

Committee on the Rights of the Child

Day of General Discussion

Friday, 28 September 2001 – OHCHR (Palais Wilson, Geneva)

Violence Against Children within the Family and in Schools

Submission by **UNICEF-WCARO**

CORPORAL PUNISHMENT IN COUNTRIES COVERED BY THE UNICEF WEST AND CENTRAL AFRICA REGIONAL OFFICE.

This paper has been initiated by the UNICEF West and Central Africa Regional Office as a modest contribution to the global campaign on the prohibition of corporal punishment. This is a first step towards a study of the subject and appropriate actions in the region in application of UNICEF 2002-2005 Medium-Term Strategic Plan pending an in-depth regional study on all forms of abuse and violence against children.

It also serves as input for the UN Committee on Rights of the Child's general discussion on violence against children in the households and at school scheduled for 28 September 2001 in Geneva. (Switzerland).

Country	Practices	Legislation	Government-UNICEF - Cooperation Programme
1. Gambia	Yes	The law provides for corporal punishment. Laws on education, children and the youth legalize corporal punishment. Headmasters can resort to the law and punish pupils. Police officers as well as prison warders are allowed to administer corporal punishment on children, in conflict with the law, both during police investigation and preventive detention. Judges can also order flogging as punishment to offending minors.	The new programme is designed to address the issue of corporal punishment on two fronts: - legislative reforms to prohibit corporal punishment in schools and juvenile courts as a first step; - development of alternative disciplinary measures in schools and sentencing in juvenile courts. This would call for the building of capacities and raising awareness on the new measures. Parallel to this, a broad-based partnership will have to be developed for the elimination of the phenomenon in schools. There are also plans to undertake preliminary surveys to determine the nature and scale of corporal punishment in schools, households and in the juvenile courts.
2. Ghana	In 1999, a 12-year old girl called Carmen Jones died following corporal punishment inflicted on her by her teacher. Consequently, the education laws subjected corporal punishment to prior authorisation by headmasters. In Ghana the practice of corporal punishment is partly based on the Biblical saying: "Spare the rod and spoil the child". As a result of the lack of discipline in schools many public officials (recently a regional minister) have been calling for the application of corporal punishment.	Corporal punishment is dealt with at the legal level under "torture or cruel, inhuman or degrading treatment". Laws permitting the use of force against children according to their age and maturity:: « S. 13 of Ghana's children's Act, Act 560 of 1998 states »	The issue is being considered as a relating to a child protection strategy in the new programme which will cover the next coming five years.
3. Senegal	In the "Daaras"(Islamic schools), corporal punishment is a common practice. Intra-family violence is characterized by corporal punishment against children. (In Wolof, the word	In the penal code, there is more emphasis on punishing torture and sexual abuse and violence (such as paedophilia, rape and female genital mutilation). The law does not mention corporal punishment. On the other hand, according to a ministerial order, corporal punishment is prohibited in elementary and primary schools	Advocacy programmes did not sufficiently highlight the fight against corporal punishment, except the rights of the "talibé" rehabilitation programme which based its entire information and communication process on beggar "talibés"(of Koranic school pupils). The 2002-2006 cooperation programme will address the issue of violence against children under the legal and social protection for children project. (children at risk protection programme).

	"yaar" both means ("to educate" and "a whip")		
4. Niger	According to persons interviewed on the issue, corporal punishment continues to be practised. There is no available household or school data.	In the penal code there are at least three articles (law 61-27 of 1961) against corporal punishment in general and against children in particular: : -Article 222, " <i>any person who knowingly inflicts injury, blows, assault or any other violence shall be punished...</i> " (<i>the text is quite comprehensive</i>);; -Article 226, states that where physical harm injury or assault is committed against legitimate, natural or adopted father, mother or any legitimate descendant or on a child below 13 years of age, the sentences indicated shall be aggravated; - Article 227 also provides for the punishment of all those who deprive children of food or care and thereby likely to jeopardize the health of a child below the age of 13. There are no clear and specific references to corporal punishment in schools. In relation to the family setting, Article 227 (above) touches on an interesting aspect and Article 226 (above); both make room for legal punishment, but they are not sufficiently explicit. Regarding corporal punishment at school, a circular from the Ministry of Education dated 1981 informed all 1 st degree school inspectors that it is forbidden to practise " corporal punishment on pupils, inflict cruelty on them that humiliates them and mortify their bodies, use pupils as free labour for personal purposes" and that "such practices shall be severely punished"	The specific issue of child corporal punishment is not perceived as a priority in the area of protection at the situation analysis conducted in 1998. Thus, there is no specific treatment either in the advocacy or in terms of rehabilitation. An annotated collection of legal instruments of Niger on children with an analysis-based on conventions was drawn up. It will be finalized with the support of the Association of women Lawyers. The issue of the protection of "talibés" has become a priority.
5. Cape Verde		Corporal violence is punishable under the law in general, and in the case of children, is considered a more serious offence -Law No. 20/IV/91 -against torture provides for prison sentence up to 12 years of imprisonment ; - The constitution considers evidence obtained through torture, constraint, physical or moral coercion as null and void. . - The Minors Code (currently embodied in the Civil Code Civil) establishes that minors cannot subjected to corporal harm or be deprived of care; - Decree No.4/97 renders ill treatment and violence against children punishable by imprisonment ranging from one to five years. - Corporal punishment inflicted on a child is punishable under the Penal Code with the same or even higher prison sentence than in the case of adult victims	Action for the elimination of corporal punishment in schools is perceived as an integrating and concrete factor of the global movement for children and the "Say Yes for Children" campaign "for ensuring commitment in each school of the country to the slogan: "No more corporal punishment against children!"
6. Mauritania	According to a recent statement made before the UN Committee for Child Rights in Geneva (Switzerland) representatives of national NGOs, corporal punishments are practised in primary	-In the penal code, Articles 285 - 294 concerning voluntary assault and battery against a third party can cover corporal punishment specifically in cases that may be interpreted as assault and battery. Articles 323-335 on crimes and offences against children concern infanticide, abortion, child desertion and abduction. But there is no explicit mention of	This issue should be addressed in the programme in preparation: - first gather data on the issue; - next, in order to undertake advocacy activities to prohibit this practice and provide for punishment for its perpetrators.

	schools, especially in private schools.	corporal punishment. - However, Article 701 of 4 December 1968 specifying elementary school code of conduct states that: " corporal punishment is totally prohibited", "	
7 Togo	Violence occurring in households, public and private schools, technical and vocational institutions fall under corporal punishment.	Under Article 47 of the penal Code of 13 August 1980 all forms of violence, particularly assault and battery are punishable. But the law does not specifically prohibit corporal punishment. The Constitution of 14 October 1992 mentions torture, inhumane and degrading treatment.	The situation of children and women monitoring/evaluation programme of the Government-UNICEF Cooperation Programme proposed a study on all forms of violence against children. Also, the following actions have been planned: <ul style="list-style-type: none"> - advocacy with relevant legal services geared towards the drafting of a bill on the issue; - activities on family education, promotion of gender equality and social mobilization
8 Liberia	The use of force by a person with special responsibility for care, discipline or safety of children is permitted. It is practised both at home and in school. In Montserrado County, approximately 55% of parents use corporal punishment at homes and 66.7% of children receive corporal punishment in schools. Culturally, Liberians see corporal punishment as a tool for training children; they believe its non-use has a tendency of "spoiling the child". In rural communities, community members are under social obligation to assist in disciplining children. In this setting, other persons, in addition to parents and guardians, do give corporal punishment to children. With society highly traumatised by the effects of the war, there are incidents in which corporal punishments get out of hand to the detriment of children.	The penal Law states that the use of force against children is justifiable if the actor is the parent, guardian or other person responsible for the care and supervision of a minor under 18 years old. Beating of children is thus allowed under Liberian laws, but it must be done within certain limits.	
9.Chad	Corporal punishment occurs in schools particularly in Koranic schools.	Articles 17 and 18 of the constitution adopted on 31 March 1996 state that the human person is inviolable and sacred. Any person has the right to life, personal integrity, safety and protection of his or her private life and property. No one may be subjected to cruelty, degrading and inhuman treatment or torture. Article 252 of the Penal Code states that any individual who knowingly assaults or causes injury to another person shall be liable to a prison term ranging from six days to one and a half years and a fine of between 500 and 50,000 francs. Where a child below 13 years is the	

		victim of assault and injuries, the sentence may be double. In the specific case of corporal punishment in schools, it was prohibited by a decree in 1970.	
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Remarks on the responses to the questionnaire

- 9 countries out of the 24 in the region provided responses to the questionnaire addressed them by the UNICEF West and Central Africa Regional Office or information was collected through country reports. In terms of representativeness, this sample of 9 countries calls for the following remarks:
 1. It represents more than 1/3 of all the countries in the region;
 2. This sample comprises 3 English-speaking countries, one Portuguese-speaking and 5 French-speaking countries.
 3. The majority of countries are from the Sahel (5 countries). One country is in emergency situation.
- It is noted that in all the 9 countries (except Cape Verde which did not complete the relevant space on the questionnaire), corporal punishment in households and schools and sometimes in police stations (Gambia) are a common practice that can result in the death of the child (case of the young girl in Ghana in 1999).
The lack of studies specifically on corporal punishment does not make it possible to provide precise information on the scale of the phenomenon. Apparently the latter is considered to be normal by the public at large.
Worse still, from a cultural and religious perspective, the practice is either considered to be an integral part of education or is incorporated into it.
In Ghana, for example, reference is made to the Biblical saying: "Spare the rod and spoil the child". In Senegal, the Wolof word "yaar" means both "educate" and "a whip".
- The law does not explicitly forbid corporal punishment against children, but it mentions in general torture and maltreatment or assault and battery although in Cape Verde and Chad the law provides for higher sentence where children are involved. On the other hand, in the Gambia, and to a lesser extent in Ghana, the law allows the practice.
In Chad, Mauritania and Senegal, ministerial ordinances prohibit corporal punishment in schools. But this has not prevented the practice, which can be quite common in some cases.
- In ongoing UNICEF-Government Cooperative Programmes in countries that responded to the questionnaire, no concrete programmatic action has been envisaged and/or undertaken in the past. The majority of countries plan to include the issue in future programmes and in specific campaigns such as the "Say Yes for Children" campaign. .

Comments from ongoing country studies relating to research on child trafficking and the regional report on the sexual exploitation of children in West and Central Africa.

The joint research by UNICEF/Innocenti Research Centre on policies and programmatic responses to child trafficking in West and Central Africa includes 8 countries in the region namely Benin, Burkina Faso, Cote d'Ivoire, Togo, Gabon, Nigeria, Mali and Cameroon. Other countries such as Equatorial Guinea have initiated country studies with the government on the subject.

In most of the reports of the countries mentioned above, mention is made of maltreatment and physical violence including sexual abuse and corporal punishment against children and child workers or child victims of trafficking for economic exploitative purposes.

? The Equatorial Guinea study, for example, states that child labourers, generally from other countries, particularly Benin, are maltreated and beaten by their employers who are often members of their own families. Maria, aged 9 years works with an aunt, a restaurant owner. She testifies: "when customers leave without paying, my aunt beats me. My aunt maltreats me. I'm worn out and unhappy"

Recommendations by the UN Committee on the Rights of the Child following the review of country reports on the implementation of the convention on the Rights of the Child.

The Committee expressed its concerns and put forward recommendations for follow up by State Parties concerned.

? Following the reports by Burkina Faso and Nigeria, the committee expressed deep concern over persistent practices such as violence in households. It recommended that Burkina Faso combat this practice. The Committee also recommended that Nigeria reviews all its laws to ensure that it puts an end to this kind of violation of the rights of the child. It recommended further that the country conducts campaigns with the participation of all sectors of the society in order to change mentalities in the country and thereby reject such practices.

? Following the report by Togo, the Committee expressed concern about the fact that corporal punishment is common practice in households, schools and other institutions, as well as the lack of legislation forbidding the practice. It recommended to the State Party to enact a law prohibiting corporal punishment and to organise a public information campaign to raise the awareness of adults about the dangers and consequences of this practice.

? Following the report by Guinea, the Committee stated that while acknowledging the existence of a law forbidding corporal punishment, it has observed with concern that traditionally the society considers the practice to be acceptable. The Committee recommended to the State Party to intensify the measures taken to make the harmful effects of corporal punishment known and ensure that discipline is applied in schools, in families and in all institutions so that it does not undermine the dignity of the child, in the light of Article 28 of the CRC.

? Following the report by Ghana, the committee expressed grave concern about the institutionalization of corporal punishment as a means of discipline, particularly in schools, as well as the absence of a general law clearly forbidding the subjecting a child to both physical and mental torture or to other punishment or cruel, inhuman and degrading treatment. The Committee recommended that the State Party prohibits corporal punishment and that references to disciplinary measures making mention of physical force such as flogging be removed from the teachers' manual. It recommended further that the authorities take and apply appropriate social and educational disciplinary measures to protect the rights of the child.

? Following the report by the Democratic Republic of Congo, the Committee expressed concern about the fact that corporal punishment is allowed by the national law and that they continue to be practised by State remand institutions as well as in households. The committee recommended that the State Party takes all appropriate measures including legislative instruments to prohibit and eliminate all forms of corporal punishment in schools and families. The committee also recommended an awareness-raising campaign to change the attitude of the people and provide

alternative forms of discipline consistent with the child's human dignity and in conformity with the provisions of the CRC, particularly Articles 19 and 28.2.

? Following the report by the Dental African Republic, the committee expressed concern about incidents of police brutality and corporal punishment against children, notably in Bangui. The Committee recommended to the State Party to put an end to all acts of violence against children including corporal punishment committed by the police force. It also recommended training programmes for the police and judiciary structures.

? Regarding the report by Côte d'Ivoire, although the committee commended the State Party for the inclusion of the prohibition of torture or any other form of cruel, inhuman or degrading treatment and punishment, the Committee expressed concern about the woefully inadequate conditions of detention of children. The Committee recommended to the State Party to take all the necessary steps to improve the condition of children in prison and ensure that each case of violence and abuse is investigated so as to prevent the impunity of the culprits.

Follow up Recommendations

It is suggested that country offices henceforth include the fight against corporal punishment in their cooperation programmes. Consequently, the following action areas are recommended:

1. Undertake targeted surveys to assess the scale of the phenomenon of corporal punishment and systematically incorporate the issue in studies and research on the situation of child victims of the worst forms of child labour, child victims of various abuses, exploitation and violence ;
2. Include the issue of corporal punishment in awareness campaigns, in household, community, school, para-judiciary and judiciary settings;
3. Address the issue of corporal punishment in projects developing education as a preventive strategy for child protection ,particularly, the fight against the worst forms of child labour, as well as part of the "child-friendly school" strategy by paying particular attention to the recommendations of the UN committee for the Rights of the Child ;
4. Assist governments to undertake legal reforms aimed at making corporal punishment a criminal offence ;
5. Encourage child, youth and parents' and teachers' associations to undertake actions to combat corporal punishment ;
6. Put in place a corporal punishment warning and preventive system (a hotline or any appropriate system).
7. Encourage and support training activities on child rights, for professionals working with children or for children and those working in prisons

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Abidjan 1 September 2001.