

How to lobby states to end corporal punishment of girls and boys
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I've been asked to talk about how to lobby states to prohibit and eliminate corporal punishment of children – girls and boys, and also, in the absence of Paulo Pinheiro, to add a bit about the context of follow-up to the UN Secretary-General's Study on violence against children.

The Study which Paulo led, as the Secretary General's Independent Expert, was the first, long overdue, comprehensive global review of all forms of violence against children. It was also the first UN exercise of this kind to attempt – partially successfully – to involve children directly in its work.

The Study arose from a proposal of the UN Committee on the Rights of the Child, the internationally-elected body responsible for monitoring States' respect for children's rights, following two days of General Discussion on violence against children it held in 2000 and 2001. In its conclusions from those days, the Committee stated that: "In conceptualising violence... the critical starting point and frame of reference must be the experience of children themselves...".

I attended eight of the nine regional consultations held for the Study, and it was clear to me that the presence of children and young people and their active engagement, often developing their own detailed recommendations and declarations, made it very difficult for the adults, including high level politicians, to remain in denial about the reality and the scale of violence against children. In particular, children's contributions took the Study beyond the more severe forms of violence – sexual exploitation, female genital mutilation and others – to confront the daily, routine punitive violence which a majority of children suffer in their homes, and also in many states in schools, other institutions, penal systems for young people and in employment.

As Paulo said when he delivered his progress report to the General Assembly last year, "Children are sick of being called 'the future'; they want to enjoy their childhood, free of violence, now."

Plan's new campaign is focused on schools. So – where have we got to in challenging the legalised violence that is corporal punishment in schools? There are still 87 States where corporal punishment – beating children, in most cases both girls and boys, with sticks or belts or other implements – is lawful and state-authorized in schools. The first challenge is to force ourselves to confront the reality of what is still happening. We have to feel and communicate outrage and anger and impatience. This gross, legalised violence has persisted for so long partly because it is so invisible - except to children and those involved, and for them it can seem all too easily to be an inevitable and natural part of schooling.

Challenging all corporal punishment and campaigning for its prohibition and elimination is more complex than challenging the more severe forms of violence because unlike those, it is a personal issue for most people. Most children in this

country and my country the UK were hit as children. Most parents have hit their own growing children. We don't like to think badly of our parents, or of our own parenting, and that makes it much more difficult to see the issue clearly as one of human rights and equality, and move on.

I have referred to "more severe" forms of violence, but of course corporal punishment covers a range of violence from what some parents like to describe as "loving smacks" or spanking – most languages have words or phrases to make adults feel better about hitting children – to the fatal beating. More or less all physical abuse of children is corporal punishment – is delivered in a context of punishment or control. And there are corporal punishment atrocities in schools in one country or another in most weeks; last week it was in Egypt, where a 12 year old boy was kicked to death by his teacher for not doing his homework, and a few days later a 10 year old girl in Cairo was reportedly beaten to death, again for not completing her homework; this in a country where corporal punishment was apparently prohibited in primary and secondary schools in the 1950s.

In several states, in the last few years, students have used mobile phone cameras to reveal the reality of corporal punishment in the classroom, a risky strategy perhaps but one which reminds us of how private classrooms can be, but not as private as the home...

On the positive side, 108 States have prohibited school corporal punishment in legislation in all schools, state and privately run – so globally, we are more than half way there, and another 20-plus states have committed themselves to prohibition soon. In the context of the consistent recommendations of the Committee on the Rights of the Child, and the focus placed on the issue by the UN Study, with an explicit recommendation for the prohibition of all currently legalised violence against children, including all corporal punishment, by the end of 2009, there is an accelerating trend and we need to use and build on it. A year ago, the UN General Assembly echoed Paulo Pinheiro's call for the appointment of a Special Representative to the UN Secretary-General on Violence against Children, requesting the Secretary-General to proceed. The delay – almost a year – is disgraceful, illustrating the low priority accorded to children's rights at the highest level of the UN. But I have heard that an appointment is now imminent.

We need to be clear about what prohibition requires. It is not enough for States to issue policy statements, or administrative circulars, stating that corporal punishment is not permitted. Children's rights demand clear prohibition in legislation. A remedy must be available to children and their representatives if teachers or other school personnel break the law and continue to use corporal punishment. In most cases, it will be enough for teachers to know that that they will lose their job if they persist in hitting or beating children. But children's right to equal protection under the law requires criminalisation of any punitive assault. Either the legislation prohibiting corporal punishment – usually in education law - can include sanctions, or the general criminal law on assault can be applied to assaults on students by teachers. The legislation must apply to all schools, whether provided by the State or by private or religious or other bodies.

From a children's, and children's rights, perspective there is no logic in States moving to prohibit corporal punishment progressively, first in penal systems, then in schools and other institutions, then in foster-care and finally in the home, although that has been the most common process. Children have a right to equal protection from assault wherever they are - now. And of course it is in their homes that children are hit the most.

Prohibiting corporal punishment in schools but not in the home sends mixed messages and may make it more difficult for teachers to develop positive behaviour management in schools. Children, like adults, should carry legal protection from assault with them wherever they are and whoever the perpetrator. So ensuring that the criminal law on assault (which every state has) applies equally to assaults on children, whether or not disguised as discipline, is the fundamental reform needed to prohibit corporal punishment for all children in every setting of their lives.

Now that there is rapid acceleration of prohibition of corporal punishment in the home too – 23 states have achieved full prohibition in all settings and at least another 26 are committed to doing so soon – it is essential that any campaigns should pursue a full ban, while of course taking advantage opportunistically of parliamentary opportunities to, for example, add school prohibition to an Education Bill that is going through Parliament.

The gender dimension

This conference is looking at violence, as the UN Study did, from the gender dimension. From the child victim's perspective, there does not seem to be any direct gender discrimination in the domestic assault on babies and young children, who suffer the most corporal punishment, in their homes and families and from the hands of their parents. Globally thousands of babies and young children – more than one a week in England alone – are killed at the hands of their parents. Unusually in the field of violence, women feature disproportionately among the perpetrators of this form of violence in the home, only because they are disproportionately involved in child care. I am not of course denying the central male role in the origins of violence in the family and elsewhere; but others will talk more about that.

As children grow, there is some research evidence that in some states, boys suffer more, or more severe, corporal punishment in the home, and they certainly tend to in the 87 school systems that still authorise violent punishment; some indeed prohibit corporal punishment of girls but not of boys. More boys than girls are whipped or flogged in the 30-plus states which still have corporal punishment as a sentence of their courts for young offenders, including under Shariah law. And girls probably suffer beating more than boys in domestic child labour.

But I'm not sure how useful or relevant this gender analysis is to children, girls or boys: all this legalised violence must be prohibited and eliminated. Equally, I'm not sure how useful or ethical research into the effects of corporal punishment on children is. We would not contemplate research into the effects of violence against women. We do not need to prove harm in order to justify prohibiting and eliminating violence. This is an inalienable right.

One concern I do have, is the lack of visibility of corporal punishment as an issue in the international movements against violence against women, supposedly including girls, and the movements to end what is termed “domestic” violence. My country and many others have adopted a “zero tolerance” approach to domestic violence, but carefully limited its definition to cover only violence between adults in the home or family. There has been a recent extension to include the impact on children of witnessing the violence between adults, but the direct violence, violent punishment by adults of girls and boys, is carefully excluded from the definition.

Corporal punishment was invisible at the UN Commission on the Status of Women’s special session on violence against girls in 2007. The Secretary-General’s report for that session on “all forms” of violence against girls covered homes, schools and all other settings – but not a single mention of corporal punishment. And the outcome document condemned “all forms” of violence, but no mention of corporal punishment. Similarly, there was no mention of corporal punishment in the United Nations Secretary-General’s in-depth study on “all forms” of violence against women (A/61/122/Add.1) in 2006, although its remit covered girls. A strange contrast with the parallel UN Study on violence against children, which covered punitive violence fully.

The CEDAW Committee (Committee on the Elimination of Discrimination against Women) also until very recently has been completely silent on the issue of corporal punishment of girls. But I am glad to say that at its last session, there was a breakthrough when for the first time the Committee explicitly recommended prohibition of all corporal punishment to two states – one of them the UK. For four years, the Global Initiative has been briefing CEDAW and other Treaty Bodies, as well as the Committee on the Rights of the Child, on the legality and prevalence of corporal punishment before their examination of states’ reports. All the other treaty bodies have condemned corporal punishment of children in all settings, often referring to concluding observations of the CRC Committee.

Whatever the reasons for the hesitancy of those leading the international challenge to violence against women, we do need to ensure that condemnation of currently legalised punitive violence against girls, in their families, schools and other settings, and recommendations for prohibiting and eliminating it, is quickly and explicitly integrated into campaigning and commitments to end violence against women. Those who avoid condemning explicitly and consistently this most common form of violence against girls and boys, perpetrated by women and men, become part of the conspiracy of denial.

Campaigning for prohibition

So, how to campaign for prohibition: we have to promote this as a human rights issue, prohibition is a human rights imperative. States have an immediate obligation under the Convention on the Rights of the Child and other international and regional human rights instruments to prohibit and eradicate corporal punishment in schools and in all other settings. The most detailed statement of the obligation, and guidance for States, is in the Committee on the Rights of the Child’s General Comment No. 8, issued in 2006, on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment. The General Comment includes a very detailed descriptive definition of corporal punishment, and also notes the need to

prohibit and eliminate other, non-physical forms of punishment. The General Comment needs to be translated into more languages, and made readily available to governments and parliamentarians.

The first step, in a state where this is not yet a live issue, is to find out precisely what the legal position is, and whether there is any research into the prevalence of corporal punishment. Unlike research into the effects of corporal punishment, research into prevalence, making what is happening visible, is certainly useful as an advocacy tool. And to achieve a near-accurate picture, of course the research has to involve interviewing children, in conditions of trust and confidentiality and with appropriate safeguards.

Having established as far as possible what the position regarding corporal punishment is, there needs to be an approach to Government – the Minister of Education and senior officials. Obviously, the easiest path is to persuade Government to accept its obligation and lead reform, itself introducing the necessary legislation into Parliament. Advocates need to think carefully who is the best, the most influential, person or organisation to approach the Minister, whether it is worth establishing an alliance of key individuals or organisations, and involving in particular any national human rights institutions.

If the issue is not raised, nothing is going to change. Challenging corporal punishment is never a popular activity for governments. Children don't vote and traditional support for punitive violence runs deep in every society and culture until it has been systematically challenged over a long period. I've travelled a lot in the last few years, pursuing this issue, and I am sick of hearing people say "corporal punishment is part of our culture", as if it wasn't part of my culture. In fact England played a substantial role, during its colonial period, in promoting corporal punishment in the context of slavery and military occupation, and institutionalising it in developing school and penal systems. The English common law concept of "reasonable chastisement" has been adopted in more than 70 legal systems. We weren't alone, other colonial powers were responsible too, and the legal concept has its roots in Roman law; when fathers lost their legal right to kill their children, around 360BC, it was replaced with right of fathers and male relatives to use physical chastisement. There is some limited but attractive anthropological evidence that in original small-scale hunter-gatherer societies, where child-rearing was shared, there was no use of pain. I'm a bit suspicious of such research and in more recent times it seems clear that corporal punishment is common and traditionally defended in all societies and cultures until it has been systematically prohibited and challenged over a very long period. Again, this sort of historical analysis is not of great use to children. Every society and culture needs to disown and condemn corporal punishment now.

Some quote faith-based justifications for corporal punishment, "Spare the rod and spoil the child", etc. All of us have freedom of religious belief, but when belief leads on to practices which breach other fundamental rights, including children's rights to respect for their human dignity and physical integrity, the beliefs cannot provide any sort of justification.

Where State governments are unwilling to initiate law reform, NGOs and human rights institutions will need to develop a campaign, focused on government but also

on parliamentarians, and on any particular groups within parliament concerned with children or with education.

If there is no research into the prevalence of corporal punishment, advocates need to consider how to carry out even small-scale research with children, taking advice to ensure that it is ethical and safe for the children involved. You may also be able to encourage some teachers to “whistle-blow” on what is happening in their schools, but they may be risking their job in doing so; during the UK campaign to get school corporal punishment banned in the 1980s, we had a number of teacher martyrs who did lose their jobs by revealing the scale of corporal punishment.

Where there is no sign of progress, legal action should be considered, appealing to domestic courts, quoting international human rights obligations, and where necessary considering using international human rights mechanisms. There have been useful quotable judgments from supreme and constitutional courts in a number of regions, and also from the European Court of Human Rights; these are documented on our website at endcorporalpunishment.org. And advocates should not be frightened to investigate and use – or at least threaten – legal action. It is not so difficult. I get particularly irritated by those who suggest it is wrong to “use” children for such action. Of course children need to give informed consent to their involvement in any form of advocacy, and their continuing safety has to be carefully considered. But my experience of taking such cases, including to the European Court, is that children welcome the process, the ability to do something which inevitably does involve some degree of risk, to feel empowered – and sometimes to get deserved compensation. I’m happy to talk about the detail of mounting legal challenges if anyone is interested.

Implementation and enforcement

Implementing the prohibition of corporal punishment in schools needs to be taken seriously by teachers and particularly by head teachers. Teachers should know that they face immediate suspension and likely loss of their job if they assault students, and the possibility of prosecution. Head teachers should know they are responsible for ensuring that corporal punishment is not used. Enforcement requires regular inspection of schools, including speaking to students in private, and also ensuring that students and parents know who to complaint to outside the school and that there will be no reprisals.

Some countries have introduced abolition of corporal punishment tentatively, without any clear plan for its enforcement, and in the face of traditional teacher and parent support for it, it lingers on.

To me, it is very important not to see ending corporal punishment as just one part in the much bigger task of turning schools into positive learning environments that respect all children’s rights and also teachers’ rights. This may seem controversial; of course that is the long-term target. But children cannot wait for that revolution to be protected from legalised violence – they might be waiting for ever. Prohibition of domestic violence against women does not wait for full employment and universal anger-management courses for men. Children have a right to full protection of their human dignity and physical integrity – in schools and everywhere else – now.

Campaigners should not tolerate arguments that suggest teachers need training or re-training or more resources *before* the law can be changed. Good quality training and more resources are needed in most school systems, to ensure that schools do respect all students' rights and fulfil the aims of education. But banning corporal punishment is an immediate obligation and a necessary pre-condition for developing positive learning communities. Corporal punishment has nothing to do with education. There can be no question of waiting, any more than states can wait to prohibit all violence against women or any other population group.

Finally, a few words about the Global Initiative: it is a very small organisation, aiming to act as a catalyst for reform, providing information and strategies. Our website includes individual reports on the legality of corporal punishment in every state in the world, together with information on human rights standards and recommendations, on prevalence studies including research into children's views and on the availability of programmes and materials promoting positive discipline. We are just embarking on a questionnaire approach in the 100 or so states worldwide where we believe there is no existing campaign against corporal punishment, to try and identify NGOs and human rights institutions or key individuals who may initiate campaigns. If children's right to protection is to be achieved, the issue has to become visible everywhere. We hope we can work with Plan on this.

On the schools issue, if it is not already doing so, Plan should consider lobbying regional and international organisations of teachers and other international education organisations to support prohibition, something the Global Initiative has been meaning to do but has not got round to. We need to get the professional organisations on side. At national level, too often teacher unions are involved in defending their members against individual allegations of violence in schools. That is, in a sense, their job, but that does not prevent the development of a professional position against all corporal punishment.

There is now accelerating progress, it is possible to contemplate a world where punitive violence against children is the rare exception rather than the norm. But it does require very active, uncompromising and visible advocacy – and adults certainly owe that to children. Ending corporal punishment is not just about protecting children from a very common, probably the most common, form of violence. The persistence of adults' legal right to hit children is the most symbolic sign of the low status of children as possessions. Challenging it is about asserting children's equal status as people and rights-holders alongside the rest of us.

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