



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

Submission to the Committee on the Elimination of Discrimination against Women for the general discussion on access to justice

Access to justice and ending violent punishment of girls

Global Initiative to End All Corporal Punishment of Children

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Summary

Prohibiting and eliminating all violent punishment of children is an obligation under international human rights law. It is also a key part of a wider strategy for challenging violence against women and girls and ensuring their access to justice. The Global Initiative hopes that in its General Recommendation on access to justice, the Committee on the Elimination of Discrimination Against Women will reflect the obligation under international law to prohibit and eliminate all corporal punishment of girls and boys.

Violent punishment and girls' access to justice

Violent punishment of girls is the most common form of violence against them and is experienced by a majority of girls in all world regions. Prohibiting it in law and eliminating it in practice is required by international human rights law (see below) and is an essential part of preventing all violence against girls; equally, it is essential to ensure their access to justice.

Laws allowing violent punishment discriminate against girls and impede access to justice

The concept note for the general discussion on access to justice recognises that a discriminatory legal framework is a barrier to women's access to justice. The same is true for girls: there can be no access to legal remedies for suffering violence inflicted in the name of "discipline" when that violence is, in fact, lawful. And if girls are truly to be considered as fully human as adult women – and to enjoy fully the right to protection from violence and access to justice when this is breached just as women do – then laws which protect adult women from assault but allow violent punishment of girls in their homes, schools and elsewhere are indefensible.

Social acceptance of corporal punishment discriminates against girls and perpetuates their low social status

The concept note acknowledges that discriminatory social norms influence the development of justice systems, which in turn perpetuate these social norms. The acceptance of violent punishment of children is a prime example of a discriminatory social norm which has become enshrined in law. Just as laws in many

societies in the past have allowed men to use violence to punish their wives and servants, today laws in 165 states allow family members and others to assault children in the name of “discipline”. For children, as for women, legal acceptance of violence against them perpetuates its continued social acceptance; this in turn reinforces children’s low status in society, making a host of other violations of their rights more likely. As the concept note highlights, states have an obligation to act with due diligence to prevent rights violations, including violence. States can hardly be said to be acting with due diligence to prevent violence against girls while allowing the most common form of violence against them to remain lawful and socially accepted. Social change is required and for social change to happen, legal change is essential.

Prohibiting corporal punishment in childrearing is a key element in addressing domestic violence and providing for protection from it in the justice system

Ending corporal punishment of girls and boys is an essential part of a wider strategy for challenging violence against women and ensuring women’s access to justice, particularly for family violence. Corporal punishment is closely linked to intimate partner violence: the two kinds of violence often coexist, the perpetrators may be the same and legal and social acceptance of one kind of violence in the “private” sphere of the home increases tolerance of other kinds of violence in family relationships.¹ Prohibiting corporal punishment and working to eliminate it in practice is an essential part of the overall social transformation required to end violence against women – it helps societies to move away from the view that it is acceptable to use violence to control and punish others, including family members. Similarly, working to ensure that girls and boys can access justice for violations of their right to be free from corporal punishment challenges the culture of impunity which in too many states allows violence against women in the home to continue unchallenged. But where corporal punishment remains lawful, the idea that violence in family relationships is acceptable and cannot be challenged within the legal system will remain.

Where corporal punishment is lawful, justice is not only inaccessible to girls but directly violates their rights

Girls’ and boys’ experience of legalised violence is not limited to the home: children can legally be assaulted in schools in 81 states, in penal institutions in 76 states and in alternative care settings in 158 states. In 41 states, corporal punishment is lawful as a sentence for child offenders; where sentencing is based on Sharia law, women and girls from the age of puberty can be ordered to undergo cruel punishments including flogging. Far from allowing girls and women to enforce their right to protection from violence, the justice system itself violates this right in the most fundamental way.

The obligation to prohibit and eliminate all violent punishment

The Committee on the Elimination of Discrimination against Women has made it clear that the **Convention on the Elimination of All Forms of Discrimination against Women** requires that women are protected against violence of any kind in the family and elsewhere,² and that laws against family violence give adequate protection to all women.³ The Committee has recommended prohibition of corporal punishment of children to some states in its concluding observations on state party reports.

¹ For more information, see Global Initiative to End All Corporal Punishment of Children (2013), *Ending violent punishment of girls: A key element in the global challenge to all violence against women and girls*, briefing prepared for the 57th session of the Commission on the Status of Women, March 2013

² Committee on the Elimination of Discrimination against Women (1989), *General Recommendation No. 12: Violence against women*

³ Committee on the Elimination of Discrimination against Women (1992), *General Recommendation No. 19: Violence against women*

The Committee on the Rights of the Child has consistently made it clear that the **Convention on the Rights of the Child** requires prohibition of all corporal punishment in all settings – the home, schools, penal systems and alternative care settings. In its General Comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment⁴ the Committee consolidated and confirmed these obligations and it systematically recommends prohibition in its concluding observations.⁵ The Committee stresses the importance of prohibition for prevention of violence through changing social norms: “the first purpose of law reform to prohibit corporal punishment of children within the family is prevention: to prevent violence against children by changing attitudes and practice.”⁶ The Committee is clear that states have due diligence obligations to prevent violence,⁷ that “the principle of the rule of law should apply fully to children as it does to adults”⁸ and that effective remedies should be available to children who experience violence.⁹

The monitoring bodies of other international treaties, including the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**, the **International Covenant on Civil and Political Rights** and the **International Covenant on Economic, Social and Cultural Rights**, and of regional human rights instruments increasingly recommend prohibition of corporal punishment and the issue is regularly raised in the **Universal Periodic Review** of states’ overall human rights records.¹⁰

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children

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⁴ 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 \(arts. 19; 28, para. 2; and 37, inter alia\)](#)

⁵ All concluding observations relating to corporal punishment can be found at www.endcorporalpunishment.org

⁶ 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 \(arts. 19; 28, para. 2; and 37, inter alia\)](#), para. 38

⁷ Committee on the Rights of the Child (2011), *General comment No. 13: The right of the child to freedom from all forms of violence*, para. 5

⁸ Committee on the Rights of the Child (2011), *General comment No. 13: The right of the child to freedom from all forms of violence*, para. 3(d)

⁹ Committee on the Rights of the Child (2011), *General comment No. 13: The right of the child to freedom from all forms of violence*, paras. 41(i), 56

¹⁰ See the Global Initiative website, www.endcorporalpunishment.org, for more information