

Submission from the Global Initiative to End All Corporal Punishment of Children to the Working Group on Discrimination Against Women in Law and Practice's call for submissions on Good Practices in the Elimination of Discrimination against Women in Family and Cultural Life

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Global Initiative to End All Corporal Punishment of Children

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Global Initiative to
**End All Corporal Punishment
of Children**

Summary

Prohibition of violent punishment of girls and boys is a key measure to end violence against girls and women and promote equality in family life. We therefore hope that the Working Group on Discrimination against Women in Law and in Practice, in its report on Good Practices in the Elimination of Discrimination against Women in Family and Cultural Life, will:

- *draw attention to the human rights imperative to prohibit all corporal punishment and the importance of prohibition in protecting women and girls from violence in the home*
- *recommend that all states incorporate law reform to prohibit corporal punishment in strategies to address discrimination against women – including gender-based violence – in the family.*

Prohibition of corporal punishment is essential in eliminating domestic violence

The traditional acceptance of violence against women in the family home means that in many states, the legal system fails to challenge domestic violence against women. In the same way, the traditional social acceptance of corporal punishment of children is enshrined in law. In some states, legal defences, justifications or authorisations explicitly allow parents and others to use force to punish children. In others, the law is silent on corporal punishment, but in practice laws against violence and assault are not interpreted as applying to all violent punishment of children and case law confirms the “right” of parents and others to inflict physical punishment on children.

Corporal punishment violates children’s right to respect for their physical integrity and human dignity and its legality violates their right to legal protection from violence. In the context of increasing human rights pressure from the Committee on the Rights of the Child¹ and other treaty bodies and in the Universal Periodic Review,² 38 states worldwide have now prohibited violent punishment of girls and boys in all settings of their lives. But in 160 states, violent punishment of children in the family home remains lawful. Violent punishment is the most common form of

¹ Committee on the Rights of the Child (2006), [General Comment No. 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment \(arts. 19; 28, para. 2; and 37, inter alia\)](#)

² All treaty body recommendations and Universal Periodic Review outcomes relating to corporal punishment of children are available at www.endcorporalpunishment.org

violence against children, and statistics show that is experienced by a large majority of girls and boys in all world regions.³

The process of enacting or reforming domestic violence and family protection laws which is underway in many states provides an obvious opportunity for prohibiting all corporal punishment. Yet to date this opportunity has rarely been used. Since 2006, new laws on domestic violence have been passed in at least 70 states, yet in only two did they prohibit all violent punishment of children in the home. Failure to prohibit corporal punishment in domestic violence laws leads to the perverse situation of the same adults who are prevented in law from inflicting violence on their partners being able to inflict it on their children with impunity. Sometimes work against domestic violence acknowledges the harm done to children by witnessing violence in the home while ignoring the violence inflicted directly on them in the guise of “discipline”. From a human rights perspective this is indefensible. A home where it is lawful to punish children by hitting and hurting them can never be completely safe or violence-free.

Examples of prohibition of corporal punishment in family law

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

“Persons exercising parental care, care or alternative care over a minor are forbidden to use corporal punishment, inflict psychological suffering and use any other forms of child humiliation.” Poland, Family Code as amended 2010, article 96 (unofficial translation)

Corporal punishment undermines gender equality in family life

“Gender ideologies that dictate that men should control women or allow for men to physically control their partners or children are forms of gender-based structural violence.”

Rashida Manjoo, Special Rapporteur on Violence Against Women

Ending all violence in the family home is a key element of ensuring equality in family life. The Committee on the Elimination of Discrimination Against Women’s General Recommendation No. 19 on violence against women (1992) makes it clear that gender-based violence constitutes discrimination and impairs or nullifies the fulfilment of women’s rights including the right to equality in the family. Violence against women and corporal punishment of children in the family home are closely linked. They often coexist, the perpetrators may be the same and experience of violence in childhood is linked to experience of partner violence in adulthood. For too many girls and boys, childhood experience of corporal punishment is the beginning of a life of violent victimization by authority figures and family members.

General Recommendation No. 19 highlights that traditional attitudes by which women are regarded as subordinate to men perpetuate family violence. Ending the legality of all violence in the family home is an essential part of challenging these attitudes. Corporal punishment of children and domestic violence against women arise from the same hierarchical and patriarchal power structures,

³ For example, UNICEF (2014), *The State of the World’s Children 2014 in Numbers: Every Child Counts*, NY: UNICEF

which uphold the concept of girls' and women's inferiority to men and children's inferiority to adults. The legality of corporal punishment of children perpetuates these power structures. Challenging them requires prohibition of all family violence, including all corporal punishment of children.

Combatting violence in the family home requires states to explicitly promote, in their laws and elsewhere, the concept that all family members are equal holders of human rights, including the right to freedom from violence. When violent punishment of children remains lawful, the idea that it is acceptable for those with perceived higher social status to use violence to control and regulate the behaviour of those perceived to be subservient remains enshrined in law. This weakens the protection of women as well as children from violence. States which have not prohibited corporal punishment allow the power structure which is the basis of domestic violence against women to go unchallenged. In so doing, they are failing to act with due diligence to eliminate family violence against women, girls and boys.

We therefore hope that the Working Group on Discrimination against Women in Law and in Practice, in its report on Good Practices in the Elimination of Discrimination against Women in Family and Cultural Life, will:

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