

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

# article 19

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## Promoting a human rights culture

### through disciplining children appropriately

It is every child's right to grow up in a home free from violence and conflict. **Judith Cohen**, parliamentary officer of the South African Human Rights Commission, reports on what society needs to do - and is doing - to achieve this.

**T**he South African Human Rights Commission (SAHRC) is deeply concerned about the high levels of violence and conflict in the country - violence and conflict which permeate all levels of society and know no boundaries in terms of gender, race or class. If we strive for a society in which the constitutional values of human dignity, equality and the advancement of human rights and freedom are to be achieved, we need to look broadly at society and establish which issues must be addressed in order to create a shared culture of constructively dealing with and eradicating conflict. This work is part of the Commission's constitutional mandate to promote respect for and a culture of human rights.

The most important place where social values and practices can be changed is in the home. We need to question the manner in which we raise our children. Is there a way of doing this differently that will better promote our constitutional values? It is for these reasons that the Commission supports the important work that is being conducted within a human rights framework at an international, regional and national level, namely, that which looks at violence against children, questions the use and legality of corporal punishment and promotes appropriate forms of discipline.

In January 2006 a week-long series of events focusing on appropriate discipline was arranged. Peter Newell, an internationally recognised expert on corporal punishment and coordinator of the Global Initiative to End All Corporal Punishment of Children, visited Cape Town to participate in the events and share his knowledge and expertise.

The main event of the week was a round-table discussion, co-hosted by the SAHRC and RAPCAN, entitled "Appropriate Discipline in a Constitutional South Africa". The round-table came at an important time in the development of legislation that aims to protect children's rights. In December 2005, parliament finally passed the section 75 version of the Children's Bill which carries no reference to corporal punishment. Thus corporal punishment within the private domain of the home is still legally tolerated in South Africa, provided that it does not exceed the boundaries of reasonable and moderate chastisement. During 2006, the section 76 version of the Children's Bill will be processed through parliament and the opportunities that this will provide for law reform need to be considered.

On 8 May 2006 South Africa celebrated the 10th anniversary of its Constitution. It is this Constitution that provided the basis for the prohibition on corporal punishment in schools and as a sentence in criminal matters. The Constitutional Court in two important cases applied sections 10 and 12 of the Constitution in reaching decisions that have gone a long way to protect children from violence and an infringement of their bodily integrity.

We trust that the Constitution will also form the basis for a prohibition on corporal punishment in the home. We hope it would not be necessary for the Constitutional Court to pronounce on this, as litigation should always be a last resort. Instead, we hope the government takes the initiative to effect a prohibition through law reform and the Children's Bill. It is unfortunate that the section 75 version of the Children's Bill that was passed by the National Assembly on 14 December 2005 was silent on the issue of corporal punishment in the home. Deliberations regarding the section 76 version of the Bill are however still awaited and present an opportunity to address the issue of corporal punishment in the home.

However, we have to acknowledge that a call for the prohibition of corporal punishment in this sphere is controversial, as evidenced by the article on the views of religious bodies in Zambia by Judith Mulenga and Mwansa Pintu. This article is indicative of the advocacy and awareness-raising that would need to take place to create an understanding of the negative effects of corporal punishment, and that respect for the rights of the child is an overarching consideration.

Efforts to advocate for the prohibition on corporal punishment in the home are ongoing. In January 2006 a series of events took place to promote informed debate on the issue and create a platform for information-sharing. One of these events was a regional workshop that included representatives from South Africa, Zambia, Botswana, Swaziland and Lesotho. It resulted in various action plans focused on a Southern African advocacy initiative in addition to the country-specific ones already under way.

On a different note we wish to bid farewell to Vuyisile Mathiti who has resigned from our editorial board for work reasons - we extend our heartfelt thanks for his valued contributions. As a result we welcome a new member to the board - Judith Mulenga of the Zambia Civic Education Association. We trust that she will assist us greatly in our efforts to promote information dissemination and informed debate on all issues relating to the corporal punishment of children.

The round-table was addressed by a number of speakers:

- Daksha Kassin gave an overview of legal developments in relation to corporal punishment in South Africa.
- Ann Skelton spoke about the constitutional issues which corporal punishment raises and how the Constitutional Court may approach the matter.
- Peter Newell provided information on international developments, including the United Nations Global Study on Violence against Children, which is due for release later this year.
- Joan van Niekerk discussed parents' responses to being challenged on how they discipline children.
- Andy Dawes provided input on the psychological effect physical and degrading forms of punishment have on children.

From the discussions that followed, it is clear that changing social practices and laws in relation to corporal punishment in the home continues to be a challenging task. The debate needs to be carefully located and expressed in order to clearly articulate the child's underlying rights to dignity and living in an environment free from violence. There was a clear commitment from the attending representatives of the Department of Social Development, indicating that the department supported the prohibition of physical, degrading and humiliating forms of punishment in the home.

The round-table was preceded by a Western Cape provincial advocacy strategy meeting, hosted by RAPCAN. It was well attended and strategies were devised around advocacy and lobbying for a ban on corporal, humiliating and degrading forms of punishment. The SAHRC hosted a children's workshop at Kirstenbosch where a diverse group of approximately 30 children expressed their views on corporal punishment and discipline through fabric painting. The artwork was displayed by means of two wall hangings at the round-table. These wall hangings will remain on permanent display at the SAHRC's Cape Town office and RAPCAN's offices as a symbol of the joint work between the two organisations and a reminder of what still needs to be done.

Finally, the week's events concluded with a two-day regional workshop, attended by 16 participants from Botswana, Lesotho, Swaziland, Zambia and South Africa. This workshop, which was hosted by RAPCAN and sponsored by Save the Children Sweden, developed a regional strategy to address corporal punishment in Southern Africa.

These events clearly illustrate that, in carrying out advocacy and lobbying, there needs to be a shift in the language and approach used when discussing discipline and children. There needs to be a move away from centering the debate on smacking and hitting and the rights of parents to a dialogue about positive discipline in an environment that respects children's rights and is supportive of the family and parents. The dialogue needs to promote the dignity of all and, most importantly, the dignity of children and their rights to live in an environment free from violence, humiliating and degrading treatment or punishment. In addition, the benefits of positive discipline need to be promoted. There is clearly an overwhelming need for education and raising awareness in society. ●

# Global Study on violence against Children

by Benyam Mezmur, doctoral intern, Community Law Centre

The first edition of *Article 19* (July 2005) highlighted the UN Secretary General's Global Study on Violence against Children. The study was initiated as a result of one of the recommendations from the two days of discussions on the issue of violence against children within the family and in schools (2001) and state violence against children (2000) of the UN Committee on the Rights of the Child. In February 2003, the Secretary General appointed Prof. Paulo Sergio Pinheiro of Brazil as the independent expert to lead the study.

The study uses the definition of violence as the “*the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development or deprivation*”. It also bases its understanding of violence on the Convention on the Rights of the Child (CRC).

The study involves the UN system at large while the United Nations Children's Fund (Unicef), the World Health Organisation (WHO) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) are core actors. It involves a range of activities, including questionnaires to governments and regional consultative meetings.

This article is an update on developments in the study, mostly focusing on two activities:

- the questionnaire to governments, and
- the regional consultations that took place in 2005 to present a document on the current situation of violence against children, share knowledge on best practices and identify key recommendations for protecting children from violence.

## Questionnaire to governments

As part of the study, the independent expert sent out questionnaires to governments in March 2004. In providing responses to the questionnaire, governments were requested to consider approaches which have been adopted at national level with respect to violence generally, and towards children in particular. Governments were encouraged to provide examples of good practices and innovative approaches to addressing all forms of violence against children in order to assist in the dissemination and sharing of positive experiences. They were also asked to outline obstacles encountered in addressing the issue.

So far, almost 130 State Parties have submitted responses.<sup>1</sup> The chairperson of the UN Committee on the Rights of the Child, Prof. Jaap Doek, commends this as “an unprecedented response not only in the UN, but for all other research that one can do”. The questionnaire has been a very effective tool for alerting governments to the study and soliciting important views and practices, and has also facilitated genuine participation. At present the responses are being analysed and compiled into a report by the study secretariat.

## Regional consultation meetings

The other feature of the study is the regional consultations – a very important process because the study should not be just a desk-top operation or questionnaire, but should also include outreach activities where there are meetings with NGOs, government representatives and UN agencies.

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<sup>1</sup> To date, information available on the OHCHR website indicates that South Africa is one of the few countries that have not yet submitted their response to the questionnaire.

“The basis of a society’s existence, the mark of its civilization, and the foundation of its future is the way a society treats its children.”

## Global Study on violence against Children (continued from page 3) »

Accordingly, the study conducted nine regional consultations all over the world during 2005, two of which were for sub-Saharan Africa: the Regional Consultation for Eastern and Southern Africa and the Regional Consultation for West and Central Africa which were held in South Africa (July 2005) and Mali (June 2005) respectively. Preparations for each consultation were led by regional steering committees comprised of government representatives, United Nations bodies and other international entities, NGOs and other parts of civil society, facilitated by Unicef, with the support of OHCHR, WHO and other partners.

Just like the proposed final report of the study, the regional consultations focused on the nature and extent of violence against children in five settings: the home; institutional settings such as orphanages; schools and other educational settings; the community and its streets; and the workplace. For each category of violence, the regional consultations reviewed what is known about the causes, associated risk and protective factors. Their focus was on prevention strategies, in particular through the identification of best practices in prevention.

Children’s voices have informed the consultations too. This is in line with article 12 of the CRC which highlights the importance of child participation in “all matters affecting the child”. It is clear that violence is a priority concern for children from all over the world and there is a need to include children’s experiences and suggestions in the process towards the final study report. Their voices can also assist in designing effective reporting systems and programmes that children can trust. In this regard, for instance, in the Regional Consultation for West and Central Africa, 20 children from nine countries in the region representing both children in education and young workers met in a preparatory session in order to identify a series of recommendations.

The two regional consultations responded to concerns in sub-Saharan Africa about violence against children and helped shape the debate about the issue. The regional consultations resulted in recommendations and a report which included other consultations and other sources of information. Among the recommendations, the need was identified for the African Union to be centrally involved in the Global Study.

### Corporal punishment

Similar to the other regional consultations, the sub-Saharan consultations underscored the need for the prohibition and eradication of the use of corporal punishment. For instance, a recent study (April 2006) carried out in Togo indicated that eight out of ten children suffer regular beatings in school.<sup>2</sup> Moreover, both regional consultations have attempted to highlight that “reasonable corporal punishment” does not exist. Peter Newell, coordinator of the Global Initiative to End All Corporal Punishment of Children, underlined that “if we are serious about children’s rights and child protection, we must dismantle ‘state-authorised’ violence against children”. Children need to enjoy legal protection, which implies the formal abolition of corporal punishment within the family, at school, in prisons, etc. However, several countries on the continent have very ambiguous legislation on corporal punishment.

In the Regional Consultation for Eastern and Southern Africa, delegations felt that there was a need to define corporal punishment as it needs to be understood within the African context. Meanwhile, as the independent expert put it, in addressing a question on whether the final recommendations of the study will take cultural differences into account, the purpose of holding consultations around the world was to understand, in detail, the specific aspects of each region in line with the study’s regional approach. However, he noted that the report would ultimately be guided by universal standards.

Prof. Doek believes that “there will be recommendations that may run into difficulties of being acceptable by State Parties, the most controversial one being the recommendation on corporal punishment”.

2 Foster Parents Plan, *Suffering to Succeed* <[http://www.fosterparentsplan.ca/media/en-CA/Suffering\\_To\\_Succeed.pdf](http://www.fosterparentsplan.ca/media/en-CA/Suffering_To_Succeed.pdf)> (accessed 13 April 2006).

## Concluding remarks

There is profound hope that the study process and subsequent follow-up can provide the opportunity to develop more effective responses that give children real protection from the violence that so often impacts on their lives. The independent expert will submit the final report to the secretary general, who is expected to present the recommendations of the report to the General Assembly in October 2006.

Meanwhile, it is important to bear in mind that the study is not an end in itself. If we are to influence public opinion and that of policy makers (and for that matter that of any stakeholder), there needs to be a continued effort by civil society, UN agencies and governments alike. Just "tinkering on the edge" is also not going to help - a deep-down, multi-faceted intervention is called for.

In conclusion, much has been said about the seriousness and magnitude of the problem of violence against children, and there is hardly the need to go through the frightening statistics. The general motivation for the study seems simple and can be summed up in the words of the late James Grant, former executive director of Unicef, who said "the basis of a society's existence, the mark of its civilization, and the foundation of its future is the way a society treats its children". Violence against children cannot and should not continue. Action is needed, and needed now. Commendably, the study can be considered as a significant part of this action. ●

### Sources and additional information

Information on regional consultations, public submissions, expert thematic meetings, independent expert activities and others: <http://www.violencestudy.org/r25>

Responses of governments to the questionnaire: <http://www.ohchr.org/english/bodies/crc/study.htm>

The March issue of the study's newsletter: [http://www.violencestudy.org/IMG/pdf/4th\\_Newsletter-\\_March06\\_print\\_a4.pdf](http://www.violencestudy.org/IMG/pdf/4th_Newsletter-_March06_print_a4.pdf)

A toolkit supporting children's meaningful and ethical participation in research relating to violence against children (by Save the Children): [http://www.savethechildren.net/alliance/resources/So\\_you\\_want\\_to\\_research\\_apr2004.pdf](http://www.savethechildren.net/alliance/resources/So_you_want_to_research_apr2004.pdf)

After the UN Study - What next? A discussion paper on possible outcomes of the UN Study on Violence against Children (by Save the Children): <http://se-web-01.rb.se/shop/Products/Product.aspx?ItemId=1144>

A report entitled "Suffering to Succeed?" by Foster Parents Plan raises the issue of violence in Togolese schools and provides recommendations to address it. The full report is available at [http://www.fosterparentsplan.ca/media/en-CA/Suffering\\_To\\_Succeed.pdf](http://www.fosterparentsplan.ca/media/en-CA/Suffering_To_Succeed.pdf)

*" Sometimes my mommy or my daddy hit me, sometimes with their hand or sometimes with a belt."*

Girl, Western Cape

*"Parents, they should stop beating children. They must learn a better way of dealing with children."*

Girl in primary school

*"I want her (mother) to talk to me, but nicely, not shouting."*

Boy, Gauteng

*"So when my mom hit me, it feels like she doesn't love me."*

Girl, Limpopo

*"There were problems at home. My father accused me of causing the problem between him and my step-mother. And my father said that if they could divorce or separate I would be the cause of it. That really hurt me."*

Boy, Western Cape.

These quotes are sourced from a qualitative survey commissioned by Save the Children Sweden, South Africa that was undertaken by Glynis Clacherty, David Donald and Alistair Clacherty in December 2004

# The growing human rights challenge to all

**This article is based on the presentation made by Peter Newell, the coordinator of the Global Initiative to End All Corporal Punishment of Children at the round-table discussion co-hosted by RAPCAN and the South African Human Rights Commission on 26 January 2006.**

The independent expert leading the UN secretary general's Study on Violence against Children, Prof. Paulo Sergio Pinheiro from Brazil, addressed a meeting in parliament in London in December. He titled his talk "Ending legalised violence against children" and said: "I have to say I have been surprised at the controversy aroused in some quarters by my statement, made after the regional consultations, that the study report will certainly recommend a universal ban on all corporal punishment. Surely, it would be strange indeed if the 'expert' leading a study on violence against children would suggest that it was OK to hit children? The fact is, I could not look those many children I have met around the world in the eyes and say that I had decided they were worthy of less legal protection from assault than myself or other adults. Really, it is absurd ..."

In October 2006, Prof. Pinheiro will present his study report to the General Assembly; it will recommend a universal prohibition of all forms of corporal punishment, including in the family. At the nine regional consultations held for the study around the world, including the one for East and Southern Africa in Johannesburg during July 2005, the recommendations in every case included support for banning all forms of corporal punishment, including in the family. The participation of children and young people in those consultations

made it much more difficult for government representatives and other adults to remain in denial about this issue.

The extent and scale of physical violence against children in their homes, almost all of it in the context of punishment or control - corporal punishment - has become much more visible in the recent past. Once visible, it is very hard for adults to continue to find excuses and justifications for what is such a completely obvious breach of respect for human dignity, which lies at the foundation of international human rights law. The United Nations Convention on the Rights of the Child underlines the fact (if there is any lingering doubt) that children are people and holders of rights just like the rest of us.

This is both a very simple issue - hitting people is wrong, and children are people too - and a hugely difficult one. The difficulty is the personal dimension. Most people in almost every country have been hit as children by their parents. Most parents have hit their children. None of us likes to think badly of our parents, or of our own parenting. And this makes it difficult for many people, including politicians and community leaders, child welfare workers and even human rights experts, to think humanely or logically about the issue.

Why is this issue so important? I often meet people who are puzzled or scornful that anyone could see ending corporal punishment as a priority, given the extreme forms of violence that children in many states are facing. But what we are challenging is not just one particular category of violence, but the whole idea that some arbitrary degree of violence against children should, uniquely, be legal and socially approved. We are pursuing children's equal right to respect for their human dignity and physical integrity. The idea that breaching a child's human dignity and physical integrity is acceptable, normal, or even as some still suggest, "in their best interests" perpetuates children's status as objects or property, and makes every other sort of extreme abuse and exploitation more likely and easier.

# “Justifying” corporal punishment

“But children are different”, some people usually respond. Yes, of course they are different. The babies and small children who research suggests are the victims of most corporal punishment in the home are different in that they are very small and very fragile. Children’s vulnerability, their developmental status, their dependence on adults and the huge difficulties they face in seeking protection for themselves: all these differences suggest that they should have more, not less protection from being hit and hurt.

Some will ask how we define corporal punishment - usually because they desperately want to draw a line and imply that some degree of punitive violence must surely be acceptable. The simplest way of defining it is as - any punitive act designed to cause some level, however minor, of pain or discomfort, which would be treated as a criminal assault if directed at an adult. We don’t draw lines when we condemn violence against women or elderly people - so why children?

There are of course other, potentially equally damaging, forms of punishment which humiliate and degrade children. In seeking to prohibit and eliminate corporal punishment, we need to emphasise that these are equally in breach of children’s rights. We are seeking to replace corporal punishment not with other ways of damaging children, but with positive, non-violent and non-humiliating forms of discipline.

Hitting and humiliating children is an adult habit throughout the world. It is a global assault on children on a massive scale. But there is, at last, rapidly accelerating progress to challenge and eliminate it. The context is the adoption and almost universal ratification of the Convention on the Rights of the Child. Also, the scale and extent of corporal punishment is becoming visible in all regions through interview research with parents and children. And children are beginning to tell us how much it hurts them - and not just physically.

The Committee on the Rights of the Child has consistently stated that legal and social acceptance of the corporal punishment of children, however light, whether in their homes or in institutions, is not compatible with the Convention. The Committee has recommended prohibition of all corporal punishment and campaigns to promote positive, non-violent child-rearing and education, to 130 states in all continents. In 2000, it did so to South Africa. Soon the Committee will adopt a general comment on the obligation to prohibit all corporal punishment, hopefully in May 2006.

I do believe that the concept of child abuse - of some arbitrary level of violence defined as unacceptable, leaving other violence condoned and acceptable - has really got in the way and prolonged children’s wait for equal protection. There has been no real parallel in the campaign against violence against women, perhaps because in that campaign, adults were campaigning on behalf of adults. ●

As part of our ongoing series, we again feature an example of arguments used to justify the use of corporal punishment of children. The example is taken from *Corporal Punishment and Bullying: The Rights of Learners*, a publication by the Education Rights Project of the Wits Education Policy Unit, written by Salim Vally.

**“There is a big difference between a cruel beating and corporal punishment used in a controlled way by a parent or principal. This is not dangerous, causes little pain and cannot be called abuse. It is a way of instilling respect.”**

In the past the authority to use corporal punishment discouraged educators from searching for alternative means of discipline and it became a crutch for them to depend on. For learners, corporal punishment sent out the signal that violence was an acceptable way to express dissatisfaction and a legitimate way of resolving disagreements. It also tended to develop aggressive hostility as opposed to self-discipline.

Respect is nurtured when pupils appreciate that educators have skills and knowledge that they can learn from or have qualities that they can admire or emulate. The ability to frighten or bully hardly instils respect. Corporal punishment also reduces the ability of vulnerable children to concentrate, undermines their self-confidence and causes a general dislike or fear of schooling.

There is a view that psychological ill-treatment in the form of humiliation, insults and intimidation may even be more harmful in the long term than a swift smack. Yet those who physically ill-treat learners are predictably also mistreating them psychologically. There is no doubt that psychological abuse is highly undesirable.

The point is not to substitute one form of inappropriate discipline for the other. “Minor” corporal punishment can cause unexpected injury and “mild” punishment may have to increase because it is so ineffective. The little smack thus becomes a spanking, which then becomes a beating. ●

# Zambian Survey

In March 2006, the Zambia Civic Education Association (ZCEA) carried out a survey among Christian church umbrella organisations and the Muslim Society of Zambia to establish their views on the corporal and humiliating punishment of children. **Judith Mulenga and Mwansa Pintu** report.

At present, there is no law prohibiting the corporal punishment of children by parents in Zambia. Customary law and cultural beliefs allow parents to bring up their children as they see fit, including conferring on them the right to administer corporal punishment. ZCEA therefore felt that, as a starting point in their campaign to end corporal punishment in Zambia, there was a need to ascertain the positions of the Christian church umbrella organisations and the Muslim Society of Zambia (MSZ) on corporal punishment as a child-rearing tool.

These organisations are very powerful and carry much weight in Zambia's political and social arena. For example, the church organisations have previously formed a loose alliance known as the Oasis Forum to address certain constitutional issues. This forum has since become and remained not only the conscience of the nation, but also calls for government's accountability where the traditional government organs fail to do so.

In Zambia, the Christian church umbrella consists of four Christian church bodies. These are the Zambia Episcopal Conference for the Catholic Church (ZEC), the Independent

Churches and Ministries of Zambia (ICMZ), the Evangelical Fellowship of Zambia (EFZ) for evangelical, pentecostal and charismatic churches, and the Christian Council of Zambia (CCZ) for traditional protestant churches. Any survey necessarily needs to consult all four of these bodies. What follows are the summarised statements of the position of the four Christian church organisations and the Muslim Society of Zambia on corporal and humiliating punishment of children in Zambia.

## Zambia Episcopal Conference (ZEC)

The official view of the ZEC is that corporal punishment is degrading to the physical and psychological integrity and well-being of a child. "Parents and teachers should always aim at winning the confidence of children. They can always talk to children when they err because beating is not the best way to discipline them," stated Father Paul Samasumo, spokesperson of the Catholic Church in Zambia. He said the Catholic Church would support legislation against corporal punishment because it posed a danger to the physical well-being of children.

## Independent Churches and Ministries of Zambia (ICMZ)

Reverend David Masupa, chairperson of the board of Independent Churches and Ministries in Zambia (ICMZ), said that although corporal punishment was painful and humiliating, his organisation believed that a certain amount of this type of punishment was essential "to drive the child away from foolishness". His organisation has 290 churches and 210 ministries as members. He said there was a need to teach children to honour authority and avoid stubbornness and disobedience through a certain level of instituting pain. He further explained that corporal punishment brought about effectiveness, spiritual development and instilled the fear of God in a child. "Adults who were reared without



# ... the Catholic Church would support legislation against corporal punishment because it posed a danger to the physical well-being of children.

spanking usually use abusive language and are aggressive to others," said Reverend Masupa.

The Reverend further indicated that while ICMZ appreciated children's rights as stipulated by the United Nations Convention on the Rights of the Child (UNCRC), the organisation also strongly believes in biblical wisdom as provided for in Proverbs 22:15 and Proverbs 23:3-15, which command parents to guide children's development through correction with a rod. "We cannot depart from what the Bible says," he emphasised.

He however stated that his organisation was against corporal punishment which imparted injury to the body of the child because it was unbiblical. Reverend Masupa explained that ICMZ believed in spanking the child with a hand or other instrument so as to just cause pain but not injury. "We do not accept injury of bleeding or cutting skin when administering corporal punishment because that is a biblical violation. Administering corporal punishment should be done out of love and not out of impatience."

He added that adults should ensure that they talk to children after spanking them to explain the reason behind the beating and then they should pray together. "Because then the adult will be expressing love and patience to the child. In situations where the child is being beaten out of anger, it will lead to the child feeling depressed," he concluded.

## Evangelical Fellowship of Zambia (EFZ)

The Evangelical Fellowship of Zambia is comprised of churches and para-churches of evangelical, pentecostal and charismatic Christian denominations. The membership is about 120 members.

Bishop Paul Mususu is the general secretary of the EFZ and the current chairperson of the Oasis Forum. According to him, the position of his

organisation on the corporal punishment of children is that it is necessary both in homes and schools, but should be applied in moderation and in line with human rights. Reverend Mususu emphasised that corporal punishment should not be used for punishment, but as an educational tool. He condemned the emerging trends in society whereby some parents were unable to raise a voice against their own children for fear of being reported to the police.

## Christian Council of Zambia (CCZ)

Reverend Japhet Ndhlovu, the secretary general of the Christian Council of Zambia, said that the council, which has 22 major protestant churches such as the Presbyterian, Reformed, Methodist and United Church of Zambia as members, has never discussed an official stand on the corporal punishment of children either in homes or in schools. However, judging by a sample from opinions put forward on the issue in the past, 80% of its membership feels that there should be room to use a rod for disciplining children and 20% feel corporal punishment should be totally abolished. "There is, however, no harmonised position in the council," he reiterated.

## Muslim Society of Zambia (MSZ)

The spokesperson for the Muslim Society of Zambia, Abdul Khalim, says Muslims consider corporal punishment as a just way to control and instil respect in children. "In fact, you have no regard for human rights if you cannot control and instil respect in your child," declared Mr Khalim, who is also the director of education at the Makeni Islamic Centre in Lusaka. He was however quick to point out that adults should not use corporal punishment as a way to vent anger on children, but only as a last resort in disciplining them. He also said that only head teachers - not teachers - are allowed to administer corporal punishment to erring pupils at Muslim schools. "Moreover, the matter is required to go through stages before corporal punishment is considered," he explained. Mr Khalim further declared that human rights have failed to instil discipline in children, and the situation has got out of hand. "There is a need for such things [corporal punishment]," he said.

## Conclusion

As advocates for the total abolition of the corporal and humiliating punishment of children in Zambia, the ZCEA feels that this survey sets the stage for its campaign against corporal punishment. It will help to identify advocacy targets and the people who can make the decisions the ZCEA wants made. It will also help to assess specific "friends" and "foes" in the fight against corporal punishment, including the levels of their power and influence. ●

# Ending corporal punishment in all spheres

**Samantha Waterhouse from RAPCAN gives feedback on the Southern African workshop and the strategies that are being developed to bring an end to cruel, humiliating and degrading punishment in all spheres of children's lives.**

During the week-long series of anti-corporal punishment activities that were organised in January 2006 and in light of Peter Newell's visit to South Africa, Save the Children Sweden decided to bring organisations working on corporal punishment in the Southern African region together in order to develop strategies towards banning corporal punishment in all spheres of children's lives. Hosted by RAPCAN and sponsored by Save the Children Sweden, the workshop on 27 and 28 January 2006 was attended by representatives from Botswana, Lesotho, South Africa, Swaziland and Zambia.

## Situation in the countries

Most of the participants present indicated that, in spite of the fact that the legal status of corporal punishment in these countries differed, in all these countries the practice was relatively consistent in homes, schools and places of care for children. Research in the region indicates that 28% of children in Swaziland have been hit with an object at home and 59% have been hit with an object at school. In Zambia 43% of children have experienced humiliating punishment and in South Africa 57% of parents have used corporal punishment.<sup>2</sup>

The legal status of corporal punishment in the participating countries is as follows:<sup>3</sup>

Country	Home	Schools	Penal system	Alternative care
Botswana	Legal	Legal	Legal	Legal
Lesotho	Legal	Prohibited	Legal	Legal
South Africa	Legal	Prohibited	Prohibited	Prohibited
Swaziland	Legal	Legal	Legal	Legal
Zambia	Legal	Prohibited	Prohibited	Prohibited

Reports from participants indicated that in all the countries where corporal punishment had been banned in schools or where it was allowed but regulated, it was still commonly practiced by teachers and regulations were not being observed or enforced in schools. This can be attributed to a lack of information on the content of the legal reform, a lack of awareness-raising and support programmes to assist teachers in developing alternative methods of discipline, and continued support by teachers of the use of corporal punishment in schools. A further contributing factor to the ongoing use of corporal punishment in schools is a lack of appropriate sanction against defaulting teachers by the school management.

Participants at the workshop also raised the issue that there was widespread practice of humiliating and degrading (as opposed to physical) forms of punishment of children both in schools and within the family setting. It was therefore agreed that advocacy efforts also had to address the prohibition of humiliating punishment along with physical punishment.

## The need for law reform

All countries present had ratified the African Charter on the Rights and Welfare of the Child (with the exception of Swaziland and Zambia<sup>4</sup>) and the United Nations Convention on the Rights of the Child. Certain

<sup>1</sup> Peter Newell is the coordinator of the Global Initiative to End All Corporal Punishment of Children and also consults with Unicef and the UN Committee on Rights of the Child.

<sup>2</sup> These statistics were presented to the meeting by Ulrika Sonesson on 27 January 2006 and relate to research undertaken by Save the Children Sweden in these three countries.

<sup>3</sup> Information obtained from workshop participants and the Ending legalized violence against children: Report for East & Southern Africa Regional Consultation - the UN Secretary General's Study on Violence Against Children (2005), Global Initiative to End All Corporal Punishment of Children.

<sup>4</sup> According to the African Union website Swaziland and Zambia have signed but not ratified the Charter.

provisions in these instruments have been interpreted as calling for a total prohibition of all forms of corporal punishment. The fact that none of these countries have effected a total prohibition is inconsistent with the provisions of these instruments. In order to afford children equal protection under the law from cruel, humiliating and degrading punishment, corporal punishment must be banned in all spheres of children's lives. Law reform to this effect will provide a vehicle to educate the public on positive forms of discipline, allocate government funding for programmes that develop the practice of healthy discipline, and hold people accountable for the violation of children's rights.

Participants agreed that law reform must go hand-in-hand with a process of public education and skills development, recognising that law reform alone will not change people's behaviour. It was also agreed that the prosecution of parents was not always in the best interests of the child and that, in light of the need to strengthen families and provide support to them, prosecution should not be used as a first option against parents.

### Religious and cultural obstacles to stopping the use of corporal punishment

The strong support for the use of corporal punishment by religious groups is seen as a major obstacle to change in all the countries that were represented. The workshop thus attempted to encourage information-sharing on religious teachings that promote the rights of children as opposed to those that infringe their rights. It was agreed that it was critical that religious leaders be engaged as participants in advocacy strategies as well as being the targets of such strategies.

Likewise, resistance to change on the basis of cultural practice must be addressed by incorporating into the advocacy strategy positive principles in our cultures that respect the rights of children. Obtaining and maintaining the support of respected traditional leaders was also seen as critical to the advocacy process.

### Action plans

Each country developed separate action plans which included the development of practical strategies for law reform and social change. These action plans included:

- Building consultative networks in some of the countries.
- Developing relationships with key policy makers.
- Utilising law reform processes relating to the welfare of children in all the countries.
- Strengthening interventions and support within the education sector in all the countries (irrespective of whether or not corporal punishment was banned in schools).
- Seeking legal opinions and developing litigation strategies to challenge the use of corporal punishment in the home or in other sectors, where relevant.
- Some countries identified the need to work in communities with parents to develop positive parenting and discipline practice.

A regional action plan was developed, which includes:

- The establishment of a regional electronic network to maintain coordination, support and information regarding the respective activities in the region.
- The development of a position statement from countries within the region.
- Linking the issue of corporal punishment to the Day of the African Child on 16 June, the theme for the day being Protecting Children Against Violence. All of the countries present will issue statements and organise activities on this day.
- Sharing training materials and curricula for the education sector on the issue.
- Utilising SADC protocols and parliamentary committees in advocacy.
- Highlighting the issue at various African and international conferences and meetings in the upcoming year and advocating for further support to ban corporal punishment.
- Promoting the participation of children from the region in support of positive discipline and banning corporal punishment.
- Responding as a region to the UN Secretary General's report on the Global Study on Violence against Children which is set to be released in October 2006.

### Participants include:

Peter Newell, Global Initiative to End All Corporal Punishment of Children; Ulrika Sonesson & Petronella Mayeya, Save the Children Sweden; Nomzamo Dlamini, Save the Children Swaziland; Monde Kabuwa, Human Rights Commission Zambia; Judith Cohen, South African Human Rights Commission; Jacqui Gallinetti, Community Law Centre University of the Western Cape South Africa; Salim Vally, Education Policy Unit: University of the Witwatersrand, South Africa; Joan van Niekerk & Laura Blake, Childline South Africa; Phomolo Mohapeloa, NGO Coalition on the Rights of the Child Lesotho; Judith Mulenga, Zambia Civic Education Association; Emily Ruhukwa, Ditshwanelo Botswana; Carol Bower, Lorna Siers & Sam Waterhouse, Resources Aimed at the Prevention of Child Abuse and Neglect, South Africa. ●

For further information on the activities of the regional network or to participate in the network, contact Samantha Waterhouse at [sam@rapcan.org.za](mailto:sam@rapcan.org.za).

## NEWS RELEASE: Report calls for the end to Corporal Punishment of Children



Hitting people is wrong - and children are people too. This is the clear message of an All-Africa special report - Ending legalised violence against children - which calls on all African states to fulfil their human rights obligations to children by prohibiting and eliminating all corporal punishment and other humiliating punishment of children.

The 60-page report includes recommendations calling for law reform and educational measures, an analysis of the legality of corporal punishment in all African states and of the international and regional human rights standards that require prohibition.

The report emphasises that ending corporal punishment is a global issue - and also a very personal issue because most people in every state in the world have been hit and humiliated as children. But law reform and other measures to end corporal punishment are now accelerating and the current UN Study on Violence against Children provides a particular context for progress.

Research studies from 18 states in the region show varying rates of use of corporal punishment in the home, with a majority around 80 per cent. The report also summarises studies in which children have been interviewed about their experience of corporal punishment and their attitudes to it.

The report includes endorsements from organisations across Africa and messages of support from:

**Jaap Doek**, Chairperson of the UN Committee on the Rights of the Child: "Many citizens and politicians express deep concern about increasing violence in their societies. The credibility of this concern is questionable as long as they are not willing to seriously and systematically address the use of violence against children. And nobody should suggest that a little bit of violence is acceptable. That applies equally for adults and for children".

**Jean-Baptiste Zoungrana**, Chairperson, African Committee of Experts on the Rights and Welfare of the Child: "Although some legislative measures have been taken to ban violence against children in schools, care institutions and penal systems in many African states, not much has been done to end corporal punishment administered to children by their families, in their homes, where violence seems to be culturally accepted. In fact, thousands of homes have become real laboratories of violence against children and the media have reported many cases. That is unacceptable."

**Archbishop Emeritus Desmond Tutu**: "Violence begets violence and we shall reap a whirlwind. Children can be disciplined without violence that instills fear and misery, and I look forward to church communities working with other organisations to use the context of the Study to make progress towards ending all forms of violence against children."

The report is published jointly by the Global Initiative to End All Corporal Punishment of Children and Save the Children Sweden, which has four regional offices working in Africa.

The full report is available at [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)



### Forthcoming conference

The 17th World Congress of the International Association of Youth and Family Judges and Magistrates will be held from 27 August to 1 September 2006 in Belfast, Northern Ireland.

For more information, visit [www.youthandfamily2006.com](http://www.youthandfamily2006.com)

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