

# BRIEFING FROM GLOBAL INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN

## **BRIEFING FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN**

**PRE-SESSIONAL WORKING GROUP – February 2007**

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Of the State parties to be examined in the 39<sup>th</sup> session of the Committee on the Elimination of Discrimination Against Women, only Hungary has prohibited corporal punishment of girls and boys in all settings. In all others, it is lawful for parents to inflict corporal punishment on their children as a form of “discipline”. Corporal punishment is not yet prohibited by law in all schools in Belize, Bolivia, Brazil, Cook Islands, Indonesia and Republic of Korea; in Singapore it is lawful in schools for boys only but there is public support for its use on girls. In Indonesia, it is lawful as a sentence under Shari’a law, and possibly in Guinea; it is yet to be legally prohibited as a disciplinary measure in all places of detention in Belize, Bolivia, Brazil, Indonesia, Singapore and possibly Cook Islands and Guinea. It would seem that only Jordan has prohibited corporal punishment of girls and boys in all alternative care settings. The table on page 2 summarises the legality of corporal punishment in the states to be examined, and details are given in the brief country reports which follow.

We note that article 5(b) of the Convention on the Elimination of All Forms of Discrimination against Women provides for “the recognition of the common responsibility of men and women in the upbringing and development of their children, *it being understood that the interest of the children is the primordial consideration in all cases*” and that under article 16(d) men and women should enjoy “the same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; *in all cases the interests of the children shall be paramount*” (emphases added). We also note the Committee’s General Recommendation No. 19 (1992) on Violence against women, which states that full implementation of the Convention requires States to eliminate all forms of violence against women (paragraph 4), and draw attention to the fact that corporal punishment of girl children potentially impairs or nullifies the enjoyment by women of all the rights and freedoms listed in paragraph 7 of the General Recommendation.

In light of the recommendation in the UN Secretary General’s Study on violence against children, submitted to the General Assembly in October 2006, that all corporal punishment of children be prohibited by 2009, we hope the Committee will rigorously pursue the issue of corporal punishment of children in its examination of states – including corporal punishment within the home – and make recommendations that state parties prohibit corporal punishment in all settings, supported by appropriate public education and professional training on positive, participatory and non-violent forms of discipline.

The Committee may also wish to refer to the Committee on the Rights of the Child General Comment No. 8, issued in June 2006, on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” (available at [www.ohchr.org/english/bodies/crc/comments.htm](http://www.ohchr.org/english/bodies/crc/comments.htm)).

## SUMMARY - CORPORAL PUNISHMENT IN STATES TO BE EXAMINED IN 39<sup>TH</sup> SESSION

| STATE             | Prohibited in the home | Prohibited in schools | Prohibited in penal system |                         | Prohibited in alternative care settings |
|-------------------|------------------------|-----------------------|----------------------------|-------------------------|---|
|                   |                        |                       | As sentence                | As disciplinary measure |   |
| Belize            | NO                     | NO                    | YES                        | SOME <sup>1</sup>       | SOME <sup>2</sup>                       |
| Bolivia           | NO                     | NO <sup>3</sup>       | YES <sup>4</sup>           | NO                      | NO                                      |
| Brazil            | NO <sup>5</sup>        | NO <sup>5</sup>       | YES                        | NO <sup>5</sup>         | NO <sup>5</sup>                         |
| Cook Islands      | NO                     | NO                    | ???                        | ???                     | NO                                      |
| Estonia           | NO                     | YES                   | YES                        | YES                     | NO                                      |
| Guinea            | NO                     | YES                   | NO <sup>6</sup>            | ???                     | NO                                      |
| Honduras          | NO                     | YES                   | YES                        | NO                      | NO                                      |
| <b>Hungary</b>    | <b>YES</b>             | <b>YES</b>            | <b>YES</b>                 | <b>YES</b>              | <b>YES</b>                              |
| Indonesia         | NO                     | NO                    | SOME <sup>7</sup>          | NO                      | NO                                      |
| Jordan            | NO                     | YES                   | YES                        | YES                     | YES <sup>8</sup>                        |
| Kenya             | NO                     | YES                   | YES                        | YES <sup>9</sup>        | SOME <sup>10</sup>                      |
| Liechtenstein     | NO                     | YES                   | YES                        | YES                     | SOME <sup>11</sup>                      |
| New Zealand       | NO                     | YES                   | YES                        | YES                     | SOME <sup>12</sup>                      |
| Republic of Korea | NO                     | NO                    | YES                        | YES                     | NO                                      |
| Singapore         | NO                     | NO                    | NO                         | NO                      | SOME <sup>13</sup>                      |

### **BELIZE (third/fourth report – CEDAW/C/BLZ/3-4)**

Corporal punishment is lawful in the **home** under the Criminal Code, which allows those with authority over children under 16 to use “justifiable force” in correcting them. Section 39 of the Code states that “a blow or other force not in any case extending to a wound or grievous harm may be justified for the purpose of correction”. The Summary Jurisdiction (Offences) Act recognises “the right of the parent, teacher or other person having the lawful control or charge of a child or young person to administer punishment to him” (section 6), and the Families and Children (Child Abuse) (Reporting) Regulations (1999) allow for “reasonable and moderate” disciplinary measures (section 2).

In **schools**, corporal punishment is lawful under the Criminal Code, the Education Act and the Primary Education Rules. Government attempts in 1999 to draft new Education Rules which did not allow for corporal punishment failed following strong resistance from the National Teachers’ Union. In a survey of 939 school students by the Human Rights Commission of Belize, 39% identified violent behaviour, including corporal punishment by teachers, as the aspect of school children liked least.<sup>14</sup>

In the **penal system**, corporal punishment is unlawful as a sentence for crime but lawful as a disciplinary measure in penal institutions under the Prison Rules and the delegation of parental authority in the Juvenile Offenders Act (1936, section 14). It is prohibited in the “Youth Hostel” detention centre. Police are reportedly regularly called in to some schools to beat children (NGO report to the CRC, 2004, *Children and Adolescents in Belize, 2004*).

<sup>1</sup> Prohibited in “Youth Hostel” detention centre but lawful in prisons and by law enforcement officials

<sup>2</sup> Prohibited in residential care facilities and in day care centres

<sup>3</sup> Prohibited by regulation

<sup>4</sup> Prohibited in state laws, but ordered by community elders in traditional Indian justice systems

<sup>5</sup> 2003 Bill No. 2,654 proposes explicit prohibition

<sup>6</sup> Information unconfirmed

<sup>7</sup> Prohibited except under Shari’a law in Aceh province

<sup>8</sup> Information unconfirmed

<sup>9</sup> But as at May 2006 some legislation not amended

<sup>10</sup> Prohibited in institutions

<sup>11</sup> Prohibited in state alternative care settings but not in privately run alternative care settings

<sup>12</sup> Prohibited in pre-school settings and early childhood centres, except in the case of guardians, and in state day care and residential institutions; not prohibited in private foster care

<sup>13</sup> Prohibited in child care centres

<sup>14</sup> Hunt, H. (2003), *Leave No Child Out – the report of a survey on why children don’t go to school and on how schools can be child-friendly* (Belize: Human Rights Commission of Belize)

In the **alternative care system**, corporal punishment is prohibited in residential care facilities and in day care centres.

Following examination of the state party's second report in 2005, the **Committee on the Rights of the Child** "reiterate[d] its deep concern that corporal punishment is still frequently practised in the family, in schools and in other institutions, that domestic legislation does not prohibit the use of corporal punishment and that the provisions of the Criminal Code and the Education Act legitimize the use of it" (CRC/C/15/Add.252, para. 40). The Committee recommended that the state party "critically review its current legislation with a view to abolishing the use of force for the purpose of correction and to introduce new legislation prohibiting all forms of corporal punishment of children in the family and within all institutions, including schools and the alternative care system", "extend and strengthen public education and social mobilization campaigns on alternative non-violent forms of discipline and child-rearing, with the participation of children, in order to change public attitudes to corporal punishment and to strengthen its cooperation with the NGOs in this respect" and "seek international technical assistance from, among others, UNICEF in this regard" (para. 41).

### **BOLIVIA (second/third/fourth report – CEDAW/C/BOL/2-4)**

Corporal punishment is lawful in the **home**. Children have some protection from violence and abuse under the Children and Adolescents Code (1999), the Law Against Domestic Violence (1995) and the Family Code Reform Act (1998). A 1997 study by the Under-Secretariat of Generational Affairs with the support of UNICEF and the European Economic Community, found that seven out of ten children had been subjected to psychological punishment and six out of ten had experienced corporal punishment.<sup>15</sup>

There is no explicit prohibition in law of corporal punishment in **schools**, though it is reportedly prohibited by regulation (third report to the Committee on the Rights of the Child, 2004, CRC/C/125/Add.2, pp.41-42). Article 109 of the Children and Adolescents Code states that "a child or adolescent is the victim of abuse when ... school discipline fails to respect his or her dignity and well-being".

In the **penal system**, corporal punishment is unlawful as a sentence for crime, although it may be ordered by community elders in traditional Indian justice systems, still used in much of the country. There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions, or in **alternative care contexts**.

In its concluding observations on the state party's second report in 2005, the **Committee on the Rights of the Child** expressed "deep concern" at corporal punishment in families, schools and other institutions and recommended that the state party "take effective measures, including through public awareness campaigns, to promote positive, participatory and non-violent forms of discipline as an alternative to corporal punishment at all levels of society, and to effectively implement the law prohibiting corporal punishment" (CRC/C/15/Add.256, para. 36). The Committee had made similar recommendations in 1998 (CRC/C/15/Add.95, para. 21).

### **BRAZIL (sixth report – CEDAW/C/BRA/6)**

Corporal punishment is lawful in the **home** under the Civil Code (2002). Bill No. 2,654 (2003), which prohibits corporal punishment in all settings, including the home, schools and places of detention, is currently under discussion. However, as at November 2006, corporal punishment is lawful in **schools**,

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<sup>15</sup> Reported in the third state party report to the Committee on the Rights of the Child (2004), CRC/C/125/Add.2, para. 301

as a disciplinary measure in **penal institutions** and in **alternative care contexts**. It is prohibited as a sentence for crime.

Research in 1999 by the Child Studies Laboratory (LACRI), University of Sao Paulo looked at the experiences of 894 boys and girls aged 7-15 and found a high prevalence of corporal punishment.<sup>16</sup> Among 7-9 year-olds, the most frequent forms of punishment were smacking, spanking and ear/hair pulling (41.51%, 41.92% and 36.79% respectively for boys; 32.76%, 24.14% and 27.59% for girls). Of those aged 10-12 years, between a quarter and just over a half of those who reported having received corporal punishment were still being beaten, and among those aged 13-15 who experienced corporal punishment, there was no form of punishment that had not been experienced by at least one child. Punishment is administered by both mothers and fathers, but particularly the mother the younger the child. Beating has also been found to be a common experience for children in conflict with the law.<sup>17</sup>

Following examination of the state party's initial report in 2004, the **Committee on the Rights of the Child** expressed concern at the practice of corporal punishment and the lack of legislation explicitly prohibiting it and recommended that the state party "explicitly prohibit corporal punishment in the family, school and penal institutions, and undertake education campaigns that educate parents on alternative forms of discipline" (CRC/C/15/Add.241, para. 43).

#### **COOK ISLANDS (initial report – CEDAW/C/COK/1)**

Corporal punishment is lawful in the **home**. The Crimes Act (1969, amended 2003) states in article 61: "Every parent or person in the place of a parent, and every schoolmaster, is justified in using force by way of correction towards any child or pupil under his care, if the force used is reasonable in the circumstances."

Corporal punishment is lawful in **schools** under article 56 of the Education Act (1986/87 as amended 1992), and in **alternative care contexts**. We have been unable to establish the legality of corporal punishment in the **penal system**, as a sentence for crime or as a disciplinary measure in penal institutions.

The state party has not been examined by the **Committee on the Rights of the Child**.

#### **ESTONIA (fourth report – CEDAW/C/EST/4)**

Corporal punishment is lawful in the **home**. Children are legally protected from violence under the Child Protection Act (1992), the Family Law Act (1994, effective 1995), and the Penal Code (2002). Surveys were conducted following "Stop Child Spanking" media campaigns in 1995, 1997 and 2000. In 1995 and 2000, just over four out of ten respondents continued to support the use of corporal punishment (42% and 41% respectively); the percentage of those opposing corporal punishment appeared to fall, from 58% in 1995 to 55% in 2000.<sup>18</sup> A survey in 2000 of 874 children aged 14-16 found that one third had experienced slight physical abuse (pinching, poking), and 16% severe abuse (biting, beating with hand or instrument).<sup>19</sup>

Corporal punishment is unlawful in **schools** and in the **penal system**, but is not explicitly prohibited in **alternative care contexts**.

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<sup>16</sup> Azevedo, M. A. & de Azevedo Guerra, V. N. (2001), *Hitting Mania: Domestic corporal punishment of children and adolescents in Brazil*, Sao Paulo: IGLU Editora

<sup>17</sup> Human Rights Watch (2003), *Cruel Confinement: Abuses against detained children in Northern Brazil*; Human Rights Watch (2004), "Real dungeons": *Juvenile Detention in the State of Rio de Janeiro*, vol.16, no.7

<sup>18</sup> Reported in Government response to UN Study on Violence Against Children Questionnaire (2005)

<sup>19</sup> Soo, K. & Soo, I. (2001), "Epidemiological Survey for Preventing Child Abuse Estonia", Tartu: Support Centre for Abused Children

In 2003, in its concluding observations on the state party's initial report, the **Committee on the Rights of the Child**, noting its concern at continued violence against children, recommended that the state party "explicitly prohibit corporal punishment and take all measures to prevent all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, in schools and in institutions", "continue to carry out public education campaigns on the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment" and "take into account the Committee's recommendations adopted at its day of general discussion on 'Violence against children within the family and in schools' (CRC/C/111)" (CRC/C/15/Add.196, para. 31 (b, c and j)). In 2005, the **European Committee of Social Rights** requested confirmation that the prohibition of corporal punishment applied to all schools and asked for further information regarding the prohibition in institutions (*Conclusions 2005*). The Committee concluded that "the situation in Estonia is not in conformity with Article 17.1 of the Revised Charter on the ground that corporal punishment of children is not prohibited within the family".

#### **GUINEA (fourth/fifth/sixth report – CEDAW/C/GIN/4-6)**

Corporal punishment is lawful in the **home**. The Penal Code punishes "anyone who has deliberately injured or beaten a child under the age of fifteen" (article 300) but this does not prohibit all corporal punishment.

Corporal punishment is prohibited in **schools** by regulation.

In the **penal system**, corporal punishment is available as a sentence for crime, but we have been unable to ascertain whether or not this applies to young persons below the age of 18. We have been unable to ascertain the legal status of corporal punishment as a disciplinary measure in penal institutions.

There is no explicit prohibition of corporal punishment in **alternative care settings**.

In its concluding observations on the state party's initial report, the **Committee on the Rights of the Child** expressed concern "that traditional societal attitudes still regard the use of corporal punishment by parents as an acceptable practice" and recommended that the state party "reinforce measures to raise awareness on the negative effects of corporal punishment and ensure that discipline in schools, families and all institutions is administered in a manner consistent with the child's dignity, in the light of article 28 of the Convention" and "ensure that alternative disciplinary measures are developed and administered within the family and schools" (CRC/C/15/Add.100, para. 20).

#### **HONDURAS – sixth report (CEDAW/C/HON/6)**

Corporal punishment is lawful in the **home**. The Civil Code (1906) states (article 231): "Parents are authorised to reprimand and adequately and moderately correct their children." The Family Code (1984) states (article 191): "Parents have the authority to reprimand and adequately and moderately correct their children under their guardianship." The Code on Children and Adolescents (1996) protects a child's dignity, but article 57 states that paternal relationships are governed by the Family Code.

Corporal punishment was explicitly prohibited in **schools** by article 134 of the Public Education Code (1923) and the General Public Education Act, but these prohibitions are not as explicitly reiterated in more recent laws.

In the **penal system**, corporal punishment is unlawful as a sentence for crime but there is no explicit prohibition of its use as a disciplinary measure in penal institutions. It is not explicitly prohibited in **alternative care contexts**.

Following examination of the state party's initial report in 1994, the **Committee on the Rights of the Child** urged that state party "to further strengthen family education programmes which should provide information on parental responsibilities in the upbringing of a child, including the importance of avoiding the physical punishment of children" (24 October 1994, CRC/C/15/Add.24, Concluding observations on initial report, para. 27). It reiterated its concern with child abuse and ill-treatment in 1999 both within and outside the family (CRC/C/15/Add.105, para. 25).

#### **HUNGARY – sixth report (CEDAW/C/HUN/6)**

Corporal punishment is prohibited in all settings.

#### **INDONESIA – fourth/fifth report (CEDAW/C/IDN/4-5)**

Corporal punishment is lawful in the **home**. Children have limited protection from violence and ill-treatment under the Penal Code, the Law on Child Protection (2002), the Law on Human Rights (1999), the Law on Elimination of Domestic Violence (2004) and the Constitution (1945, amended 2000). Large scale comparative research into the views and experiences of children and adults across Southeast Asia and the Pacific included 813 children from urban, rural and remote areas in Indonesia.<sup>20</sup> Physical punishments reported by the children included hitting with implements, kicking, slapping, ear twisting, hair pulling, pinching, and throwing objects. Of those who were hit, 32.4% were hit with an implement, 23.6% slapped with the hand, 23.6% punched with the fist, and 20.4% kicked. Of those children who mentioned body parts where they were hit, 73% reported being hit on the head and neck, 75% on the limbs, 10% on the back, 15% chest and 15% stomach. In an earlier comparative study of 10,073 children across East Asia and the Pacific, 34% of those surveyed in Indonesia reported having been beaten by their parents, and about 50% said that they found it less easy to talk to their teachers because teachers scream at them or beat them.<sup>21</sup>

There is no explicit prohibition of corporal punishment in **schools**. Of 541 children surveyed by Save the Children UK in schools in North Maluku, nearly one quarter reported having been hit by the teacher on their legs, hands, ears, cheeks and buttocks, once or more than once, the teachers using their hands, or a stick, ruler or bamboo swathe.<sup>22</sup>

In the **penal system**, corporal punishment is unlawful as a sentence for crime except in the province of Aceh which Shari'a law is implemented: the first floggings under the new law were inflicted in June 2005; in August 2005 the first women were flogged. There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions or in **alternative care contexts**.

In its concluding observations on the state party's second report in 2004, the **Committee on the Rights of the Child** expressed concern "that corporal punishment in the family and in schools is widespread, culturally accepted and still lawful" (CRC/C/15/Add.223, para. 43) and "that no specific

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<sup>20</sup> Beazley, H., S. Bessell, et al. (2006), *What Children Say: Results of comparative research on the physical and emotional punishment of children in Southeast Asia and Pacific, 2005*, Stockholm, Save the Children Sweden

<sup>21</sup> UNICEF (2001), *Speaking Out! Voices of Children and Adolescents in East Asia and the Pacific*

<sup>22</sup> Save the Children UK, Indonesia (2004), "Violence in schools: report on a survey conducted by the Save the Children Education Programme in North Maluku", unpublished, cited in Save the Children (2005), *Discipline and punishment of children: a rights-based review of laws, attitudes and practices in East Asia and the Pacific – Save the Children Sweden Southeast Asia and the Pacific, regional submission to the UN Secretary General's Global Study on Violence against Children*, Save the Children Sweden

law exists to regulate school discipline and protect children against violence and abuse in the school” (para. 61(e)). The Committee recommended that the state party “amend its current legislation to prohibit corporal punishment everywhere, including in the family, schools and childcare settings” and “carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment” (para. 44).

### **JORDAN – third/fourth report (CEDAW/C/JOR/3-4)**

Corporal punishment is lawful in the **home**. Article 62 of the Penal Code (1960, amended 2001) states that the law permits “disciplinary beating of children by their parents in a manner allowed by public customs”. As at September 2006, the Penal Code was under revision, and a draft Child Rights Act had been submitted to the National Assembly but this does not prohibit corporal punishment in the home.

Corporal punishment is prohibited in **schools**, the **penal system** and, reportedly, in **alternative care settings**, although we have no details of legislation applicable in the latter context.

In 2006, the **Committee on the Rights of the Child** published its concluding observations on the state party’s third report, in which it expressed concern “that physical punishment in the home is culturally accepted and that article 62 of the Penal Code permits parents to discipline their children within the limits established by ‘general custom’” and stated that “[i]t regrets that an all-inclusive ban of corporal punishment is not included in the draft Child Rights Act” (CRC/C/JOR/CO/3 Unedited Version, para. 46). The Committee recommended that the state party “prohibit by law all forms of corporal punishment in the home as well as in all other settings, including private and public institutions, and ... review the draft Child Rights Act with a view of introducing an all inclusive ban on corporal punishment” (para. 47). The Committee also recommended that the state party conduct a comprehensive study on corporal punishment of children, “sensitize and educate parents, guardians and professionals working with and for children” and “promote positive, non-violent, participatory methods of childrearing”, and drew the state party’s attention to the Committee’s newly adopted General Comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (para. 48). In its previous concluding observations, the Committee had “concurr[ed] with CEDAW ... that the serious problem of violence against women in Jordan has harmful consequences on children” and recommended the prohibition of corporal punishment through legislative and other measures (CRC/C/15/Add.125, paras. 41 and 42).

### **KENYA – fifth report (CEDAW/C/KEN/5)**

Corporal punishment is lawful in the **home**. Explicit reference to the right to administer reasonable punishment in article 23 of the Children and Young Persons Act is not reiterated in that Act’s successor, the Children Act (2001), but it is presumed that reasonable chastisement is acceptable. As at July 2006, the Government announced it was set to review the Children Act 2001 to strengthen children’s protection from violence.

Corporal punishment is prohibited in **schools**, the **penal system** and in **alternative care contexts**.

In a 2006 survey of 500 young women aged 18-24, undertaken by the Africa Child Policy Forum, 99% reported having experiencing physical violence in childhood, most commonly in the form of beating with an object (80.8%), which most was often carried out by mothers (23.5%).<sup>23</sup> Prevalence figures for other forms of physical violence were 59.5% for punching, 39.6% kicking, 43.8% hard work, 20.5% being choked/burned/stabbed, 12.3% having spicy/bitter substances put in mouth, 14.3% being locked or tied up, and 35% being denied food. Girls were found to be most vulnerable when aged 10-13 years.

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<sup>23</sup> Stavropoulos, J. (2006), *Violence Against Girls in Africa: A Retrospective Survey in Ethiopia, Kenya and Uganda*, Addis Ababa, The African Child Policy Forum

In 52.3% of cases, the hitting/punching resulted in “bruises or scratches, broken bones or teeth, or bleeding”; the figure for beating with an object was 64.6%.

A 2005 survey of almost 300 adults and children found that the most frequent forms of physical discipline used on children were smacking (78.8%), pulling ears (68.8%) and cuffing (61.5%).<sup>24</sup> Other corporal punishments included forcing a child to kneel on a hard floor (45.9%), tapping (43.3%), forcing a child to stand in the sun (33.2%) and burning fingers (19.7%). Almost two thirds of children (62.2%) said they wanted the use of corporal punishment to be stopped; over half of parents (54%) said that physical punishment should not be stopped. A 2004 survey by Population Communication Africa reported that over 60% of children believed that they had been or were being physically abused at school, including being slapped in the face, being hit on the body with a cane or stick, and being beaten, kicked or punched or otherwise physically bullied.<sup>25</sup>

In 2001, in its concluding observations on the state party’s initial report, the **Committee on the Rights of the Child** expressed at the continued practise of corporal punishment in schools, the juvenile justice system, in families and in care institutions, and recommended that the state party “take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment, in the juvenile justice system, in schools and care institutions, and in the family”, “monitor the ban on corporal punishment in schools” and “reinforce its public awareness campaigns to promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society” (CRC/C/15/Add.160, para. 34). In 2005, the **Human Rights Committee** recommended that implementation of the prohibition of corporal punishment of children “be accompanied by public information and education campaigns” (CCPR/CO/83/KEN, para. 6).

### **LIECHTENSTEIN – second and third reports (CEDAW/C/LIE/2; CEDAW/C/LIE/3)**

Corporal punishment is lawful in the home. The Criminal Code (1998) establishes penalties for anyone who causes physical or psychological harm to a child (articles 92 and 93) and the government has stated (January 2006) that this prohibits corporal punishment, but there is no explicit prohibition in legislation. In a 1999 study, 689 young people aged 12-20 years were asked about domestic violence. More than two fifths (41%) reported having experienced slaps and 3% thrashing, although whether this was done by siblings or parents was not specified.<sup>26</sup>

Corporal punishment is prohibited in **schools** and in the **penal system**. In the **alternative care system**, it is prohibited in state institutions and childcare settings outside the home but there is no explicit prohibition in privately-run alternative care settings.

Following examination of the state party’s second report in 2006, the **Committee on the Rights of the Child** expressed concern “that all forms of corporal punishment are not specifically prohibited by law in all settings where it may occur” (CRC/C/LIE/CO/2, para. 22). The Committee urged the state party “to prohibit expressly by law all forms of corporal punishment, in particular in the family and in private alternative care settings”, “to undertake awareness-raising campaigns and education programmes aimed at parents, professionals and children concerning non-violent forms of discipline and participatory forms of child-rearing and education” and “to study the prevalence of corporal punishment of children in the family” (para. 23).

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<sup>24</sup> ANPPCAN Kenya Chapter (2005), *From Physical Punishment to Positive Discipline: Alternatives to Physical/Corporal Punishment in Kenya*, second draft

<sup>25</sup> Johnston, T. (2004), *Gender Series: The Abuse of Nairobi School Children*, Population Communication Africa: Nairobi. Cited in O’Sullivan, M. (2005), “Corporal Punishment in Kenya”, *Juvenile Justice Quarterly*, vol.2, no.1

<sup>26</sup> Amt für Soziale Dienste (1999), *Liechtensteinische Jugendstudie 1999. Ergebnisse, Analysen und Kommentare*, Schaan: Amt für Soziale Dienste

## **NEW ZEALAND – sixth report (CEDAW/C/NZL/6)**

Corporal punishment is lawful in the **home**. Parents are justified in using corporal punishment under article 59 of the Crimes Act (1961, amended 2005), which states: “(1) Every parent of a child and every person in the place of the parent of a child, is justified in using force by way of correction towards the child, if the force used is reasonable in the circumstances. (2) The reasonableness of the force used is a question of fact.” This provision has been under review by the Government since 2000 and a decision is expected in 2006. As at November 2006, a bill to repeal section 59 was still under discussion by Parliament, and was expected to be back before Parliament in February 2007.

There have been many studies of the prevalence of corporal punishment of children, which demonstrate persisting public support for its use in childrearing. For example, in Government-commissioned telephone interviews with 612 parents and 539 caregivers of children up to 5 years old in 2004, 51% of parents and 21% of caregivers reported using physical discipline, most commonly smacking on the bottom (45% parents, 32% caregivers); 25% of parents using physical discipline were not interested in receiving information on parenting.<sup>27</sup> In a 2001 Government-commissioned telephone survey of 1,000 adults, 80% of parents believed smacking with an open hand should be legally permissible, though 85% were against the use of a wooden spoon or belt, and 98% believed hits to the head and neck area should not be allowed.<sup>28</sup> When asked about the age of children it should be acceptable to physically punish, 62% believed it acceptable to punish those aged 2-5 (64% women, 60% men), over half (52%) believed it acceptable for children aged 6-10 (67% women, 76% men), 43% felt it acceptable for children aged 11-14 (35% women, 51% men), and 16% for 15-17 year olds (14% women, 18% men). Almost one in four (23%) thought it was acceptable to physically discipline children below the age of 2 (26% women, 19% men).

The Christchurch Health and Development Study, a longitudinal study of a birth cohort of 1,265 children born in 1977, included the collection of data from 18 year olds of their recall of punishment before the age of 16 years.<sup>29</sup> Out of 1,025 responses, only one in ten (10.8%) said they had never been physically punished by their parents. Over half (56.4%) reported regular frequent smacking, 30.8% regular hitting around head or body with fists, 29.5% regular hitting with a cane, strap or similar object, and 23.1% receiving a regular severe beating; 35.9% reported being injured as a result of physical punishment.

Corporal punishment is prohibited in **schools** and in the **penal system**.

In **alternative care contexts**, corporal punishment is prohibited in pre-school settings and early childhood centres under amendments to the Crimes Act in article 139A of the Education Amendment Act, but guardians are excluded from the amendment and it does not apply to private foster care. It is prohibited in state day care institutions and in residential institutions.

In 2003, following examination of the state party’s second report, the **Committee on the Rights of the Child**, reiterating its previous concerns of 1997, stated (CRC/C/15/Add.216, para. 29): “The Committee is deeply concerned that despite a review of legislation, the State party has still not amended section 59 of the Crimes Act 1961, which allows parents to use reasonable force to discipline their children. While welcoming the Government’s public education campaign to promote positive, non-violent forms of discipline within the home, the Committee emphasizes that the Convention requires the protection of children from all forms of violence, which includes corporal punishment in the family and which should be accompanied by awareness-raising campaigns on the law and on children’s right to protection.” The Committee went on to recommend that the state party “amend

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<sup>27</sup> Gravitas Research and Strategy Ltd, for the Ministry of Social Development (2004), *Strategies with Kids – Information for Parents (SKIP) Strategy Development Research: Parent and Care-giver Survey Report*, draft report

<sup>28</sup> Carswell, S. (2001), *Survey on public attitudes towards the physical discipline of children*, Wellington, NZ: Ministry of Justice

<sup>29</sup> Fergusson, D.M. & Linskey, M.T. (1997), “Physical punishment/maltreatment during childhood and adjustment in young adulthood”, *Child abuse and neglect*, vol. 21, no. 7, pp.617-630

legislation to prohibit corporal punishment in the home” and “strengthen public education campaigns and activities aimed at promoting positive, non-violent forms of discipline and respect for children’s right to human dignity and physical integrity, while raising awareness about the negative consequences of corporal punishment” (para. 30). In 2004, the **Committee Against Torture** explicitly reinforced these recommendations in recommending that the state party “implement the recommendations made by the Committee on the Rights of the Child (CRC/C/15/Add.216, paras. 30...)” (CAT/C/CR/32/4, para. 6).

### **REPUBLIC OF KOREA – fifth and sixth reports (CEDAW/C/KOR/5; CEDAW/C/KOR/6)**

Corporal punishment is lawful in the **home**. Children have limited protection from violence and abuse under the Child Welfare Act (revised 2001), the Penal Code, the Special Act on Punishment of Domestic Violence and etc (1998, revised 1999), the Act on Prevention of Domestic Violence and Victim Protection (1998), and the Constitution.

Corporal punishment is lawful in **schools** under article 18 of the Act on Primary and Secondary Education. Article 31 (7) of the Enforcement Decree of the Elementary and Middle School Education Act states: “When the chief of school educates pupils in accordance with the regulations specified in article 18, paragraph 1 of the Act, he/she shall employ such disciplinary or admonitory methods as not causing physical pain to pupils except in cases unavoidable for the purpose of education.”

In the **penal system** corporal punishment is prohibited as a sentence for crime and as a disciplinary measure in penal institutions. It is not explicitly prohibited in **alternative care contexts**.

Research has consistently found a high prevalence of corporal punishment and wide social support for its use. Large scale comparative research into the views and experiences of children and adults across Southeast Asia and the Pacific, involved 152 children (69 boys, 83 girls) from urban areas in the Republic of Korea and 175 adults (32 men and 143 women).<sup>30</sup> Physical punishments reported by the children included slapping, whipping, beating with a broomstick, punching, kicking, pinching, and ear pulling. In the home 97.4% of children experienced physical punishment and 3% emotional punishment, while in school 93.6% experienced physical punishment and 6% emotional. Punishment in the home comprised 61% of all punishments, followed by school, then after-school learning centres, playgrounds, and other locations (street, friends’ houses, welfare centres). Punishment is most commonly inflicted by parents (45%), teachers (24%) and other relatives (20%).

A questionnaire survey of 489 children in grades 4-6 in 1998 revealed a rate of corporal punishment by teachers of 62%, while the rate of violence in the family was 68.9%.<sup>31</sup> In a national telephone survey of 1,272 people, 91.8% of mothers and 82.9% of fathers approved of corporal punishment of children.<sup>32</sup>

In its concluding observations on the state party’s second report in 2003, the **Committee on the Rights of the Child** “note[d] with great concern that corporal punishment is officially permitted in schools” (CRC/C/15/Add.197, para. 38) and recommended that the state party “implement the recommendation of the National Human Rights Commission that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions” and “carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes to corporal punishment, and promote positive, non-violent forms of discipline in schools and at home as an alternative to such punishment” (para. 39).

<sup>30</sup> Beazley, H., S. Bessell, et al. (2006), *What Children Say: Results of comparative research on the physical and emotional punishment of children in Southeast Asia and Pacific, 2005*, Stockholm, Save the Children Sweden

<sup>31</sup> Kim, D-H., Kim, K-I. & Park, Y-C. (2000), “Children’s experience of violence in China and Korea: A transcultural study”, *Child Abuse & Neglect*, vol.24, no.9, pp.1163-1173

<sup>32</sup> Kim, J. Y. (1998), “A study of correlations between attitudes about domestic violence and violent behaviors”, *Korean Family Welfare Studies*, vol.2, pp.87-114, cited in Doe, S. J. (2000), “Cultural factors in child maltreatment and domestic violence in Korea”, *Children and Youth Services Review*, vol.22, nos.3/4, pp.231-236

The Committee had recommended the prohibition of corporal punishment in its previous concluding observations of 1996 (CRC/C/15/Add.51, para. 22).

### **SINGAPORE – third report (CEDAW/C/SGP/3)**

Corporal punishment is lawful in the **home**. Article 89 of the Penal Code states that “nothing, which is done in good faith for the benefit of a person under 12 years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person”, provided that it does not cause or is likely or intended to cause death or grievous hurt.

Corporal punishment is lawful in **schools** (for boys only) and in the **penal system**, both as a sentence for crime (again for boys only) and as a disciplinary measure in penal institutions and places of detention (possibly also for girls). In the **alternative care system**, corporal punishment is prohibited in child care centres, but permitted in other forms of childcare including residential institutions such as approved homes and schools.

Popular surveys have found a high degree of public support for corporal punishment of both boys and girls. For example, a *Sunday Times* telephone poll of 358 people following the resignation of a school principal for breaking Government guidelines on corporal punishment found that seven in 10 favoured corporal punishment, while nine in 10 said parents today were too protective of their children.<sup>33</sup> A *Sunday Times* poll of 50 people found that nine in 10 think girls are less well-behaved than they used to be and six in 10 approved of corporal punishment for girls.<sup>34</sup>

In 2003, in its concluding observations on the state party’s initial report, the **Committee on the Rights of the Child** expressed concern “that corporal punishment is permitted by law in the home, schools and institutions and as a form of punishment for male juvenile offenders” (CRC/C/15/Add.220, para. 32) and recommended that the state party “amend its legislation to prohibit corporal punishment in the home, schools, institutions and the juvenile justice system”, “conduct well-targeted public awareness campaigns on the negative impact corporal punishment has on children” and “provide training for teachers and personnel working in institutions and youth detention centres on non-violent forms of discipline as an alternative to corporal punishment” (para. 33).

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<sup>33</sup> Quek, T. (2004), “Go ahead, cane wayward students”, *Sunday Times*, Singapore, 2 May 2004

<sup>34</sup> Wee, T. C. (2004), “Girls behaving badly”, *Sunday Times*, Singapore, 9 May 2004