

**Global Summit  
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**Status report on the movement to prohibit and eliminate all corporal punishment:**

**Global Overview**

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I'll briefly summarise global progress – but you all have detailed tables on law reform, both global and for the US, and I want to use some of the time to cover the challenges and ways forward.

For me, progress is measured by law reform and it is - quite simply - children's right. Children have a right to equal protection under the law of their physical integrity and human dignity. Children are the last people waiting for this fundamental protection, which we as adults take for granted.

The difficulty of achieving a clear ban and particularly achieving it in the home, reflects what a direct and highly symbolic challenge this is to children's traditional status as possessions not people. Achieving it marks a dramatic breakthrough in how a society regards its children. You cannot pretend to respect someone, while you defend a right to hit and deliberately hurt them. And – as Mali reminded us last night, governments cannot pretend they have an effective child protection system, while their laws authorise deliberate violent punishment.

Of course, banning corporal punishment on its own will not stop people – particularly parents – hitting their children. Sweden – and maybe Costa Rica – are really the only countries which have as yet systematically linked a clear ban to comprehensive public and parent education – education which ensures everyone knows about the law and children's right to equal protection; awareness-raising of the obvious dangers of corporal punishment and promotion of non-violent relationships with children.

So 29 states have achieved equal legal protection for children. At least another 23 States have publicly committed themselves to this or have legislation that could achieve it before their parliaments. But of course these commitments change with changes in governments and parliaments and I

have to say that our progress table is deliberately optimistic. But even if many and not all these situations lead to full abolition, more than a quarter of the world's states will have achieved this iconic reform for children.

A lot of these pioneering states are quite small so the 29 only include about 5% of the world's children. Brazil – on the verge of achieving a complete ban – with its 69 million children will almost double the numbers with legal protection. President Lula introduced the abolition Bill just before he left office. He has a personal story that explains his commitment, as is so often the case. His father had systematically beaten his older siblings, and when he started to beat Lula, the youngest, his mother took the children and left home for good. Brazil has also had the advantage of the passionate support of a very popular TV mega-star, Xuxa, whose foundation has largely supported the civil society campaign.

When people tell me, in all regions, that corporal punishment is part of their culture, I have to remind them that it is absolutely part of my country – England's - culture. And also that my country, in its colonial past, in the context of slavery and military occupation and in the development of early school systems and penal systems for young people, and also in much missionary teaching, promoted and institutionalised corporal punishment. We have to recognise now that corporal punishment is part of the culture of every society until it has been prohibited and systematically eliminated through linked public education over a long period.

When people tell me that the language of rights and especially children's rights is unpopular and unconvincing, or that the rule of law is weak, so prohibition will have no impact, I have to ask them what hope there is for human societies where basic rights and the rule of law are not respected. How can we pretend to be contributing to progress if we drop the language? If children don't experience adults who take their rights seriously, including their fundamental right to respect for their physical integrity and human dignity, how can we expect them to build rights-based societies in the future?

Perhaps foolishly, I do feel confident now that the progress – and I mean the progress towards achieving universally equal legal protection for children - is unstoppable and irreversible. But the accelerating pace depends on the strength and cunning of the advocacy pursuing law reform – and pursuing

law reform explicitly and without compromise as a fundamental human right.

We have to generate and maintain a sense of real urgency and impatience with adults outrageous excuses for their violence. As Paulo Pinheiro who led the UN Study on violence against children said when he reported to the General Assembly in 2007: “Children are sick of being called ‘the future’: they want to enjoy their childhoods, free of violence, now”.

So what are the elements of progress that support my optimism? First, the ever-stronger human rights consensus. The monitoring body for the most-ratified of human rights instruments, the Convention on the Rights of the Child, consistently asserts States’ obligations – legal obligations – to prohibit and eliminate all corporal punishment and other cruel or degrading punishment of children. The Committee on the Rights of the Child highlights that it is talking about all corporal punishment, however light: so called loving slaps and all. Its landmark General Comment No. 8 on the right of the child to protection – a key document which should be on the website, George, consolidates its interpretation and provides detailed guidance. The Committee consistently recommends prohibition as it examines states’ successive reports. Five other UN human rights treaty bodies frequently echo the CRC Committee, including significantly the Committee against Torture.

In the new Universal Periodic Review (UPR) process in the Human Rights Council in Geneva, in which states examine other states’ overall human rights record, the legality of corporal punishment of children is more often than not raised and pursued. During the first nine UPR sessions since 2008, the obligation to prohibit corporal punishment was raised during the review of over 80 states; at least 35 accepted recommendations to prohibit it. Only 12 states actively defended corporal punishment.

This is all the result of systematic and targeted briefing of all these bodies and lobbying of their members.

Then the regional human rights systems:

The Council of Europe with 47 member states – almost a quarter of the world’s states - has made most progress, I believe because it has the strongest human rights mechanisms and we have used them, although still not enough, to challenge corporal punishment.

In the European Court of Human Rights, there has been progressive condemnation of corporal punishment in a series of judgments, all against the UK – but the condemnation is still not quite complete. It started with the challenge to penal flogging of children in the Isle of Man in the 1970s, then to corporal punishment in schools including private schools and then the first case concerning parental corporal punishment – *A v UK* – in 1998. That judgment found that a young boy’s right to protection from degrading punishment had been breached, and that the UK Government was responsible because its law, allowing “reasonable chastisement” did not provide adequate protection. The boy was awarded £10,000. For 11 years after the delivery of the judgment, other member states in the Council’s Committee of Ministers which supervises execution of the Court’s judgments, briefed by the campaign, tried to use the judgment to force the UK to ban completely. But because it was a severe case – repeated beating by a stepfather of a 5 to 7 year-old with a cane causing injuries - and the Court is limited to considering the circumstances of the case before it, the UK eventually in 2009 was allowed off the hook with its classic adult compromise: not removing the “reasonable chastisement” defence to give children equal protection but reducing its scope; parents and others not specifically banned can still justify common assault on children as “reasonable punishment”. So now we are actively looking for another case... and I’ll come back to the difficulties of that later.

Another Council of Europe mechanism, the European Committee of Social Rights, monitoring implementation of the European Social Charter, also systematically pursues prohibition. Acting through the World Organisation against Torture, we submitted collective complaints under the Charter against five of the 13 states which have accepted the innovative complaints procedure. It is a particularly valuable procedure for children, because one does not have to find and identify individual children who have suffered violations of their rights... but simply provide evidence that laws and policies are in violation of human rights standards. I haven’t time to tell the full story, but the decisions were instrumental in persuading the Greek and Portuguese Governments to ban all corporal punishment.

At first, the Committee agreed with the governments of Italy and Portugal that Supreme Court decisions in each state, which had declared all physical punishment unlawful, were adequate, and so rejected the complaints against these two countries. Then Portugal provided the perfect illustration of why prohibition by Supreme Court judgment is not enough: its Court came up

with a new judgment, concerning corporal punishment of disabled children in an institution, in which it stated that corporal punishment was not only lawful but necessary. A rapid second complaint was submitted and produced the clearest and best decision we have got from a human rights mechanisms: that to comply with the Social Charter, I quote: "... states' domestic law must prohibit and penalize all forms of violence against children, that is acts or behaviour likely to affect the physical integrity, dignity, development or psychological well being of children. The relevant provisions must be sufficiently clear, binding and precise, so as to preclude the courts from refusing to apply them to violence against children. Moreover, states must act with due diligence to ensure that such violence is eliminated in practice." Portugal then rapidly reformed its legislation to ban all corporal punishment.

The Council of Europe's Swedish Commissioner for Human Rights, Thomas Hammarberg, who launched the Global Initiative with me in 2001, pursues the issue relentlessly in his country visits – he is in Ireland at the moment where there is a real opportunity with a new government - and in systematic letters to heads of state.

The Council's Parliamentary Assembly - parliamentarians from all the member states - adopted a recommendation in 2004 calling for Europe to become a corporal punishment free zone, asserting: "Striking a human being is prohibited in European society and children are human beings. The social and legal acceptance of corporal punishment of children must be ended."

And in 2008, the Council became the first regional inter-governmental organisation to launch – in Croatia - an explicit campaign for universal prohibition across its 47 member-states.

For the Americas and Caribbean, the Inter-American Court of Human Rights and the Inter-American Commission have confirmed the obligation of all OAS states to immediately prohibit and work towards the elimination of all corporal punishment. Paulo Pinheiro, in another role as Commissioner and Special Rapporteur on the rights of the child to the Inter-American Commission, circulated a detailed report on the issue in 2009 and has recently followed up with letters to heads of state and responsible ministers across Latin America and the Caribbean – and indeed to this country.

I'll leave Sonia to talk about progress in Africa. Other intergovernmental bodies, including the League of Arab States and the Organisation of Islamic States, have urged their members to prohibit all corporal punishment.

The consistent interpretation of international and regional human rights standards is reflected in growing numbers of judgments of national courts condemning corporal punishment in one or more or all settings; judgments for example of South Africa's Constitutional Court, Supreme Courts in Italy, Nepal, Bangladesh, other courts in Zambia, Fiji and so on. These landmark judgments show how much more could be happening if we had more active legal advocates for children's rights, effectively focussed and supported.

Another context for the accelerating progress has been the UN Secretary-General's study on violence against children, led by Paulo Pinheiro, which reported in 2006: its third priority recommendation was the prohibition of all violence against children – explicitly including all corporal punishment.

And now we have Marta Santos Pais, as Special Representative to the UN Secretary General on violence against children, following up that recommendation as a priority within her mandate, as her message to the Summit confirms.

I could go on: there is a lot of formal, high-level support for equal protection, in all regions, all rooted clearly in human rights.

There are also many current legislative opportunities in states in all regions which could be used to achieve a ban on corporal punishment in some or all settings: as our Global Report sets out, there are relevant Bills before Parliaments in more than 80 states. Nothing is more frustrating than seeing those opportunities missed through lack of effective advocacy.

The other major linked factor in progress has been the growing visibility of the issue (and of the human rights consensus). When adults' direct and deliberate violence to children is made visible, it becomes less easy for adults to excuse, justify, trivialise or ignore.

Our website summarises the results of studies in more than two thirds of the states worldwide, some interviewing children as well as parents and other carers, into the prevalence of corporal punishment. You have the report of

UNICEF's new and substantial – and rights-based – contribution. All the adult studies are of course under-estimates; we have got past the point when adults are likely to seek approval by exaggerating their violence to their own or others' children.

As another form of visibility, the Global Initiative has built a detailed global map of the legality of corporal punishment, and of the legal changes needed to ban it, in every state in the world – largely the work of our completely wonderful Research Coordinator, Sharon Owen, who many of you know, at least by e mail.

School students in Korea, Taiwan and other countries have found a more dramatic and affecting form of visibility, capturing the reality of corporal punishment in schools on their mobile phone cameras and exposing it through Facebook and You-tube. And in case I forget to say it later, as Johnny suggested last night, we do need someone to consider in detail how social networking technology can add to the force of our campaigns.

We should not try and shift responsibility for ending corporal punishment from the adult perpetrators to children. But children are hugely powerful self-advocates, as well as having a right under the CRC to have their views heard and taken seriously. And they are increasingly at least being heard.

Finally, in the list of factors making me optimistic is the fact that prohibition is explicitly supported by increasing numbers of international NGOs and professional organisations and by networks of human rights institutions. Save the Children and now Plan International are particularly active. While there are hesitations, it has stopped being an untouchable issue for most child-focussed organisations. But they have to be signed up to support law reform.

So, those are the main grounds for my optimism.

Now, briefly, what are the main challenges and a few tentative pointers to next steps.

The biggest challenge remains the personal dimension; unlike the extreme forms of violence against children, globally almost everyone was hit and humiliated as a child by their parents, almost all parents have hit and humiliated their own children. We don't want to think badly of our parents,

of our childhood, or of our own parenting. And so moving on and seeing this as an issue of equality and justice and human rights is very difficult for most people.

Then there is the religious dimension – that the strongest and most vocal opposition to banning corporal punishment comes from groups who purport to believe that their religion gives them not just a right but a duty to hit their children. I won't dwell on this because Chris Dodd will tomorrow. And of course it is a very positive indicator of progress that a Methodist University should have chosen to support this event so strongly.

The lack of acknowledgement of the importance of this issue among child protection systems and workers maddens me. It really is the elephant in the room, and again this must be because of the personal dimension. We have to work to create a child protection consensus that prohibiting violence disguised as discipline is the only safe foundation; we need to work on that from this summit.

The persisting legality of corporal punishment is of course symbolic of children's disempowered status as possessions not individual people and rights holders, and it is this status that makes it particularly difficult for them to seek legal remedies for violations of their dignity and physical integrity. So in the UK, as I noted earlier, we have been looking for two years for one or more children to make a new application to the European Court to challenge the obvious discrimination inherent in the "reasonable punishment" defence. The difficulty is crazy, because there are literally millions of children being "reasonably" smacked daily, the case is not against their parents but against the UK government and the law, their identity can be protected and they don't have to play any real part in the action... But it is still proving very difficult...

The Global Initiative has started to prepare new-style reports on all the states where there is no progress on this issue, setting out how corporal punishment could be challenged by domestic legal action and/or by use of external human rights mechanisms: we think this is the only way to provoke action in many of the no-progress states.

We think a starting point everywhere is to commission a detailed formal legal Opinion on the possibilities for challenge. In most cases these



processes will require individual victims - which for children, because of adult power, makes them difficult to use.

There are far too few active children's rights advocates, and even fewer prepared to engage themselves on this issue. I feel constantly guilty at the obvious things that we could be doing – should have done – to increase pressure on governments, but just don't have the time or money to pay more colleagues to do them: for example in Europe to pursue more collective complaints – including against France; internationally trying to ensure that the many strong human rights recommendations that we have provoked are actually used properly at national level. And using the communications or complaints procedures that exist internationally in the UN human rights system and are not difficult or expensive to use – but do require finding victims. There seem to be lots of academic courses on human rights law, even children's rights law – but they don't seem to be producing a new army of active advocates. Why not?

We have to remember that achieving law reform ultimately demands achieving majority votes for it in parliaments – so campaigns to be effective need to be equipped to recruit and increase support among parliamentarians and fully understand parliamentary procedure. In mapping live opportunities for achieving a ban through Bills before parliaments, it often seems that campaigns lack the skills or knowledge to engage effectively in parliaments: it's not that complex but more training is needed.

And while there is more visibility, some of the most grotesque forms of corporal punishment remain largely invisible: we know that penal whipping or caning of children as young as 8 exists in penal systems in more than 40 countries, including highly developed countries – Singapore for example: but try to find evidence, statistics, victims who will challenge it... We need investigative journalists and committed lawyers in many countries.

There is strong analysis and dissemination of the overwhelming research evidence against violent punishment, which backs the human rights imperative – Murray, Penny, Joan, Liz and others have brought it together. But its impact is invariably undermined when it is used in active campaigns by the spoiling work of isolated psychologists like Robert Larzalere.

Similarly, quoting the very positive and scrupulously researched example of Sweden just becomes a liability when religious and right-wing “family”

organisations circulate gross misinformation about its impact. It is patiently answered, including by the Swedish Government, but the misinformation sticks and serves the purpose of those blocking reform.

That is why pursuing law reform first and foremost as a human rights imperative is so important – but we have to find ways to limit the substantial impact of these research cowboys – lawful ways.

I am very impatient, as I believe we all should be. I do fear that without explicit and active and increasingly strong and increasingly legalistic advocacy, achieving universal prohibition can still take forever. This doesn't at all mean it is now a job for lawyers, although they are needed. There are many campaigning roles and linked strategies – but there do need to be planned strategies and cunning.

Two final points, probably more controversial: given the accelerating progress, stage-by-stage, setting-by-setting approaches to law reform are wrong to me because the obligation to protect children wherever they are and whoever the perpetrator is immediate. Such approaches now slow things down. Arguing that schools should not use corporal punishment while keeping quiet about parents means you lose the arguments of principle, the human rights imperative. It is more or less impossible not to imply, albeit unintentionally, that corporal punishment by parents is somehow more legitimate and acceptable. And if you succeed in winning abolition in schools, then you have to start all over again getting support for abolition within the family, where children are still suffering the most adult violence.

Don't get me wrong – if there is a legislative opportunity to achieve a ban in schools, of course one goes for it, but in a context which asserts children's right to protection everywhere.

And approaches that suggest we should educate teachers and parents away from using violent punishment, before we try to address law reform are also insulting to children and confirming of their low status. As several of you have heard me say more than once before, who would argue we should provide universal employment and anger-management courses for men before we prohibit domestic violence against women?

For me, the way forward has to be to promote and use human rights, to insist on the logic and justice of universal respect for human dignity and for equal protection under the law; to point to the utter injustice of providing less legal protection from assault to the most vulnerable of people.

We have to stop the absurdity of adults clinging to distinctions between violence disguised as discipline and “abuse”; we have to ensure that violent punishment of children in the home is recognised as part of family or domestic violence and challenged as such.

And we have to continue to make ever more visible the daily horrible reality of adults’ deliberate punitive violence.

Thank you.

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