee on the Rights of the Child, General Comment No. 8, para. 43*

### Key elements of law reform and its implementation

- repeal of all legal defences and all laws or regulations authorising corporal punishment to ensure the criminal law on assault applies equally to assault on a child, wherever the child is and whoever the perpetrator
- explicit prohibition of corporal punishment and other cruel or degrading punishment in legislation applying in the various settings of children’s lives - home and family, schools, and care and justice systems
- establishment of a range of appropriate responses and sanctions to address the continued use of corporal punishment by parents and others
- clear direction and training to all providers of services for children and families to support and enforce prohibition
- public and professional education about the law change.

For further information on implementing prohibition, see the Global Initiative legal reform handbook, *Prohibiting corporal punishment of children: A guide to legal reform and other measures*,<sup>85</sup> and other resources listed in section 6.1 of this Manual.

## 3.3 Developing a strategy for achieving prohibition

Effectively working towards prohibiting corporal punishment requires a clear understanding of why prohibition is needed (the human rights imperative), what should be prohibited (all corporal punishment and other cruel or degrading punishment), how prohibition can be enacted (law review and reform), and how to go about making this happen.

We have already discussed some of these issues. The reasons why legal reform is needed are discussed in sections 1.4 and 2.2a; what should be prohibited is addressed in section

<sup>85</sup> Available at [www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbook2008.pdf](http://www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbook2008.pdf) (English), [www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbookFrench.pdf](http://www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbookFrench.pdf) (French) and [www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbookSpanish.pdf](http://www.endcorporalpunishment.org/pages/pdfs/LegalReformHandbookSpanish.pdf) (Spanish)



1.1 and is further expanded in section 3.1; how to carry out a law review is the subject of section 2.1a. This section focuses on how to campaign for law reform to prohibit all corporal punishment.

### (a) Establishing the context for the strategy

It is important to understand the context within which action is to be taken to promote law reform. This requires identification of the following elements:

- **current legal status.** Giving precise legal references, based on the legal review part of the rights-based analysis (see section 2.1a), this includes:
  - » all legal defences for the use of corporal punishment by parents, teachers, etc, in criminal and any other law
  - » all laws and regulations authorising and/or regulating the infliction of corporal punishment, for example in relation to schools or the infliction of corporal punishment by order of the courts
  - » laws which are “silent” about corporal punishment but which really should prohibit it, for example education law or child rights law.

- **necessary law reform.** The settings in which prohibition has not yet been achieved should be identified.

Following the legal review, you will have produced at least an initial draft of prohibiting legislation. For each setting, based on both the legal review and your experiences of drafting prohibiting legislation, you should identify:

- » the laws (or parts of laws) which should be repealed (removed)
- » suggestions on how prohibition could be achieved by amending existing legislation and/or enacting new legislation.

- **opportunities for reform.** You should identify any existing and emerging opportunities for law reform, e.g. reviews of laws that are already happening or planned or new laws being developed, either laws applying generally to children, child protection or family violence, or laws applying to particular settings such as laws relating to the family, education or juvenile justice. In many countries, laws relating to children are being revised to bring them into line with the UN Convention on the Rights of the Child or other human rights treaties. Sometimes, cases of corporal punishment leading to injury or death generate media interest in the issue. All of these can provide opportunities for advocacy for law reform. Too often such opportunities are missed.
- **key parliamentarians and government officials.** It is important to identify high-level supporters of prohibition and those who are likely to support law reform, including:
  - » parliamentarians, government ministers, local government officials, etc
  - » any government/parliamentary representatives who have spoken out publicly against corporal punishment.
- **potential partners/actors.** You should identify all organisations and individuals that do – or are likely to – support law reform, including:



Campaign poster, Romania

- » children’s coalitions, other children’s organisations, human rights organisations, human rights commissions or ombudsmen, legal and professional associations, women’s and community-based organisations already working in the area of law reform on family violence, interpersonal violence, children’s rights, child protection, non-discrimination, etc
- » religious or traditional leaders who are already taking a leadership role on children’s rights, child protection issues, family violence issues
- » influential professionals or prominent popular personalities (e.g. in sport, music, television) who have spoken out publicly against corporal punishment.



“Talk to them” Childline South Africa poster

- **the law reform process in your country.** You need to understand how law reform works. It is helpful in the strategy to identify what is known about each of the following and how to fill in the knowledge gaps:
  - » the process of law-making and law reform – e.g. how are laws proposed, drafted, introduced into parliament and finally enacted? Who are the key decision-makers?
  - » the law reform time frame – e.g. what is the average time frame for legal reform and what are the key stages that must be completed? What is the time frame for the strategy? What are the milestones to aim for along the way to law reform, e.g. discussion of the issue in parliament, community consultations on the issue, tabling of a motion in parliament, etc?
  - » engaging in the law-making process – e.g. who are the key people/institutions that should be lobbied and who should do this lobbying – local politicians, ministers, teachers, care and justice professionals, parents, children? Who will be critical to passing the new law and how can their views be canvassed? Who will be the most formidable obstacles to law reform, who will be central to implementation of any new law, who are your allies – and how can all of these people be engaged in the process of pursuing law reform? (See section 3.4)
- **challenges.** Identify particular obstacles to law reform that will need to be overcome. Common arguments against resistance, and ways to counter them, are discussed in section 1.7, but there may also be specific challenges you will need to meet, such as strong and well organised opposition from particular religious organisations or parenting lobby groups.

### (b) Identifying objectives and how to achieve them

Building on your rights-based analysis and your understanding of the law reform that is necessary and of the context for the campaign, objectives and ways to meet them should be agreed. Objectives should be specific, detailed and clearly focused on law reform. The overall objective in every case is prohibition in all settings, including the home. Where it is felt necessary to focus on a setting outside the home, this should be clearly identified – and promoted – as part of the strategy to achieve full prohibition.

For each objective under the overall goal of prohibition in all settings, identify:

1. the actions required
2. by whom
3. by when
4. key contacts, including named persons within key organisations/institutions
5. the resources and materials necessary



Remember when designing the national strategy that:

- the promotion of law reform to prohibit corporal punishment in all settings should be an integral part of every strategy to end corporal punishment of children. There are many ways to go about it and there is always something that can be done to work towards it
- law reform and awareness raising and public education go hand in hand. They are not separate unrelated activities, but should support one another.
- most countries that have achieved full prohibition, including in the home, have done so ahead of public support – governments should lead, not follow. There is a distinction to be made between, on the one hand, working to educate people while building support for law reform, and, on the other, waiting for public opinion and cultural practices to change before embarking on legal reform. The latter is not acceptable – children have a right to full and equal protection now.

In some situations, where the government and parliament are sympathetic to law reform but public opinion on the issue remains very negative, it may be best to try and achieve law reform quickly and without great public debate. Once the legislation is approved, public education can proceed.

### 3.4 Working with government and parliament

#### (a) *The roles of government and parliament in law reform*

New legislation and amendments to existing legislation are ultimately passed by parliament. It is parliament that must accept the changes, and it is important to build interest and support in parliament as early as possible. But in the majority of cases, it is the government that introduces new laws to parliament. If government has a majority in parliament then the government should be the first target for lobbying because legislation introduced by the government is likely to be passed.

#### Ways of introducing draft laws (bills) into parliament

There are usually five different routes for getting legislation into parliament to prohibit all corporal punishment:

1. Government introduces a bill to achieve prohibition.
2. The government introduces a more general bill (e.g. child protection, child rights, domestic violence), which includes a provision to prohibit corporal punishment, or a bill to amend existing legislation to prohibit corporal punishment.
3. Government introduces a sectoral bill – i.e. a draft law applicable to family, education, care, juvenile justice, employment, etc – which includes a provision to prohibit corporal punishment in the setting concerned.
4. An individual or group of members of parliament puts down for debate (tables) an amendment to a government bill which is being debated in parliament, e.g. adding a provision to prohibit corporal punishment in the home to a child rights, child protection, or family/domestic violence bill, or adding a provision to prohibit school corporal punishment to an education bill.
5. An individual or group of members of parliament introduces a bill (a private member's bill), as above.<sup>86</sup> Generally, it is much more difficult to get a bill introduced to parliament by a member than to use a government bill.

<sup>86</sup> This is how the New Zealand law reform was achieved. See Wood, B. et al. (2008), *Unreasonable Force: New Zealand's journey towards banning the physical punishment of children*, Save the Children New Zealand (<http://yesvote.org.nz/resources/downloads/>)

#### How a bill becomes law

Some parliaments have just one chamber which debates and accepts or rejects bills by voting. Others have two chambers. The process of considering a bill differs between parliaments, but most have libraries or information departments which provide briefings on parliamentary procedure. This information is often also available on parliamentary websites.

The following example of the passage of a bill through the UK Parliament in Westminster illustrates the kinds of stages that a bill must go through before becoming law. The UK Parliament has two chambers – the House of Commons (elected members of Parliament) and the House of Lords (appointed, not elected). Bills start in one House or the other and normally pass through the following stages:

- First (formal) Reading – presentation of the bill to the House, no debate
- Second Reading – debate in the full House on the whole bill, no amendments
- Committee Stage – a Committee considers the bill in detail, clause by clause, considering and voting on amendments proposed by members (sometimes there is additional examination of the bill by a different sort of Committee which can hear relevant evidence from NGOs etc and then report back to Parliament)
- Report Stage – the bill, as amended in Committee, is reported back to the full House, more amendments can be proposed
- Third Reading – normally no amendments
- Transfer to the other House – if the bill began in the House of Commons it is transferred to the House of Lords (and vice versa), where it goes through a similar process. Any amendments made in the second House are then reported back to the first House for debate, and the bill may go back and forth between the Houses several times before final agreement
- Royal Assent – the bill is sent to the Queen for Royal Assent, when it becomes law.

You will need to become familiar with the process in your country so that you can properly monitor the progress of the bill and be ready to intervene as necessary (see sections 3.4b and 3.4c).



Young people speaking during campaign in Venezuela

**(b) How to lobby government**

The following steps should be taken in lobbying government. Details of how these will be carried out should be identified in your national campaign strategy (see section 3.3).

- **Identify the government department(s) responsible for legislation on corporal punishment.** You should identify the responsible minister(s) and senior official(s), and find out if there is a particular department, such as the Ministry of Justice, which takes the lead and/or if there is one department with overall responsibility for children's policy and implementation of the Convention on the Rights of the Child. There may be a number of departments involved if corporal punishment is currently lawful in a number of settings such as the home, alternative care, schools and the justice system.
- **Identify an organisation or an alliance of organisations which are likely to be most influential in lobbying the government on this issue.**
- **Identify children and young people who you could work with.** Involving children who are well-informed on children's rights, violence against children and the issue of corporal punishment in approaches to government and in meetings can have a significant impact
- **Write to the responsible minister(s) and senior official(s) to raise the issue and request a meeting to discuss it.** This first approach to government could refer to:
  - » recommendations made by the Committee on the Rights of the Child in its concluding observations on the state's reports under the Convention on the Rights of the Child, and the Committee's General Comment No. 8 (2006) on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia)"
  - » the recommendations of the UN Secretary General's Study on Violence against Children
  - » a summary of the current legal status of corporal punishment in the home, schools, penal system and alternative care settings (see section 2.1a)
  - » a summary of the reforms needed to achieve full prohibition, based on the results of your review of existing law (see section 3.1)
  - » relevant new national and existing research on the prevalence, nature and effects of corporal punishment (see sections 1.3 and 1.5).
- **Keep following up letters, calls, requests, etc.** Lobbying can be a long drawn out process and government officials have many competing demands on their time and attention. It is important to keep the issue on their agenda once it has been raised.



Ms Agnes Aidoo, UN Committee on the Rights of the Child, responding to children's questions, Ghana

**(c) How to lobby parliament**

Lobbying of parliament should begin as early as possible.

- **Identify members of parliament who are sympathetic to prohibition.** These should be as senior as possible.
- **Discuss strategies for increasing support among parliamentarians.** This should be done before encouraging open debate in parliament in order to avoid provoking opposition too early in the process.
- **Raise the issue in parliament.** There are a number of ways this can be done:
  - » Using written or oral parliamentary questions. Most parliaments have procedures for members of parliament to ask written questions (which the relevant minister must answer in writing within a specified time limit and the answers published in the formal record of parliament) or oral questions (which the minister answers in person, sometimes followed by a short debate). You can ask a member of parliament to ask questions about (i) the law on corporal punishment in different settings, (ii) what action the government is taking to fulfil its human rights obligations to prohibit and eliminate corporal punishment, (iii) what is known about the prevalence of corporal punishment, and/or (iv) the issue of corporal punishment in relation to a topical concern, such as a case of corporal punishment in the media, a new research report, new human rights recommendations, etc.
  - » Organising meetings/inquiries. You can ask a member or group of members of parliament, or an appropriate parliamentary committee, to (i) call a meeting including representatives of NGOs, human rights institutions and children to discuss prohibiting and eliminating corporal punishment, (ii) initiate an inquiry into corporal punishment or into violence against children including corporal punishment, calling for evidence from NGOs, children and others, (iii) initiate a debate in parliament on ending corporal punishment.
  - » Approach the headquarters of political parties, find out who is responsible for policy on children's issues and find ways to get the issue raised within the political party structure, so that members of the party can raise it in parliament. You should begin with the party most likely to be sympathetic.
- **Be aware of all possible opportunities for law reform (see section 3.3a).**
- **Be well informed.** Understand the existing law and the changes needed to achieve clear prohibition (see sections 2.1 and 3.1).
- **Understand the process of law reform in your country.** Understanding how legislation can be introduced into parliament in your country and the parliamentary process by which draft laws (bills) become law will enable you to monitor the progress of the bill and be ready to intervene as necessary, e.g. by providing information, advice and encouragement to those supporting the bill within parliament (see section 3.3a).
- **Develop a strong set of arguments for prohibition.** It is a good idea to test these among sympathisers in parliament, who can give you feedback on the likely counter arguments that will need to be addressed and enable you to rehearse, refine and strengthen your arguments. Be prepared to respond to "frequently asked questions"



Children campaigning in Romania



about prohibition, including from parliamentarians who are sympathetic to the issue (see section 1.7).<sup>87</sup>

- **Draft clear and succinct briefings for parliamentarians.** These should be as brief and to the point as possible (more detail can be sent if necessary). Test them on sympathetic parliamentarians and revise as necessary.<sup>88</sup>
- **Set up a database of members of parliament.** Include contact details for them and their staff so you can email, fax and/or hand deliver briefings quickly and efficiently.
- **Develop a good understanding of the views of the government and the various political parties on the issue, including the views of individual members.**
- **Do not brief known strong opponents of law reform.** These are unlikely to be converted and briefing them may simply provoke more active opposition.



“Touch Them” Childline South Africa poster

### 3.5 Using legal action to achieve reform

This section describes the various legal mechanisms available to challenge governments’ lack of action to prohibit all corporal punishment. In 2010, the Global Initiative began developing briefings on countries where there is no progress towards prohibition and no government commitment to the issue, with the aim of promoting legal action and/or the use of international or regional human rights mechanisms to increase the pressure on governments. For further information, contact [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).

#### (a) Using the UNCRC as a legal instrument

In countries where governments are refusing to introduce law reform or are actively opposing it, international human rights law and national law can be used to “force” them to accept their obligations to realise children’s rights. The idea of using the law frightens some people, but it should not. **You do not need to be a lawyer in order to use the law.**

When states are examined on their implementation of the Convention on the Rights of the Child by the Committee on the Rights of the Child, the Committee, where necessary, recommends explicit prohibition of all corporal punishment. If states do not comply, the recommendation is repeated at the next examination. The Committee has no power to enforce its recommendations, but they provide material for advocates to use to put pressure on governments. Publicity about the Committee’s concerns and recommendations can embarrass states internationally.

How effective the Committee’s recommendations are depends on governments’ willingness to make changes to respect children’s rights and on the strength of advocacy by NGOs, human rights institutions and others using the Committee’s recommendations. Organisations can add to this pressure, e.g. by producing an annual report to show what action the government has taken or failed to take to fulfil the recommendations of the Committee on the Rights of the Child and other relevant treaty monitoring bodies.

But where this sort of pressure is failing to persuade governments to respect children’s rights, you should consider making use of the Convention as a legal instrument. This means challenging the government’s failure to fulfil its legal obligations under the Convention in the courts and, if necessary, through applications to regional or international human rights mechanisms.

<sup>87</sup> See also Global Initiative to End all Corporal Punishment of Children (2009), *Prohibiting all corporal punishment of children: Frequently Asked Questions* at [www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-English.pdf](http://www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-English.pdf) (English), [www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-French.pdf](http://www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-French.pdf) (French) and [www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-Spanish.pdf](http://www.endcorporalpunishment.org/pages/pdfs/FAQ-Adults-Spanish.pdf) (Spanish)

<sup>88</sup> The website of Epoch New Zealand ([www.epochnz.org.nz](http://www.epochnz.org.nz), [epochnz@gmail.com](mailto:epochnz@gmail.com)) includes an archive of materials used during the successful campaign for prohibition in New Zealand, including briefings to MPs, submissions to government, media items and campaign materials.

#### (b) Using national legal systems to challenge corporal punishment

##### Incorporation of the UN Convention on the Rights of the Child

The Convention on the Rights of the Child is a legal instrument. It is an integral part of international human rights law, and when states ratify it they take on legal obligations to implement it fully, including to enact legislation prohibiting all corporal punishment of children (see section 1.4).

States have different ways of treating international instruments, in relation to their domestic law, when they ratify them. In some states, on ratification the instrument automatically becomes part of (is incorporated into) national domestic law, and takes precedence over domestic law. It should then be able to be used in courts to claim the rights guaranteed by the Convention. In other states, incorporation is not automatic but requires some action of parliament. In some states, the status of the Convention on the Rights of the Child will only be established when someone takes a case to court. In states where incorporation is not automatic, the state is under an obligation to ensure that all its domestic law is fully compliant with the Convention.

In all cases, governments need to be reminded that the Convention on the Rights of the Child imposes legal obligations under international law. The Vienna Convention on the Law on Treaties emphasises that accepting human rights instruments means taking on legal obligations. It states that the existence of domestic law which is in conflict with these obligations cannot be used as an excuse for not complying fully.

##### Constitutional and other domestic law

Most states have a provision in their Constitution or other basic law that conflicts with laws authorising or justifying corporal punishment. Most Constitutions include rights to protection of “everyone’s” human dignity and physical integrity, to protection from cruel or degrading punishment or treatment, and to equal protection under the law. These provisions may be reflected in child protection or other child rights laws. These national laws can be used to challenge corporal punishment of children in all or some settings, in addition to quoting the obligations that come from the international instruments which the state has ratified.

In taking legal action to challenge the legality of corporal punishment, the complaint is against the state. The final authority in the case depends on the national legal system.

#### (c) Getting and using an expert legal opinion

An expert legal opinion is extremely useful when progress towards prohibition is not being made, or is being resisted. A legal opinion is essential in challenging the legality of corporal punishment in the courts or through the use of international and/or regional human rights mechanisms (see section 3.5d).

##### Getting a legal opinion

A legal opinion is obtained by commissioning a lawyer to produce one. In doing so, you should ensure that:

- it is written by a lawyer who believes in children’s rights and is fully supportive of the human rights imperative to prohibit



Signing a declaration, Afghanistan



all corporal punishment of children. These shared values are important if the collaboration is to be successful

- it addresses the extent to which the law allowing corporal punishment is in conflict with the international human rights instruments the state has ratified, including the Convention on the Rights of the Child, and relevant provisions in the Constitution and other domestic law, as well as how this conflict can be challenged in the national legal system and, if necessary, by using regional or international human rights mechanisms (see section 3.5d).

It may be useful for the opinion to cite the many important and clear judgments made in high-level national courts in other states which support the case for prohibition, e.g. where courts have declared laws allowing corporal punishment unconstitutional because they breach the right to respect for human dignity and to protection from cruel or degrading treatment or punishment. Most judgments to date refer only to penal or school corporal punishment, but some also refer to the family home. Relevant judgments have been made in Costa Rica, Fiji, Italy, Kenya, Nepal, South Africa and other states.<sup>89</sup> (The Global Initiative will provide detailed advice on the development of a legal opinion: email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).)

### Using the legal opinion



*Marching to raise awareness of child abuse in Zambia*

In using the legal opinion, remember:

- its primary purpose is to advise on how legislation allowing corporal punishment could be challenged in the courts, but sometimes simply threatening to take legal action can be sufficient to provoke action
- the decision to take the challenge to the courts should follow a careful assessment of the risks of such action, especially the risk of losing the case and creating a bad precedent. Bad judgments can be challenged, but it is critical to ensure that the lawyers you commission have a good reputation and have prepared the case in detail in advance
- taking or threatening legal action should be part of a comprehensive strategy to promote law reform and not an isolated approach to the issue. It should be linked to other strategies, such as parliamentary lobbying, community involvement, use of the media, and – where appropriate – children’s participation (this may include the development of a child-friendly version of the legal opinion).

<sup>89</sup> Further details of these judgments are available on the website of the Global Initiative ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

### (d) Using international and regional human rights mechanisms

International and regional human rights mechanisms are complaints/communication mechanisms allowing individuals or groups to make applications claiming their rights have been breached. They provide a means to increase pressure on national governments which are not fulfilling children’s right to protection from all corporal punishment. To be able to use a particular mechanism, the state must have ratified (accepted) the use of the mechanism by its citizens. These mechanisms usually require that any possible use of national legal systems has been tried and has failed – known as “exhausting domestic remedies”. They nearly always require an actual victim(s) to make a case.

#### International complaints/communications mechanisms

There are complaints/communications mechanisms linked to the following international human rights instruments which could be used to challenge the legality of corporal punishment in certain circumstances. Where a state has ratified one or more of these instruments and has ratified the relevant optional protocol or made the required declaration, and where efforts to challenge the legality of corporal punishment using the domestic legal system have failed, there is potential to use the mechanism to bring pressure on the state to prohibit corporal punishment.

- the **International Covenant on Civil and Political Rights** (Human Rights Committee)
- the **UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** (Committee Against Torture)
- the **UN Convention on the Elimination of All Forms of Discrimination against Women** (Committee on the Elimination of Discrimination Against Women)
- the **UN Convention on the Rights of Persons with Disabilities** (Committee on the Rights of Persons with Disabilities)

For further information on using these mechanisms see [www2.ohchr.org/english/bodies/petitions/](http://www2.ohchr.org/english/bodies/petitions/) and [www.crin.org/law/mechanisms\\_index.asp](http://www.crin.org/law/mechanisms_index.asp).

The Human Rights Council has established a working group to draft a new Optional Protocol to the Convention on the Rights of the Child to provide a communications procedure.<sup>90</sup>

#### Regional complaints/communications mechanisms

Some regional human rights instruments also have associated complaints/communications mechanisms:

- the **American Declaration of the Rights and Duties of Man** and the **American Convention on Human Rights** (Inter-American Commission on Human Rights and Inter-American Court of Human Rights)
- the **African Charter on Human and People’s Rights** (African Commission on Human and People’s Rights, African Court on Human and People’s Rights)
- the **African Charter on the Rights and Welfare of the Child** (African Committee of Experts on the Rights and Welfare of the Child)
- the **European Convention on Human Rights and Fundamental Freedoms** (European Court of Human Rights)
- the **European Social Charter** and the **Revised Social Charter** (European Committee of Social Rights).



*Campaigning in Uruguay*

<sup>90</sup> For further information see the website of the Child Rights Information Network ([www.crin.org/law/CRC\\_complaints/](http://www.crin.org/law/CRC_complaints/))

There has been some success at challenging the legality of corporal punishment through the complaints mechanisms of some regions. The African Commission on Human and People's Rights issued a decision against the whipping of students in Sudan, declaring that the law which authorised it was not in compliance with the Charter. The European Court of Human Rights has issued a succession of decisions since 1973, progressively condemning corporal punishment. Under the "collective complaints" system, which allows complaints to be submitted without the need to identify an individual victim, the European Committee of Social Rights has found a number of states to be "not in conformity" with the European Social Charter because corporal punishment is not prohibited in all settings.<sup>91</sup>

### Summary of section 3

Ending the legality of corporal punishment - that is, achieving law reform to prohibit corporal punishment of children in all settings, including the home - begins with drafting prohibiting legislation. This involves:

- repealing all defences and authorisations of corporal punishment, and
- enacting explicit prohibition.

Drafting prohibiting legislation may mean amending existing laws and/or enacting a completely new law, depending on the results of your review of existing legislation. The new law should be clear and explicit. Your efforts to promote law reform will be more effective if you understand clearly how the law will be implemented, with regard to the family home and in settings outside the home.

You will need to develop a clear strategy for promoting law reform which involves:

- identifying the current legal status of corporal punishment in the various settings
- specifying the law reform that is necessary
- identifying existing and potential opportunities for promoting law reform, as well as how you could initiate a campaign in the apparent absence of such possibilities
- identifying key supporters of prohibition in parliament and government
- identifying potential partners - organisations and individuals that support or are likely to support prohibition
- understanding the law reform process in your country
- specifying how you plan to overcome the challenges you know you will face.

The ultimate goal is to ensure that the law clearly and explicitly prohibits all forms of corporal punishment of children in all settings.

You should also consider how you could use legal action to challenge governments which continue to resist law reform, including using the Convention on the Rights of the Child as the legal instrument that it is and using the complaints and communications mechanisms under the various human rights treaties.

Remember, you don't have to be a lawyer in order to use the law. The Global Initiative is always pleased to give technical support and advice regarding law reform and how to promote it (email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)).

<sup>91</sup> For details of these judgments and decisions see the website of the Global Initiative ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

# Ending the practice of corporal punishment

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# 4

- 4.1 Promoting change in the home, schools and other settings
- 4.2 Developing a strategy to end corporal punishment in the home
  - (a) Understanding why parents use corporal punishment
  - (b) Establishing objectives and how to achieve them
  - (c) Developing tools and materials
  - (d) Promoting positive parenting
  - (e) Working with faith groups
- 4.3 Developing a strategy to end corporal punishment in schools
  - (a) Understanding why teachers use corporal punishment
  - (b) Establishing objectives and how to achieve them
  - (c) Developing tools and materials
  - (d) Promoting positive discipline



## 4.1 Promoting change in the home, schools and other settings

Legal reform to prohibit corporal punishment in all settings is vital, but it will not achieve real change for children unless change is also achieved in the prevailing attitudes which condone and support its continued use and in the conditions which deter or impede change. Campaigning for social change is intricately linked to law reform. If the law already prohibits corporal punishment of children, then campaigning to end its use is about ensuring full knowledge and effective implementation of the law. In this case the law provides a firm legal basis for your efforts. If the law currently condones or authorises corporal punishment, your campaign to end its use will be stronger if you can say you are also campaigning to change the law. And the campaign for law reform will benefit from being able to say you are also providing support to parents, teachers, etc in moving on from corporal punishment to positive, non-violent relationships with children.

The picture you built up in the rights-based analysis of the situation will be important in helping to understand the barriers which must be addressed, the pressures parents, teachers and others experience, and the attitudes and beliefs underpinning their behaviour towards children. Awareness raising and public and professional education and training is crucial in eliminating corporal punishment of children.

The focus in this section is on corporal punishment in the home and schools, the two settings where most children spend most of their lives. Together they cover in principle most, if not all, of the issues that need to be addressed in all settings, including other institutions and forms of childcare, e.g. how to end corporal punishment in both “private” settings and public institutions and in both regulated and unregulated settings. The information can easily be transferred to promoting the elimination of corporal punishment in other settings.



Outside classrooms in Mia Omar High School, Jalalabad, Afghanistan, a school participating in a pilot project on violence free schools

“Given the widespread traditional acceptance of corporal punishment, prohibition on its own will not achieve the necessary change in attitudes and practice. Comprehensive awareness-raising of children’s right to protection and of the laws that reflect this right is required. Under article 42 of the Convention, States undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

“In addition, States must ensure that positive, non-violent relationships and education are consistently promoted to parents, carers, teachers and all others who work with children and families. The Committee emphasizes that the Convention requires the elimination not only of corporal punishment but of all other cruel or degrading punishment of children. It is not for the Convention to prescribe in detail how parents should relate to or guide their children. But the Convention does provide a framework of principles to guide relationships both within the family, and between teachers, carers and others and children. Children’s developmental needs must be respected. Children learn from what adults do, not only from what adults say. When the adults to whom a child most closely relates use violence and humiliation in their relationship with the child, they are demonstrating disrespect for human rights and teaching a potent and dangerous lesson that these are legitimate ways to seek to resolve conflict or change behaviour.

“The Convention asserts the status of the child as an individual person and holder of human rights. The child is not a possession of parents, nor of the State, nor simply an object of concern. In this spirit, article 5 requires parents (or, where applicable, members of the extended family or community) to provide the child with appropriate direction and guidance, in a manner consistent with his/her evolving capacities, in the exercise by the child of the rights recognized in the Convention. Article 18, which underlines the primary responsibility of parents, or legal guardians, for the upbringing and development of the child, states that ‘the best interests of the child will be their basic concern’. Under article 12, States are required to assure children the right to express their views freely ‘in all matters affecting the child’, with the views of the child being given due weight in accordance with age and maturity. This emphasizes the need for styles of parenting, caring and teaching that respect children’s participation rights. In its general comment No. 1 on ‘The aims of education’, the Committee has emphasized the importance of developing education that is ‘child-centred, child-friendly and empowering’.

“The Committee notes that there are now many examples of materials and programmes promoting positive, non-violent forms of parenting and education, addressed to parents, other carers and teachers and developed by Governments, United Nations agencies, NGOs and others. These can be appropriately adapted for use in different States and situations. The media can play a very valuable role in awareness-raising and public education. Challenging traditional dependence on corporal punishment and other cruel or degrading forms of discipline requires sustained action. The promotion of non-violent forms of parenting and education should be built into all the points of contact between the State and parents and children, in health, welfare and educational services, including early childhood institutions, day-care centres and schools. It should also be integrated into the initial and in-service training of teachers and all those working with children in care and justice systems.

“The Committee proposes that States may wish to seek technical assistance from, among others, UNICEF and UNESCO concerning awareness-raising, public education and training to promote non-violent approaches.”

*Committee on the Rights of the Child, General Comment No. 8, paras. 45-49*

## 4.2 Developing a strategy to end corporal punishment in the home

*In this section, the term “parent” is used for convenience. It applies to all those with a caring role, including grandparents and extended family members, foster carers, etc.*

Changing deep-rooted attitudes takes time, and requires sustained investment in activities at a range of levels. Developing a strategy to achieve change will involve:

- understanding why parents use corporal punishment
- establishing objectives and how to achieve them
- developing the necessary materials and tools
- promoting positive parenting.

It is useful, as far as possible, to build an understanding of children's right to protection and the promotion of positive discipline into existing programmes and contacts with parents, e.g. prenatal and antenatal care, health services, etc. Completely new and separate programmes are not always necessary. To achieve the required scale of public/parent/teacher education and awareness raising, and to sustain it over a long period, it will be essential to engage government at all levels in the task. NGOs, human rights institutions, UN agencies and others can provide valuable pilot projects and model programmes and materials, but they need to work to get government to take on the task.

### (a) Understanding why parents use corporal punishment

Efforts to address corporal punishment in the home (and in any setting) will be more successful when they are informed by a proper understanding of the factors which contribute to its use by parents and other carers. But too often such analysis ends up being a list of reasons for children's "bad" behaviour, implying this behaviour somehow "causes" adults to use corporal punishment. The first step in changing adults' approach to discipline involves taking responsibility for what we do.

Using corporal punishment in childrearing is ultimately a choice, even though it may not always feel like one. Through information, support and encouragement, parents can be empowered to choose non-violent methods of childrearing and learn to put them into practice. You can help parents do this by distinguishing clearly between the factors which lead to and perpetuate the use of corporal punishment and those which might "explain" children's behaviour.



Community awareness raising on child abuse, Zambia

Factors contributing to the use of corporal punishment in the home include:

- **habit, tradition, custom, familiarity** – corporal punishment has been used in the past, is widely socially accepted even among childcare professionals, and parents themselves will probably have experienced it in their own childhoods
- **its legality** – so long as the law does not prohibit corporal punishment, the assumption that it is acceptable is unchallenged. Advice and guidance towards positive disciplinary techniques are unlikely to have much effect when they are undermined by laws which allow corporal punishment (see sections 1.2, 2.1a, 2.2a and 3.2)
- **faith-based arguments** – parents may be influenced by their religious upbringing and by religious and community leaders who interpret key texts as supporting and even requiring corporal punishment of children. But there are alternative, non-violent interpretations. Building faith-based support for ending corporal punishment is important in working at local and community level (see section 2.1c)
- **lack of knowledge** – of positive parenting methods, of children's rights, of healthy child development, of the differences between discipline and punishment, of how ineffective corporal punishment is as a disciplinary measure and of its negative effects on children. All of these can be addressed by public education and awareness raising and targeted information and education for parents and professionals
- **parental stress** – many homes are characterised by high levels of stress due to poverty, unemployment, physical and mental ill-health, alcoholism, domestic

violence and other factors, not all of which are related to economic hardship or poor health. This can diminish parents' patience with their children resulting in angry responses to their behaviour, "lashing out", etc. It can make parents resistant to apparent criticism of their parenting and to "initiatives" which they feel emotionally unable to take an interest in or have little time to attend to in the daily struggle of survival. But if handled sensitively, helping parents to see the need for change and enabling them to carry this out and to see the benefits for their children and their families can be positive rather than burdensome.

### (b) Establishing objectives and how to achieve them

It is important to be clear about what you are trying to achieve, as this will influence where you focus your efforts. For example, your objectives might be to:

- raise parents' awareness of children's right to protection from corporal punishment
- raise parents' confidence in and understanding of positive discipline
- encourage professionals working with parents to support them in ending all use of corporal punishment
- reduce the incidence and prevalence of corporal punishment in the home.

The strategies you adopt to achieve these and other objectives will be informed by the local context, the issues you identified in your analysis of the situation, and the human and financial resources available to you. For example, you may decide to focus on some or all of the following activities:

- production of materials for families on positive discipline
- working to get these materials widely accepted and incorporated into national and local government programmes
- developing programmes for professionals working with families to ensure they understand the importance of challenging corporal punishment and their roles in helping parents explore and adopt alternatives
- working with professional associations and/or academic and training institutions to enlist their support in incorporating these programmes into initial and in-service training
- running training sessions in local communities to provide parents with help in using positive discipline.



Children campaigning in Peru

### Identifying the target audience

Those responsible for the care and development of children in the home can include parents, older siblings, grandparents and members of the extended family. It may include those caring for children while parents are at work. Parents may themselves be children (under 18). Government ministries for social welfare, local and regional governments, professional associations, academic institutions providing training for professionals, social workers and other professionals responsible for following up the families in social services or healthcare centres are all people whose attitudes and behaviour with regard to corporal punishment will affect the children for whom they are responsible. You need to decide whether to target all of these or prioritise certain groups.



**(c) Developing tools and materials**

The first step in planning what materials and tools to develop is to find out what is already available and how these could be used in your campaign with little or no adaptation. Section 6.2 of this Manual lists many useful resources to support social reform and new resources are added to the Global Initiative website ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)) as they become available.<sup>92</sup>

If you find it is necessary to produce, or support the development of, new resources you should consider the following:

- The tools should positively offer parents alternatives to corporal punishment (strategies for positive discipline) rather than focusing on removing their perceived right to physically punish their children.
- The materials need to engage directly with the attitudes and beliefs that inform behaviour towards children in the local context.
- The approach needs to avoid sounding judgmental and critical. The emphasis should be on helping parents move on to more respectful and effective approaches to childrearing, based on a presumption that all parents are committed to the optimum development and protection of their children.
- It can be advantageous to collaborate with relevant professional bodies in the development of these materials. This ensures you produce tools which are consistent with their existing training framework. It builds opportunities for joint ownership of the issue and can increase opportunities for dissemination of materials.
- Children can make a key contribution to the development of training materials. They can help ensure that any such materials address the issues they consider to be most important. Children can provide illustrative examples of how parents treat them, why they do so, how it impacts on them, and their ideas on alternative strategies. They can also be involved in producing child-friendly versions of materials.



Child speaking at launch of campaign in the Visayas, Philippines, 2007

The materials need to address three areas:

- children's rights
- child development
- positive discipline techniques, including conflict resolution tools.

The resources needed might include:

- information and education materials for parents, including leaflets, booklets, posters, videos
- information for children about their rights and the importance of respecting the right to protection from all forms of violence
- training materials for working directly with parents, including activities which help them explore their own childhood experiences of punishment and how these have affected them, what triggers their use of physical punishment, and how to employ more positive approaches towards their children's behaviour

<sup>92</sup> You can also sign up to the Global Initiative e-newsletter for alerts to new resources: email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)

- training materials for professionals working with families, such as social workers, child care workers, health visitors, doctors, child protection workers, police, and staff working in NGOs. These materials should cover potential barriers professionals put up towards ending corporal punishment, as well as ways of helping them address the importance of promoting and supporting change in the treatment of children among the families they work with. They should also cover detection and prevention of violent situations in family settings, together with effective intervention strategies
- training for government and government officials responsible for legislation and policy relating to families and children. It is difficult to achieve fundamental change in deep-seated attitudes towards children unless the government is enlisted in creating the legislative and policy framework to underpin that change. Education and training can play an important part in helping them understand why change is necessary, what change is necessary, and how to develop the case for that change
- training in peer education for children to enable them to take part in promoting strategies for non-violent conflict resolution.

**What positive discipline is not**

- Positive discipline *is not* permissive parenting.
- Positive discipline *is not* letting children do whatever they want.
- Positive discipline *is not* about having no rules, limits or expectations.
- Positive discipline *is not* about short-term reactions or alternative punishments to slapping and hitting.

**What positive discipline is**

- Positive discipline *is* about long-term solutions that develop children's self-discipline.
- Positive discipline *is* clear communication of expectations, rules and limits.
- Positive discipline *is* about building mutually respectful relationships with children.
- Positive discipline *is* about teaching children life-long skills.
- Positive discipline *is* about increasing children's competence and confidence to handle challenging situations.
- Positive discipline *is* about teaching courtesy, non-violence, empathy, self-respect, human rights and respect for others.

**How is positive discipline practiced?**

Positive discipline has four components:

- identifying long-term childrearing goals
- providing warmth and structure
- understanding how children think and feel
- problem-solving.

These key points are taken from *Positive Discipline: What it is and how to do it*, written by Child Clinical Psychologist and Professor Joan E. Durrant and published in 2007 by Save the Children Sweden and the Global Initiative to End All Corporal Punishment of Children.<sup>93</sup> The manual/workbook explains in simple terms what positive discipline is and gives concrete examples and exercises to show how it works in practice. It was piloted in Asia with professionals working with parents, but the fundamental principles of positive discipline it covers are applicable in all countries. It has been translated into Thai, Korean, Mongolian and Japanese, and other languages are planned. A useful summary is also available.<sup>94</sup>

<sup>93</sup> Available at [www.endcorporalpunishment.org/pages/pdfs/PositiveDisciplineManual.pdf](http://www.endcorporalpunishment.org/pages/pdfs/PositiveDisciplineManual.pdf)

<sup>94</sup> Available at [www.endcorporalpunishment.org/pages/pdfs/PositiveDisciplineManual-Summary.pdf](http://www.endcorporalpunishment.org/pages/pdfs/PositiveDisciplineManual-Summary.pdf)



**(d) Promoting positive parenting**

Civil society organisations can and do provide education and training directly, within the communities in which they work. Ultimately, though, governments should take responsibility for providing positive support for change. It is also important to engage with the primary agencies that provide services to families, to ensure the issue of ending corporal punishment is mainstreamed into all professional training.

**Government programmes to promote and disseminate positive messages about ending violence against children**

Efforts should be made to encourage governments to explore opportunities for getting the message to parents that corporal punishment is wrong, and for providing information on positive discipline. For example, all new mothers could be provided with leaflets giving constructive advice; clinics, hospitals and surgeries could disseminate information; and government-funded television advertising campaigns could be used to promote a positive approach to parenting.

**Institutionalising professional training on ending corporal punishment**

The strategies necessary for embedding education and training for professionals on ending corporal punishment within general training programmes will vary across disciplines and countries. You need to identify who is responsible for what training. For example:

- is there a national professional body with responsibility for designing and establishing standards in the training curriculum? If so, you need to build links with that body. You may want to explore the potential for working in collaboration with them to develop relevant materials. Alternatively, you may have existing tools and want to explore how they might be incorporated into both initial and in-service training.
- does the government prescribe the training curriculum? If so, you need to work directly with the government to convince them of the added value and importance of incorporating training on ending corporal punishment. It would be useful to build a body of support within the profession to enlist their help in lobbying the government for these changes.
- do individual academic institutions develop and run their own professional curricula? If so, you will need to work through the relevant professional bodies to encourage directors of these training courses to consider including modules on ending corporal punishment.

**Creating a public profile with the professionals**

Persuading those with responsibility for professional training to take the issue of ending corporal punishment seriously requires a wider public debate. A key element of a strategy to promote education and training is to engage those professionals in discussions at conferences and seminars, and in the media. It is also valuable to identify key allies within each relevant profession to act as advocates for change. For example, you can:

- run conferences and invite representatives of all relevant professionals to speak, submit papers, take part in workshops
- encourage various professional organisations to invite you to speak on the issue
- organise seminars bringing professional bodies and government representatives together
- write articles for professional journals setting out the case for change.

**Involving children in the delivery of education and training**

Children can play a significant role in the delivery of education and training. Some approaches you might consider are to:

- invite children to speak at professional conferences
- train children as peer educators, promoting alternatives to violence and non-violent conflict resolution. Children are the next generation of parents, and the earlier they are provided with opportunities to understand the importance and benefits of not using force to resolve conflict, the more likely these are to have a sustained impact
- produce videos of children working as peer educators, talking about their experiences of violence, and giving messages to the adult world of the changes they would like to see. These videos can be used as part of a training course, at conferences, etc
- run joint training by adults and children for adults and children. By creating forums where children and adults share the experience of training and being trained, it is possible to learn from each other, to break down barriers and to establish more open and meaningful dialogue.

**Working with local communities**

You can build links with community networks to provide opportunities for education and training. Parent support groups, local community leaders and religious leaders can play a key role in influencing attitudes towards the treatment of children. They are therefore important actors to engage with in raising awareness of the need to end all forms of corporal punishment.



Launch of campaign "Action on Violence Against Children", Kabul, Afghanistan, 2008

**(e) Working with faith groups**

As discussed in section 2.1c, some opponents of reform, who support the use of corporal punishment, attempt to justify their views on religious grounds. But equally there are members of all faiths, including high profile leaders, who believe their faith requires an end to all corporal punishment of children. Building on this positive religious support for prohibiting and eliminating corporal punishment can make an important contribution towards both legal and social reform. It is important to view religious supporters as active

participants in the movement for reform, to include them as partners from the beginning of the campaign if possible, to consult them about best approaches within their particular faith tradition and to find opportunities for harnessing their influence and skills of communication, leadership and scholarship.

Approaches will differ between cultures, but a community development approach is an effective way of engaging with faith leaders and their organisations. It means using the principles of community development and building on religious leaders' existing roles and functions in their religious organisations, and as teachers, scholars, leaders of worship, community leaders and activists (see below).



*Celebrating the achievement of law reform in Costa Rica, 2008*

#### Leaders of religious organisations

Religious organisations are often a significant part of the cultural identity of communities. They reach large numbers of people not served by other groups.

Many faith-based organisations offer practical help and support as well as spiritual guidance. They are often uniquely placed to make the problem of corporal punishment of children visible in their communities. They can be in the forefront of actions to prevent and eliminate it, e.g. by producing guidance for those working with children in faith-based communities or parenting booklets that can be distributed among families with whom they come into contact.

#### Teachers and scholars

All religious traditions have rich resources within sacred texts and teachings to promote non-violence and respect for the child.

For example, the Christian Child Theology Movement is a global movement which has moved beyond a view of children solely as "gifts from God" to the need for justice for children and recognition of their human rights. It has acknowledged that centuries of viewing children as inherently sinful and in need of constant parental correction has failed to see children as partners, contributors and teachers as well as learners, a position reached as a result of studying the scriptures of its tradition from a child's perspective.<sup>95</sup>

#### Leaders of worship

In different religious traditions where people gather for worship, religious leaders can encourage the religious community to reflect on the issue through preaching, readings, prayers and spiritual guidance.

<sup>95</sup> See [www.childtheology.org/new/](http://www.childtheology.org/new/)

Religious leaders are often involved in ceremonies to mark children's rites of passage such as welcoming a new baby into the life of the community – an ideal opportunity to promote positive parenting and educate parents about the negative effects of corporal punishment.

#### Community leaders and activists

Many religious leaders fulfil civic roles and duties and are in a position to form multi-religious partnerships and promote dialogue and cooperation between different faith groups, community organisations and government bodies.

In working with faith groups, questions to ask include:

- what is the status of children in the religious community?
- how are children's voices heard in the faith community?
- where culture and tradition are used to justify corporal punishment of children, how can faith-based organisations be agents for change?
- who can provide the scholarship and teaching to challenge religious justification for corporal punishment of children? How do the local laws, customs and traditions affect equal protection of children in all the community settings?
- how is the language of children's human rights understood in the religious community?

For further information on working with faith groups see the website of the Churches' Network for Non-violence ([www.churchesfornon-violence.org](http://www.churchesfornon-violence.org)).<sup>96</sup> A handbook on working with faith groups to prohibit and eliminate corporal punishment is being prepared.<sup>97</sup>



*SpankOut Day, 30 April 2009, Hong Kong*

### 4.3 Developing a strategy to end corporal punishment in schools

Children learn best in environments where they feel valued, respected and safe. The widespread use of corporal punishment in schools is a violation of children's rights and is counterproductive to their capacity to learn. There is a growing body of evidence indicating that it is a significant deterrent from attending school at all. Through the use of positive discipline, children are likely to both attend and learn better, and teachers will have more motivated pupils. **But ending the use of corporal punishment in schools does not require proof of these outcomes. The failure to demonstrate these does not mean that corporal punishment should be reintroduced. Corporal punishment should end in schools and other settings because children, as human beings, have a right to respect for their physical integrity and to protection from all forms of violence.**

Developing a strategy for approaching the education and training of teachers involves:

- understanding why teachers use corporal punishment
- establishing objectives and how to achieve them
- developing tools and materials
- promoting positive discipline.

<sup>96</sup> Further information on building support among faith groups for the campaign to end corporal punishment can also be found in Owen, S. (2009), *Prohibiting all corporal punishment in Southeast Asia and the Pacific, Report of the regional technical workshop for Save the Children and partners, Building effective child protection* (Bangkok, Thailand, 2-4 March 2009) ([www.endcorporalpunishment.org/pages/pdfs/reports/BKK-2009report.pdf](http://www.endcorporalpunishment.org/pages/pdfs/reports/BKK-2009report.pdf))

<sup>97</sup> For further information email [info@churchesfornon-violence.org](mailto:info@churchesfornon-violence.org)





Participants of the Davao City Children and Young People's Congress role-playing their experiences of corporal punishment, Philippines, 2007

#### (a) Understanding why teachers use corporal punishment

As in addressing the use of corporal punishment in the home (see section 4.2), efforts to address corporal punishment in schools will benefit from understanding the factors which contribute to its use. And again, these must be based on a distinction between “discipline problems” and “discipline solutions” in order to avoid directly or indirectly blaming children for the use of corporal punishment by their teachers. **Children's behaviour in school does not cause teachers to use corporal punishment.** Rather, teachers choose to respond to indiscipline and perceived indiscipline by inflicting corporal punishment. Perceived indiscipline in school is not a reason for reintroducing corporal punishment.

However a child behaves, there are always non-violent ways to respond. The task of advocacy, education and training is to convince teachers, school management, education ministers, etc, that non-violent responses are preferable and, when coupled with legal reform, that corporal punishment is not a lawful option. In some cases, school policies and regulations specify that corporal punishment should be the punishment for certain offences. These will need to be removed - in addition to repeal of any legal defences available to parents and teachers (see section 3.1a). There are a range of social, cultural, educational and personal factors which contribute to the use of corporal punishment by teachers and other educators. These overlap to a considerable extent with those which contribute to corporal punishment in the home (see section 4.2a) - after all, many teachers are also parents.

Factors contributing to the use of corporal punishment in schools include:

- **habit, tradition, custom, familiarity** - corporal punishment has been used in schools in the past, is widely socially accepted among educators, supported and even encouraged by parents, and teachers will probably have experienced it during their own schooldays
- its **legality** - so long as the law authorises and even regulates corporal punishment in schools, it will be seen as a legitimate way to deal with school discipline. Policy, advice and guidance promoting positive disciplinary techniques are unlikely to have much effect when they are undermined by laws allowing corporal punishment (see sections 1.2 and 2.2a)
- **faith-based** arguments - in religious and other schools, the use of corporal punishment may be supported and encouraged by particular interpretations of religious texts, and there may be a lack of awareness of alternative interpretations which would promote non-violent disciplinary measures (see sections 1.7, 2.1c and 4.2e)

- **lack of knowledge** - of positive discipline and methods of classroom control, of children's rights, of healthy child development and of how children learn, of the ineffectiveness of corporal punishment as a disciplinary measure and its negative effects on children and their ability to learn, and of the differences between punishment and discipline. Teachers may also fail to appreciate the many pressures facing children which can impact on their ability to learn and on their behaviour. All of these can be addressed by awareness raising and initial and in-service professional training
- **teacher stress** - teachers may be poorly trained, underpaid and undervalued, classes may be large, and schools may be poorly resourced with inadequate lighting, heating, ventilation and sanitary conditions. This can diminish teachers' patience and result in angry and inappropriate responses to children's behaviour, “lashing out”, etc. All this can lead to poor classroom management, lack of adequate preparation for lessons, use of inappropriate teaching methods, insufficient interest in learners and/or the lesson, negative attitudes towards students and poor time-keeping and attendance. Such circumstances can make teachers resistant to apparent criticism of their ability to manage a classroom and to “initiatives” which feel like yet another demand on their time and energy.

Recognising and genuinely appreciating these difficulties will enable you to communicate effectively with teachers and help them to adapt their behaviour.<sup>98</sup>

When corporal punishment is no longer used in schools, through legal reform and changes in practice, it is not uncommon for those who still favour its use to blame prohibition for any disciplinary issues that arise. It is important to remember that discipline problems in school result from a combination of many factors, including those relating to the child's individual circumstances, the school environment, the nature and perception of the teaching profession in a particular country, the adequacy of the curriculum, etc. **Poor school discipline represents a failure to identify and address appropriately what is leading to the perceived problem; it is not a result of the lack of violent punishment of schoolchildren.**



Children campaigning in Afghanistan

<sup>98</sup> See also Global Initiative to End All Corporal Punishment of Children (2009), *Prohibiting corporal punishment in schools: Positive responses to common arguments*, at [www.endcorporalpunishment.org/pages/pdfs/SchoolsBriefing.pdf](http://www.endcorporalpunishment.org/pages/pdfs/SchoolsBriefing.pdf)



**(b) Establishing objectives and how to achieve them**

As with the home setting, you need to decide how to approach the task of ensuring teachers stop using corporal punishment in schools. All education programmes should be linked to campaigns for legal reform. Children will never be properly protected from corporal punishment unless the law clearly prohibits its use. **Education and training can both contribute towards building support for legislative change and influence attitudes and practice to ensure effective implementation of prohibiting legislation.** For example, your objectives might be to:

- raise awareness of children's right to protection from corporal punishment
- provide teachers with strategies for maintaining a positive classroom environment
- end the use of corporal punishment in all schools.

**Identifying the target audience**

The scope of your objectives will influence your target audience. Those with responsibility for the care and protection of children in school include staff within the education ministry at national, regional and district levels, head teachers, school governors, teachers, assistants and other personnel working in the school; non-formal educators should also be considered. You also need to target the institutions that provide training for teachers, so that both initial and in-service training incorporates a philosophy of respect for children and their rights as human beings, especially the right to protection from all forms of violence.

Remember that sometimes in schools, as in the home, older children are charged with supervising younger ones. They, too, should be taught not to use physical violence and other humiliating punishments to discipline, educate or control children.

**(c) Developing tools and materials**

You should first of all find out what is already available and how these could be used in your campaign with little or no adaptation. Section 6.2 of this Manual lists many useful resources and new resources are added to the Global Initiative website ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)) as they become available.<sup>99</sup>

You will need to decide whether to produce any necessary new materials independently, collaborate with relevant professional bodies, or encourage the government to take responsibility with your advice. In developing tools and materials designed to end corporal punishment in schools, it is important to take account of the context in which these practices take place and the pressures teachers face in their work. You also need to emphasise the positive benefits for teachers of alternatives to corporal punishment, as well as providing guidance on what those alternatives are.



*"Respecting what children want to do for us", positive discipline illustration, Japan*

**Key messages to promote in training for teachers**

It is important to take a positive approach to creating change rather than emphasising what teachers are doing wrong. Teachers are better able to stop using corporal punishment and other cruel and degrading punishments if they feel there are effective, alternative ways of encouraging appropriate pupil behaviour. In all education and training, therefore, you might focus on the following issues:

<sup>99</sup> You can also sign up to the Global Initiative e-newsletter for alerts to new resources: email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)



*Talking to adults about child rights in a school in Pakistan*

- **children's motivation.** The overwhelming majority of children want to learn and are capable of good behaviour. Teachers can work effectively with students if they adopt a positive approach, avoiding anger on the one hand and ineffective pleading on the other.
- **rewards not punishments.** Good behaviour depends on establishing a clear framework of rules, boundaries, routines, and rewards and reinforcement for good behaviour. Children are more likely to behave in an acceptable way if the expectations concerning their behaviour are made clear.
- **shared rule-making.** Involving children in making school rules will significantly reduce disciplinary problems. Rules are far more effective if teachers and students work together to agree them.
- **respecting rights as a reciprocal process.** If children feel their rights are respected, it is easier for them to understand the importance of respecting other people's rights.
- **adult behaviour.** The behaviour of the teacher is an important influence on student behaviour. If teachers act aggressively or ineffectually, students will not respond in a constructive way.
- **winning co-operation and reducing teacher stress.** Instead of resorting to punishment, teachers should explain the rule, urge compliance, and remind students that they can choose to change their behaviour. To minimise teacher stress and avoid a continuing battle with students, it is important to blame the behaviour rather than the child, keep any anger brief and proportionate, perhaps get away from the student for a while, and re-build the relationship as soon as possible.
- **a planned, whole-school approach.** All of the above is much easier if everyone concerned with the good running of a school works together. Teachers will have a more consistent approach if there is collective agreement on how to teach and manage behaviour.
- **a stimulating curriculum.** A curriculum which is stimulating and challenging, and which involves students, will encourage them to behave well and learn more effectively.
- **promoting equity and respect.** Where differences between children are acknowledged and valued, and the damaging impact of discrimination and prejudice is recognised, there is less likely to be violence and bullying by teachers and by children towards each other.

- **children's roles.** Children can play valuable roles as mediators, peer counsellors and peer educators, addressing conflict between children in the school. In this way, they contribute their skills towards the creation of a violence-free environment, and relieve pressure from teachers.

#### Developing materials for different audiences

You will need to consider a range of materials targeted at different actors in the education system.

- **For children,** you might consider producing eye-catching posters, leaflets and pamphlets about the importance of children's rights, non-violent conflict resolution, together with the development of a range of activities to help them explore issues of bullying, power, punishment, etc.
- **For teachers and teacher training institutions,** you will need to develop or support a training curriculum which promotes the concept of children's rights and helps trainees explore their attitudes and beliefs about corporal punishment. It will also need to address the issues raised above and provide opportunities for exploring new approaches to positive discipline. Ideally, this should be developed in collaboration with the government and professional education teaching bodies, teacher unions or teacher training bodies.
- **For governing bodies of schools,** you could produce or support training on children's rights and the role of the governing body in protecting and promoting those rights, including the importance of developing school policies which are respectful of children's dignity and which support teachers in introducing positive discipline into the school.
- **For governments,** you need to build the case for ending corporal punishment in schools. This is fundamentally a human rights issue and governments have a legal obligation to prohibit and eliminate corporal punishment in schools (see sections 1.4 and 2.2). You could also draw together information on positive approaches to discipline, the educational benefits, and the positive correlation between school attendance and ending corporal punishment, together with the government's obligations under the Convention on the Rights of the Child and any recommendations made by the Committee on the Rights of the Child.



*Children on General Santos City Children and Young People's Congress parade, Philippines*

#### (d) Promoting positive discipline

A central element in any programme to promote positive discipline through education and training for teachers and other professionals is to broaden the advocacy base through building partnerships and alliances with relevant institutions. The active engagement of partners is essential if you are to enlist their support in incorporating the training into existing courses or encourage teachers to attend additional training. You will need to establish contacts with all those with a responsibility for children's education and, wherever possible, work in collaboration with them in the development of training materials as well as in their delivery. This collaboration is also invaluable in campaigning for law reform to prohibit corporal punishment in schools and other settings.



*Dr Norma Moreno, Special Ombudsman for Children's Rights, presenting a proposal for law reform to lawyers and parliamentarians, Nicaragua*

The strategies outlined in relation to promoting positive parenting (section 4.2d) are equally relevant here, including the contribution of children in delivering education and training. For example, you can consider:

- running conferences and seminars for education authorities, teachers and school governors
- writing articles for teaching journals and the wider press
- participating in conferences and seminars run by the teaching profession
- organising meetings with the relevant national education bodies
- identifying and building relationships with the key officials in the education ministry
- developing a pilot strategy to end corporal punishment in a small number of local districts, through programmes targeted at education authorities, local community groups, teachers and governing bodies. Where this is successful, you can publish the methodology used so that it can be more widely replicated
- working with government and education authorities to develop child protection policies in schools which aim to:
  - » raise awareness of the right to protection from violence
  - » introduce systems for addressing violence in schools
  - » provide complaints mechanisms for children when their rights are violated.

Whatever action you take to eliminate corporal punishment in schools – and other institutions – it should happen at the same time as campaigning for law reform. Experiences gained in working directly with teachers on positive non-violent approaches to classroom discipline will be invaluable in building support for prohibition in law – but it is not necessary to prove that these non-violent alternatives work before embarking on legal reform.



### Summary of section 4

Ending the practice of corporal punishment will have a real effect on the everyday lives of children. Your efforts will be much more effective if the law already says it is wrong to hit children or if you can say that you are also campaigning to change the law so that corporal punishment is prohibited. Conversely, trying to eliminate corporal punishment in practice without challenging its legality sends a confusing message about the acceptability of adult violence towards children. Remember, complete and uncompromising prohibition of corporal punishment is the only safe foundation for child protection.

Changing behaviour and attitudes takes time. Developing a strategy to promote change in the home involves:

- understanding why parents and others use corporal punishment
- establishing objectives and how to achieve them
- developing the necessary materials and tools
- promoting positive, non-violent disciplinary methods
- working with various groups in society, e.g. health professionals, faith groups, etc
- understanding and communicating the differences between discipline and punishment.

Developing a strategy to promote change in schools and other institutions has similar elements.

Remember, there are many influences on children's development which can have negative effects. Eliminating one of these - corporal punishment - does not mean a child will be unaffected by others. It is unrealistic and unfair to children to say that ending corporal punishment - e.g. in schools - is contingent on proving that non-violent disciplinary methods result in "well-behaved" children. Adults should stop hitting and hurting children because children, as human beings, have a right to respect for their human dignity and physical integrity.

# Assessing the effectiveness of the campaign

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# 5

- 5.1 Why assess the campaign
- 5.2 How to assess the campaign
  - (a) Ongoing monitoring of the campaign
  - (b) Assessing the overall objectives of prohibiting and eliminating corporal punishment
  - (c) Planning future campaigns



## 5.1 Why assess the campaign

It is useful to assess the effectiveness and impact of the campaign because:

- it tells you what changes have taken place and why
- it allows you to make changes while the campaign is running so you can make it more effective
- it makes you more accountable to the people you are working with and for – children, parents, local communities, partners and donors.



Speaking at an Art Workshop on Ending Corporal Punishment of Children, Philippines, 2006

## 5.2 How to assess the campaign

The process of assessing the effectiveness of a campaign is often overcomplicated, but it needn't be. Essentially it is about ongoing monitoring of your activities to make sure they are moving you closer to the objectives identified in your strategy, identifying where changes need to be made to achieve these objectives and, ultimately, assessing the extent to which the objectives have been met.

### (a) Ongoing monitoring of the campaign

During the campaign, as you work through the strategies developed for achieving law reform and social change, you will need to monitor the progress being made in relation to the specific objectives. Time and resources should be made for this, but it need not require huge amounts of either.

Ongoing monitoring may involve the following:

- asking participants to complete evaluation forms linked to the objectives of a workshop
- records of de-briefing sessions following meetings with government officials and other decision makers
- analysis of media reports on the issue, e.g. are there changes in the way the issue (and the campaign) is portrayed? Is there an increase in coverage of incidents of corporal punishment?
- monitoring amendments to draft legislation as it passes through parliament (see section 3.4c), e.g. does it reflect an understanding that all corporal punishment should be prohibited or are there attempts to make “compromise” laws which allow a certain degree or type of violent punishment?

- monitoring support for the campaign, e.g. is the list of high-level officials who support prohibition growing? Is the number of NGOs involved in the campaign increasing?
- monitoring the response of government to recommendations by human rights treaty monitoring bodies, e.g. is it becoming less defensive of the status quo? Are there indications of a change in attitude towards the issue?
- gathering information on what children say, e.g. from workshops and meetings in which they are participating, from analysis of calls to helplines, etc
- gathering information from surveys such as telephone surveys and street polls, e.g. is public support for prohibition increasing? Are attitudes towards what is acceptable in childrearing changing?

The importance of this monitoring is to use the findings to modify aspects of the campaign strategy where necessary. When findings show the objectives are not being met as anticipated, the strategy should be revised to take account of this. When findings are positive, they provide additional evidence to boost the campaign and should be used in this way. For example, polls which show a decrease in public support for corporal punishment of children can be influential in awareness raising among parents and children and in persuading politicians to support law reform. Growing numbers of NGOs involved in the campaign and of high-level supporters of prohibition can similarly boost the campaign to change the law.

“The Committee, in its general comment No. 5 on ‘General measures of implementation for the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)’, emphasizes the need for systematic monitoring by States parties of the realization of children’s rights, through the development of appropriate indicators and the collection of sufficient and reliable data.

“Therefore States parties should monitor their progress towards eliminating corporal punishment and other cruel or degrading forms of punishment and thus realizing children’s right to protection. Research using interviews with children, their parents and other carers, in conditions of confidentiality and with appropriate ethical safeguards, is essential in order to accurately assess the prevalence of these forms of violence within the family and attitudes to them. The Committee encourages every State to carry out/commission such research, as far as possible with groups representative of the whole population, to provide baseline information and then at regular intervals to measure progress. The results of this research can also provide valuable guidance for the development of universal and targeted awareness-raising campaigns and training for professionals working with or for children.

“The Committee also underlines in general comment No. 5 the importance of independent monitoring of implementation by, for example, parliamentary committees, NGOs, academic institutions, professional associations, youth groups and independent human rights institutions (see also the Committee’s general comment No. 2 on ‘The role of independent national human rights institutions in the protection and promotion of the rights of the child’). These could all play an important role in monitoring the realization of children’s right to protection from all corporal punishment and other cruel or degrading forms of punishment.”

*Committee on the Rights of the Child, General Comment No. 8, paras. 50, 51 and 52*

### (b) Assessing the overall objectives of prohibiting and eliminating corporal punishment

The objective of prohibiting corporal punishment in all settings, including the home, has been achieved when legislation clearly says that corporal punishment in all settings is unlawful and leaves no loopholes that can be used to defend its use. A campaign to achieve prohibition of corporal punishment cannot be said to have been successful unless there has been proper law reform. A mark of even greater success is government-sponsored public education on the new law, which shows a commitment to ensuring it makes a difference in practice.

If the objective is to stop the use of corporal punishment in schools or another specific setting, then this has been achieved when it is no longer used; you will have made progress towards this goal when there is a reduction in its use and in attitudinal support for it. If you are campaigning to eliminate corporal punishment of children in situations where it is already prohibited in law, your objective will be to ensure effective implementation of the law. Of course, gauging the extent to which the use of corporal punishment has been reduced is more difficult to measure than simply reading the text of a law or policy. It depends on the mechanisms set up to ensure implementation of prohibition (e.g. inspections, record keeping, complaints mechanisms), and the extent to which these are adhered to. It will also involve research interviews with children themselves who can report what happens in real life, the results of which can be compared with information on the prevalence and nature of corporal punishment gained from earlier research.



*Photo from “Stop violence against children Now!” exhibition, Mongolia*

Unfortunately, it is unlikely children will never be hit by adults. A more realistic assessment of a campaign aimed at changing attitudes and behaviour will involve demonstrating it is no longer a societal “norm” (e.g. few parents and professionals in favour of its use, very low prevalence statistics) and instances which come to attention are dealt with effectively (e.g. sanctions applied to teachers using corporal punishment, appropriate intervention and support for parents, children’s complaints taken seriously).

### **(c) Planning future campaigns**

Ending corporal punishment of children is not a one-off task. Even if prohibition is achieved within the planned time scale of your campaign for law reform, you will need to plan to ensure the law is effectively implemented. Often law reform itself is delayed beyond the predicted scope of the campaign for a number of reasons, including changes of government and strong opposition to prohibition. And eliminating the practice of corporal punishment requires ongoing awareness raising and public education as populations change, new generations of parents evolve and people settle in the country whose origins are in countries where corporal punishment has not been challenged.

For all these reasons, when you appear to be near to achieving the overall objectives of your strategies, you should prepare to revise them thoroughly or develop new ones to ensure the work continues. Ultimately, the issue of corporal punishment should be mainstreamed into the everyday remit of your work on children’s rights and violence against children.

### **Summary of section 5**

Assessing the campaign is important but it need not be time consuming when assessment is ongoing. The ultimate mark of success will be:

- legislation which prohibits corporal punishment of children in all settings, including the home, and
- a significant and continuing reduction in the use of corporal punishment and public acceptance of it in childrearing.

Prohibiting and eliminating corporal punishment is an ongoing task. Once the law is reformed it must be implemented; there must be continuous education of parents and future parents about the negative effects of violence in childrearing and positive ways to bring up children. The best campaigns are those which eventually integrate prohibition and elimination of corporal punishment into all efforts to protect children from violence.



# 6

## Resources

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- 6.1 Technical resources to support the promotion of law reform
- 6.2 Resources to support the promotion of positive, non-violent discipline
- 6.3 National and regional studies

Please note: This section on resources is not exhaustive. Research referenced in the footnotes in previous sections is not necessarily included again here. For further resources, including national research and resources to support legal reform and promote positive discipline, links to regional and national campaigns, and information on the human rights foundation for all this work, see the website of the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)). Please send details of new resources to [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org). The Global Initiative publishes a regular e-newsletter which includes details of new resources as they become available: to subscribe email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).

The Global Initiative website  
[www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)



**Human rights, law and corporal punishment** – details of international and regional human rights standards, the work of the Committee on the Rights of the Child and other treaty monitoring bodies and briefings submitted to them by the Global Initiative, and national high level court judgments

**Global progress** – reports on the legality of corporal punishment and progress towards prohibition in every state worldwide, detailed information on states which have achieved prohibition in all settings including the home, and useful facts and figures

**Research** – research on prevalence, children's views and experiences, the effects of corporal punishment and on the experiences of states which have achieved full prohibition

**Resources** – internet and other resources to support the promotion of positive discipline for parents, teachers and carers, downloads of useful reports

**Reform** – details of legislative and other measures to support law reform, information on international, regional and national campaigns for law reform, online resources to support the promotion of law reform (designed to supplement the Global Initiative legal reform handbook)

**Website for children**

**Keep up to date**

The Global Initiative publishes a regular e-newsletter covering developments worldwide (to subscribe email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)).

## 6.1 Technical resources to support the promotion of law reform

Committee on the Rights of the Child (2001), General Comment No.1 on “The aims of education” (at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm) in English, French and Spanish, and in these languages plus Arabic, Chinese and Russian at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/422/41/PDF/G0842241.pdf>)

Committee on the Rights of the Child (2006), General Comment No.8 on “The right to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19, 28, para. 2 and 37, inter alia)” (at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm) in English, French and Spanish, and in these languages plus Arabic, Chinese and Russian at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/422/41/PDF/G0842241.pdf>)

Committee on the Rights of the Child (2007), General Comment No.10 on “Children’s rights in juvenile justice” (at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm) in Arabic, Chinese, English, French, Russian and Spanish)

Committee on the Rights of the Child (2009), General Comment No. 12 on “The right of the child to be heard” (at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm) in English, Spanish, Arabic and French)

Council of Europe (2007), *Abolishing corporal punishment of children: Questions and answers*, Strasbourg: Council of Europe Publishing (at [www.coe.int/t/dg3/corporalpunishment/Publications\\_en.asp](http://www.coe.int/t/dg3/corporalpunishment/Publications_en.asp) in English and French)

Council of Europe (2007), *Resources for awareness raising on the need for, and implementation of, prohibition* (at [www.coe.int/t/transversalprojects/children/violence/corporalPunishmentMini\\_en.asp](http://www.coe.int/t/transversalprojects/children/violence/corporalPunishmentMini_en.asp) in English and French)

Council of Europe (2008), *Eliminating Corporal Punishment: A human rights imperative for Europe’s children*, 2nd edition, Strasbourg: Council of Europe Publishing (at [www.coe.int/t/transversalprojects/children/publications/](http://www.coe.int/t/transversalprojects/children/publications/) in English and French)

Council of Europe (2008), *Off the books! Guidance for Europe’s parliaments on law reform to eliminate corporal punishment of children*, Strasbourg: Council of Europe Publishing (at [www.coe.int/t/transversalprojects/children/publications/](http://www.coe.int/t/transversalprojects/children/publications/) in English and French)

Global Initiative to End All Corporal Punishment of Children (2009), *Campaigning for law reform to prohibit corporal punishment*, a series of seven summary briefings (at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org) in English, Arabic and French):

1. Understanding the need for prohibition
2. Reviewing current law
3. Drafting prohibiting legislation
4. Building a national strategy
5. Working with Government and Parliament
6. Using legal action and regional and international human rights mechanisms
7. Key resources to support campaigning

Global Initiative to End All Corporal Punishment of Children (2009), *Prohibiting corporal punishment of children: A guide to legal reform and other measures* (at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org) in English, French and Spanish, and supported by online resources)

Global Initiative to End All Corporal Punishment of Children (2009), *Prohibiting all corporal punishment of children: Frequently Asked Questions* (at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org) in adult and child-friendly versions in English, French and Spanish; for hard copies and print-ready pdfs email [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org))

Global Initiative to End All Corporal Punishment of Children (2009), *Prohibiting corporal punishment in schools: Positive responses to common arguments* (at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

Global Initiative to End All Corporal Punishment of Children (2010), *Ending legalised violence against children: Global report 2010*, Global Initiative & Save the Children Sweden (at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))



- Inter-American Commission on Human Rights Rapporteurship on the Rights of the Child (2009), *Report on Corporal Punishment and Human Rights of Children and Adolescents* (at [www.cidh.oas.org/Ninez/CastigoCorporal2009/CastigoCorporal.TOC.htm](http://www.cidh.oas.org/Ninez/CastigoCorporal2009/CastigoCorporal.TOC.htm) in English and Spanish)
- Inter-Parliamentary Union & UNICEF (2007), *Eliminating Violence Against Children (Handbook for Parliamentarians No. 13)* (at [www.ipu.org/english/handbks.htm#V\\_children](http://www.ipu.org/english/handbks.htm#V_children) in English, French, Spanish and Arabic)
- Kapoor, G. & Owen, S. (2008), *Towards the universal prohibition of all violent punishment of children, Report of the global workshop on "Prohibiting all corporal punishment and other humiliating punishment of children: Achieving legal reform"*, Bangkok, Thailand, May 2008, Stockholm: Save the Children Sweden (at <http://resourcecentre.savethechildren.se>)
- Newell, P. (2009), *Prohibition of corporal punishment as a key element of legislation underpinning an effective rights-based child protection system*, Bangkok: Save the Children Sweden Regional Office for Southeast Asia and the Pacific (at <http://resourcecentre.savethechildren.se>)
- Owen, S. (2009), *Prohibiting All Corporal Punishment in Southeast Asia and the Pacific: Report of the regional technical workshop for Save the Children and partners, "Building effective child protection" (Bangkok, Thailand, 2-4 March 2009)*, Bangkok: Save the Children Sweden Regional Office for Southeast Asia and the Pacific (at <http://resourcecentre.savethechildren.se>)
- Pinheiro, P. S. (2007), *World Report on Violence Against Children* (at [www.unviolencestudy.org](http://www.unviolencestudy.org) in English and at [www.crin.org/violence/search/closeup.asp?infoID=11348](http://www.crin.org/violence/search/closeup.asp?infoID=11348) in English, Spanish and Portuguese)
- Save the Children Sweden (2009), *East and Central Africa Regional Technical Workshop on Law Reform to Prohibit All Corporal Punishment – Nairobi, Kenya* (at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))
- Southern African Network to End Corporal and Humiliating Punishment of Children & African Child Policy Forum (2008), *Submission to the Africa Committee of Experts on the Rights and Welfare of the Child: Ending corporal and other forms of humiliating punishment of children* (at [www.rapcan.org.za/sanchpc/](http://www.rapcan.org.za/sanchpc/))
- UN General Assembly (2006), *Report of the independent expert for the United Nations study on violence against children* (at [www.unviolencestudy.org](http://www.unviolencestudy.org) in French, Spanish, Farsi, Russian, Chinese and Arabic)

### Reports on countries that have prohibited all corporal punishment

- Bussmann, K (2002, ongoing), *Family Violence Studies*, Studies on the impact of prohibition in Germany (at <http://bussmann.jura.uni-halle.de/familiengewalt/#anchor2282489> in German)
- Child Rights Information Network with Action for Children & Youth Aotearoa (2010), *New Zealand's Ban on Corporal Punishment in the Home: Referendum and After* (at [www.crin.org/violence/search/closeup.asp?infoID=22344](http://www.crin.org/violence/search/closeup.asp?infoID=22344))
- Durrant, J. (2000), *A Generation without Smacking*, London: Save the Children UK (at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))
- Hindberg, B. (2001), *Ending Corporal Punishment: Swedish experience of efforts to prevent all forms of violence against children – and the results*, Sweden: Ministry of Health and Social Affairs, Ministry for Foreign Affairs (at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))
- Modig, C. (2009), *Never Violence – Thirty Years on from Sweden's Abolition of Corporal Punishment*, Stockholm: Save the Children Sweden & Government Offices of Sweden (at <http://resourcecentre.savethechildren.se>)
- Office of the Children's Commissioner (2008), *Omnibus Survey Report – One year on: Public attitudes and New Zealand's child discipline law* (at [www.occ.org.nz/publications/reports\\_documents](http://www.occ.org.nz/publications/reports_documents))
- Wood, B. et al (2007), *Unreasonable Force: New Zealand's Journey Towards Banning Punishment of Children*, Save the Children New Zealand (at <http://yesvote.org.nz/resources/downloads/>)

### Other useful reports

- Alexandrecu, G. et al. (2005), *Ending Physical and Humiliating Punishment of Children: Making it Happen, Part 1 and Part 2 Annexes*, International Save the Children Alliance (at <http://resourcecentre.savethechildren.se>)
- Bazan, C. (2009), *Plan's Global Campaign to End Violence in Schools: Campaign Progress Report*, Woking, UK: Plan International (at <http://plan-international.org/learnwithoutfear/resources/publications>)
- Clark, J. (2004), "Participatory research with children and young people: philosophy, possibilities and perils", University of Newcastle upon Tyne, UK (at [www.ecls.ncl.ac.uk/publications/](http://www.ecls.ncl.ac.uk/publications/))
- Ennew, J. & Plateau, D. P. (2004), *How to Research the Physical and Emotional Punishment of Children*, International Save the Children Alliance Southeast East Asia and Pacific region (at <http://resourcecentre.savethechildren.se>)
- Laws, S. & Mann, G. (2004), *So You Want to Involve Children in Research? A toolkit supporting children's meaningful and ethical participation in research relating to violence against children*, Stockholm: Save the Children Sweden (at <http://resourcecentre.savethechildren.se>)
- Owen, S. (2008), *Save the Children Worldwide Day of Action against Violence*, Stockholm: Save the Children Sweden (at <http://resourcecentre.savethechildren.se>)
- Plan International (2008), *The Global Campaign to End Violence in Schools*, Woking, UK: Plan International (at <http://plan-international.org/learnwithoutfear/resources/publications> in English, French and Spanish)
- Willow, C. (2010), *Children's right to be heard and effective child protection: A guide for Governments and children's rights advocates on involving children and young people in ending all forms of violence*, Bangkok: Save the Children Sweden, Regional Office for Southeast Asia and the Pacific (at <http://resourcecentre.savethechildren.se>)

## 6.2 Resources to support the promotion of positive, non-violent discipline

- Al-Azhar University, Cairo & UNICEF (2005), *Children in Islam: Their Care, Upbringing and Protection* (at [www.churchesfornon-violence.org/links.html](http://www.churchesfornon-violence.org/links.html) in English and Arabic)
- Children's Rights Project, Community Law Centre, University of Western Cape, *Article 19* (This journal on corporal punishment has been discontinued but archived copies are available at [www.communitylawcentre.org.za/clc-projects/childrens-rights/article-19/archives](http://www.communitylawcentre.org.za/clc-projects/childrens-rights/article-19/archives))
- Churches' Network for Non-violence (2006), *Respecting Children: A handbook on growing up without violence*, London: The United Reform Church (at [www.churchesfornon-violence.org/links.html](http://www.churchesfornon-violence.org/links.html))
- Council of Europe (2007), *Parenting in contemporary Europe: A positive approach*, Strasbourg: Council of Europe Publishing (at [www.coe.int/t/dg3/corporalpunishment/Publications\\_en.asp](http://www.coe.int/t/dg3/corporalpunishment/Publications_en.asp) in English and French)
- Council of Europe (2007), *Views on positive parenting and non-violent upbringing*, Strasbourg: Council of Europe Publishing (at [www.coe.int/t/dg3/corporalpunishment/Publications\\_en.asp](http://www.coe.int/t/dg3/corporalpunishment/Publications_en.asp) in English and French)
- Council of Europe Committee of Ministers (2006), *Recommendation Rec (2006) 19 on policy to support positive parenting*, Strasbourg: Council of Europe (at <https://wcd.coe.int/ViewDoc.jsp?id=1073507&Site=CM> in English and French)
- Durrant, J. E. (2007), *Positive Discipline: What it is and how to do it*, Global Initiative to End All Corporal Punishment of Children & Save the Children Sweden (at <http://resourcecentre.savethechildren.se>)
- Durrant, J. E. (2008), *Positive Discipline: What it is and how to do it: A manual for facilitators, educators, and trainers*, Global Initiative to End All Corporal Punishment of Children & Save the Children Sweden (at <http://resourcecentre.savethechildren.se>)
- Gershoff, E. T. (2002), "Corporal punishment by parents and associated child behaviors and experiences: a meta-analytic and theoretical review", *Psychological Bulletin* vol. 128, pp. 539-79 (at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

- Gershoff, E. T. (2008), *Report on Physical Punishment in the United States: What Research Tells Us About Its Effects on Children*, Columbus, OH: Center for Effective Discipline (at [www.crin.org/violence/search/closeup.asp?infoID=19954](http://www.crin.org/violence/search/closeup.asp?infoID=19954))
- Hart, S. et al (2005), *Eliminating Corporal Punishment. The way forward to constructive child discipline*, Paris: UNESCO (at [http://publishing.unesco.org/details.aspx?&Code\\_Livre=4332&change=E](http://publishing.unesco.org/details.aspx?&Code_Livre=4332&change=E))
- Noordien, F., Samson, S. & Siers, M. (2008), *A Teacher's Guide to Positive Discipline*, RAPCAN & Save the Children Sweden (at [www.rapcan.org.za/resources/resources.asp?ResourceFilter=Corporal Punishment and Positive Discipline&filter=8](http://www.rapcan.org.za/resources/resources.asp?ResourceFilter=Corporal Punishment and Positive Discipline&filter=8))
- Save the Children Sweden (2006), *Childrearing Without Violence – Public Education against Corporal Punishment of Children and Promotion of Positive Discipline in Families and Communities: Proceedings of the Save the Children and partner organizations Regional workshop on corporal punishment of children, 20-24 March 2006, Bangkok, Thailand*, Bangkok: Save the Children Sweden Regional Office for Southeast Asia and the Pacific (at <http://resourcecentre.savethechildren.se>)
- Save the Children Sweden (2006), *Positive Discipline: A human-rights framework for practice*, Bangkok: Save the Children Sweden Regional Office for Southeast Asia and the Pacific (at <http://resourcecentre.savethechildren.se>)
- Save the Children Sweden (2007), *A toolkit on positive discipline with a particular emphasis on South and Central Asia*, Kathmandu: Save the Children Sweden Regional Office for South & Central Asia (at [www.crin.org/resources/infoDetail.asp?ID=13357&flag=report](http://www.crin.org/resources/infoDetail.asp?ID=13357&flag=report))
- Save the Children Sweden (2008), *We Can Work it Out: Parenting with confidence* (at <http://resourcecentre.savethechildren.se>)
- Save the Children UK, Fondo Para la Acción Ambiental y la Niñez & Departamento Administrativo de Bienestar Social del Distrito (2006), *Systematisation of an Experience: Training Multipliers to Promote Positive Child Raising and End Humiliating, Degrading and Corporal Punishment* (Colombia) (at [www.crin.org/violence/search/closeup.asp?infoID=12999](http://www.crin.org/violence/search/closeup.asp?infoID=12999))
- Smith, A. B. et al. (2004), *The Discipline and Guidance of Children: A Summary of Research*, Children's Issues Centre, University of Otago & Office of the Children's Commissioner (at [www.occ.org.nz/publications/reports\\_documents](http://www.occ.org.nz/publications/reports_documents))
- South African Department of Education (2000), "Alternatives to Corporal Punishment: The Learning Experience" (at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))
- UNICEF (2008), *Disciplining Children with Kindness: A Shiite Shari'a Perspective*, Tehran: UNICEF (at [www.unicef.org/iran/resources\\_1609.html](http://www.unicef.org/iran/resources_1609.html))

### 6.3 National and regional studies

- Antonowicz, L. (2010), *Too Often in Silence: A report on school-based violence in West and Central Africa*, UNICEF, Plan West Africa, Save the Children Sweden West Africa & Action Aid (at <http://plan-international.org/learnwithoutfear/resources/publications>)
- Beazley, H. et al. (2006), *What children say: Results of comparative research on the physical and emotional punishment of children in Southeast Asia and Pacific, 2005*, Bangkok: Save the Children Sweden Southeast Asia and the Pacific (at <http://resourcecentre.savethechildren.se>)
- Bhandari, N. (2005), *Working Against Physical and Degrading/Humiliating Punishment of Girls and Boys: Experiences from Andhra Pradesh & Orissa, India*, Kathmandu: Save the Children Sweden Regional Programme for South and Central Asia (at [www.crin.org/violence/search/closeup.asp?infoID=7755](http://www.crin.org/violence/search/closeup.asp?infoID=7755))
- Bhandari, N., Jabeen, F. & Karki, M. (2005), *Voices and Actions of Girls and Boys to end Violence against Children in South and Central Asia*, Kathmandu: Save the Children Sweden Regional Office for South and Central Asia (at <http://resourcecentre.savethechildren.se>)
- Bower, C. (2010), *Banning corporal punishment: The South African Experience*, Cape Town: RAPCAN (at [www.rapcan.org.za/resources/resources.asp?ResourceFilter=Corporal Punishment and Positive Discipline&filter=8](http://www.rapcan.org.za/resources/resources.asp?ResourceFilter=Corporal Punishment and Positive Discipline&filter=8))

- Crowley, A. & Vulliamy, C. (2003), *Listen Up! Children talk about smacking*, Save the Children UK, Wales programme (at [www.childrenareunbeatable.org.uk/pdfs/ListenUp-English.pdf](http://www.childrenareunbeatable.org.uk/pdfs/ListenUp-English.pdf) in English and [www.childrenareunbeatable.org.uk/pdfs/Gwrandwch-Welsh.pdf](http://www.childrenareunbeatable.org.uk/pdfs/Gwrandwch-Welsh.pdf) in Welsh)
- Habasch, R. (2005), *Physical and Humiliating Punishment of Children in Yemen*, Save the Children Sweden (at [www.crin.org/violence/search/closeup.asp?infoID=11576](http://www.crin.org/violence/search/closeup.asp?infoID=11576) in English and [www.crin.org/violence/search/closeup.asp?infoID=11565](http://www.crin.org/violence/search/closeup.asp?infoID=11565) in Arabic)
- Human Rights Watch (2008), *A Violent Education: Corporal Punishment of Children in US Public Schools* (at [www.hrw.org/en/publications](http://www.hrw.org/en/publications))
- Human Rights Watch (2009), *Impairing Education: Corporal Punishment of Students with Disabilities in US Public Schools* (at [www.hrw.org/en/publications](http://www.hrw.org/en/publications))
- Milne, E. (2009), *"I don't get sad, only when my mum smacks me": Young children give advice about family discipline*, London: Children Are Unbeatable! Alliance (at [www.childrenareunbeatable.org.uk](http://www.childrenareunbeatable.org.uk))
- Nogami, N. (2005) *Discipline and punishment of children: A rights-based review of laws, attitudes and practices in Southeast, East Asia and the Pacific*, Bangkok: Save the Children Sweden Regional Office for Southeast Asia and the Pacific (at <http://resourcecentre.savethechildren.se>)
- Plan Ethiopia (2008), *Report on corporal punishment, sexual abuse and bullying in schools* (at <http://plan-international.org/learnwithoutfear/resources/publications>)
- Plan India (n.d.), *Learn Without Fear: The Campaign to End Violence in Schools – Challenges in India* (at <http://plan-international.org/learnwithoutfear/resources/publications>)
- Plan International (2009), *Youth in action against violence in schools (a manual for young people developed by young people)*, Hamburg: Plan International Deutschland e.V. (at <http://plan-international.org/learnwithoutfear/resources/publications> in English and German)
- Plan Philippines (2009), *Toward a Child-Friendly Education Environment: A Baseline Study on Violence Against Children in Public Schools* (at <http://plan-international.org/learnwithoutfear/resources/publications>)
- Plan Vietnam (2009), *Positive Discipline Training Manual*, Hanoi: Plan in Vietnam (at <http://plan-international.org/learnwithoutfear/resources/publications>)
- Plateau D. P. & Muir, D. (eds) (2008), *Non-Violent Discipline: A guide for training professionals*, Bangkok: Save the Children Sweden Regional Office for Southeast Asia and the Pacific (at <http://resourcecentre.savethechildren.se>)
- Plateau, D. P. & Muir, D. (eds) (2008), *Childrearing Without Violence: A Practical Guide for Families and Communities*, Bangkok: Save the Children Sweden Regional Office for Southeast Asia and the Pacific (at <http://resourcecentre.savethechildren.se>)
- Red Thread, Shelter, UNICEF [Guyana] (2008), *Removing Corporal Punishment from Schools: Integrating Partner Efforts* (at [www.hands.org.gy/cpreport](http://www.hands.org.gy/cpreport))
- Save the Children Fiji (2006), *The Physical and Emotional Punishment of Children in Fiji: A Research Report*, Suva, Fiji: Save the Children Fiji (at <http://resourcecentre.savethechildren.se>)
- Save the Children Sweden & The African Child Policy Forum (2005), *Ending Physical and Humiliating Punishment against Children: Ethiopia*, Addis Ababa: Save the Children Sweden Eastern and Central Africa Regional Office (at <http://resourcecentre.savethechildren.se>)
- Save the Children Sweden & Derib, A. (2005), *Ending Physical and Humiliating Punishment against Children: Summary – Ethiopia, Kenya, Sudan and Uganda*, Addis Ababa: Save the Children Sweden Eastern and Central Africa Regional Office (at <http://resourcecentre.savethechildren.se>)
- Save the Children Sweden (2005), *Ending Physical and Humiliating Punishment against Children: Kenya*, Addis Ababa: Save the Children Sweden Eastern and Central Africa Regional Office (at <http://resourcecentre.savethechildren.se>)
- Save the Children Sweden (2005), *Ending Physical and Humiliating Punishment against Children: Sudan*, Addis Ababa: Save the Children Sweden Eastern and Central Africa Regional Office (at <http://resourcecentre.savethechildren.se>)
- Save the Children UK (2006), *Philippine Laws related to the Discipline and Punishment of Children*, Quezon City: Save the Children UK (at <http://resourcecentre.savethechildren.se>)

- Soneson, U. (2005), *Ending Corporal Punishment in South Africa*, Arcadia: Save the Children Sweden Regional Office for Southern Africa (at <http://resourcecentre.savethechildren.se>)
- Soneson, U. (2005), *Ending Corporal Punishment in Swaziland*, Arcadia: Save the Children Sweden Regional Office for Southern Africa (at <http://resourcecentre.savethechildren.se>)
- Soneson, U. (2005), *Ending Corporal Punishment in Zambia*, Arcadia: Save the Children Sweden Regional Office for Southern Africa (at <http://resourcecentre.savethechildren.se>)
- UNICEF (2009), *Progress for Children: A Report Card on Child Protection Number 8, September 2009*, New York: UNICEF (at [www.unicef.org/progressforchildren/](http://www.unicef.org/progressforchildren/))
- Zeina Halabi, Z. (2005), *Corporal Punishment in Lebanon*, Beirut: Save the Children Sweden Regional Office for the Middle East and North Africa (at <http://resourcecentre.savethechildren.se>)