UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/GC/8*
2 March 2007

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD
Forty-second session
Geneva, 15 May-2 June 2006

GENERAL COMMENT No. 8 (2006)

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)

* Re-issued for technical reasons

GE.07-40771

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I. OBJECTIVES

1. Following its two days of general discussion on violence against children, held in 2000 and 2001, the Committee on the Rights of the Child resolved to issue a series of general comments concerning eliminating violence against children, of which this is the first. The Committee aims to guide States parties in understanding the provisions of the Convention concerning the protection of children against all forms of violence. This general comment focuses on corporal punishment and other cruel or degrading forms of punishment, which are currently very widely accepted and practised forms of violence against children.

2. The Convention on the Rights of the Child and other international human rights instruments recognize the right of the child to respect for the child's human dignity and physical integrity and equal protection under the law. The Committee is issuing this general comment to highlight the obligation of all States parties to move quickly to prohibit and eliminate all corporal punishment and all other cruel or degrading forms of punishment of children and to outline the legislative and other awareness-raising and educational measures that States must take.

3. Addressing the widespread acceptance or tolerance of corporal punishment of children and eliminating it, in the family, schools and other settings, is not only an obligation of States parties under the Convention. It is also a key strategy for reducing and preventing all forms of violence in societies.

II. BACKGROUND

4. The Committee has, from its earliest sessions, paid special attention to asserting children's right to protection from all forms of violence. In its examination of States parties' reports, and most recently in the context of the United Nations Secretary-General's study on violence against children, it has noted with great concern the widespread legality and persisting social approval of corporal punishment and other cruel or degrading punishment of children.[1] Already in 1993, the Committee noted in the report of its fourth session that it "recognized the importance of the question of corporal punishment in improving the system of promotion and protection of the rights of the child and decided to continue to devote attention to it in the process of examining States parties' reports".[2]

5. Since it began examining States parties' reports the Committee has recommended prohibition of all corporal punishment, in the family and other settings, to more than 130 States in all continents.[3] The Committee is encouraged that a growing number of States are taking appropriate legislative and other measures to assert children's right to respect for their human dignity and physical integrity and to equal protection under the law. The Committee understands that by 2006, more than 100 States had prohibited corporal punishment in their schools and penal systems for children. A growing number have completed prohibition in the home and family and all forms of alternative care.[4]

6. In September 2000, the Committee held the first of two days of general discussion on violence against children. It focused on "State violence against children" and afterwards adopted detailed recommendations, including for the prohibition of all corporal punishment and the

launching of public information campaigns "to raise awareness and sensitize the public about the severity of human rights violations in this domain and their harmful impact on children, and to address cultural acceptance of violence against children, promoting instead 'zero-tolerance' of violence".[5]

7. In April 2001, the Committee adopted its first general comment on "The aims of education" and reiterated that corporal punishment is incompatible with the Convention: "… Children do not lose their human rights by virtue of passing through the school gates. Thus, for example, education must be provided in a way that respects the inherent dignity of the child, enables the child to express his or her views freely in accordance with article 12, paragraph 1, and to participate in school life. Education must also be provided in a way that respects the strict limits on discipline reflected in article 28, paragraph 2, and promotes non-violence in school. The Committee has repeatedly made clear in its concluding observations that the use of corporal punishment does not respect the inherent dignity of the child nor the strict limits on school discipline …".[6]

8. In recommendations adopted following the second day of general discussion, on "Violence against children within the family and in schools", held in September 2001, the Committee called upon States to "enact or repeal, as a matter of urgency, their legislation in order to prohibit all forms of violence, however light, within the family and in schools, including as a form of discipline, as required by the provisions of the Convention ...".[7]

9. Another outcome of the Committee's 2000 and 2001 days of general discussion was a recommendation that the United Nations Secretary-General should be requested, through the General Assembly, to carry out an in-depth international study on violence against children. The United Nations General Assembly took this forward in 2001.[8] Within the context of the United Nations study, carried out between 2003 and 2006, the need to prohibit all currently legalized violence against children has been highlighted, as has children's own deep concern at the almost universal high prevalence of corporal punishment in the family and also its persisting legality in many States in schools and other institutions, and in penal systems for children in conflict with the law.

III. DEFINITIONS

10. "Child" is defined as in the Convention as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier".[9]

11. The Committee defines "corporal" or "physical" punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting ("smacking", "slapping", "spanking") children, with the hand or with an implement - a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children's mouths out with soap or forcing them to swallow hot spices). In the view of the Committee, corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment that are also cruel and degrading and thus incompatible with the Convention. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.

12. Corporal punishment and other cruel or degrading forms of punishment of children take place in many settings, including within the home and family, in all forms of alternative care, schools and other educational institutions and justice systems - both as a sentence of the courts and as a punishment within penal and other institutions - in situations of child labour, and in the community.

13. In rejecting any justification of violence and humiliation as forms of punishment for children, the Committee is not in any sense rejecting the positive concept of discipline. The healthy development of children depends on parents and other adults for necessary guidance and direction, in line with children's evolving capacities, to assist their growth towards responsible life in society.

14. The Committee recognizes that parenting and caring for children, especially babies and young children, demand frequent physical actions and interventions to protect them. This is quite distinct from the deliberate and punitive use of force to cause some degree of pain, discomfort or humiliation. As adults, we know for ourselves the difference between a protective physical action and a punitive assault; it is no more difficult to make a distinction in relation to actions involving children. The law in all States, explicitly or implicitly, allows for the use of non-punitive and necessary force to protect people.

15. The Committee recognizes that there are exceptional circumstances in which teachers and others, e.g. those working with children in institutions and with children in conflict with the law, may be confronted by dangerous behaviour which justifies the use of reasonable restraint to control it. Here too there is a clear distinction between the use of force motivated by the need to protect a child or others and the use of force to punish. The principle of the minimum necessary use of force for the shortest necessary period of time must always apply. Detailed guidance and training is also required, both to minimize the necessity to use restraint and to ensure that any methods used are safe and proportionate to the situation and do not involve the deliberate infliction of pain as a form of control.

IV. HUMAN RIGHTS STANDARDS AND CORPORAL PUNISHMENT OF CHILDREN

16. Before the adoption of the Convention on the Rights of the Child, the International Bill of Human Rights - the Universal Declaration and the two International Covenants, on Civil and Political Rights and on Economic, Social and Cultural Rights - upheld "everyone's" right to respect for his/her human dignity and physical integrity and to equal protection under the law. In asserting States' obligation to prohibit and eliminate all corporal punishment and all other cruel or degrading forms of punishment, the Committee notes that the Convention on the Rights of the Child builds on this foundation. The dignity of each and every individual is the fundamental guiding principle of international human rights law.

17. The preamble to the Convention on the Rights of the Child affirms, in accordance with the principles in the Charter of the United Nations, repeated in the preamble to the Universal Declaration, that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". The preamble to the Convention also recalls that, in the Universal Declaration, the United Nations "has proclaimed that childhood is entitled to special care and assistance".

18. Article 37 of the Convention requires States to ensure that "no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment". This is complemented and extended by article 19, which requires States to "take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child". There is no ambiguity: "all forms of physical or mental violence" does not leave room for any level of legalized violence against children. Corporal punishment and other cruel or degrading forms of punishment are forms of violence and States must take all appropriate legislative, administrative, social and educational measures to eliminate them.

19. In addition, article 28, paragraph 2, of the Convention refers to school discipline and requires States parties to "take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention".

20. Article 19 and article 28, paragraph 2, do not refer explicitly to corporal punishment. The *travaux préparatoires* for the Convention do not record any discussion of corporal punishment during the drafting sessions. But the Convention, like all human rights instruments, must be regarded as a living instrument, whose interpretation develops over time. In the 17 years since the Convention was adopted, the prevalence of corporal punishment of children in their homes, schools and other institutions has become more visible, through the reporting process under the Convention and through research and advocacy by, among others, national human rights institutions and non-governmental organizations (NGOs).

21. Once visible, it is clear that the practice directly conflicts with the equal and inalienable rights of children to respect for their human dignity and physical integrity. The distinct nature of children, their initial dependent and developmental state, their unique human potential as well as their vulnerability, all demand the need for more, rather than less, legal and other protection from all forms of violence.

22. The Committee emphasizes that eliminating violent and humiliating punishment of children, through law reform and other necessary measures, is an immediate and unqualified obligation of States parties. It notes that other treaty bodies, including the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee against Torture have reflected the same view in their concluding observations on States parties' reports under the relevant instruments, recommending prohibition and other measures against corporal punishment in schools, penal systems and, in some cases, the family. For example, the Committee on Economic, Social and Cultural Rights, in its general comment No. 13 (1999) on "The right to education" stated: "In the Committee's view, corporal punishment is inconsistent with the fundamental guiding principle of international human rights law enshrined in the Preambles to the Universal Declaration and both Covenants: the dignity of the individual. Other aspects of school discipline may also be inconsistent with school discipline, including public humiliation."[10]

23. Corporal punishment has also been condemned by regional human rights mechanisms. The European Court of Human Rights, in a series of judgements, has progressively condemned corporal punishment of children, first in the penal system, then in schools, including private

schools, and most recently in the home.[11] The European Committee of Social Rights, monitoring compliance of member States of the Council of Europe with the European Social Charter and Revised Social Charter, has found that compliance with the Charters requires prohibition in legislation against any form of violence against children, whether at school, in other institutions, in their home or elsewhere.[12]

24. An Advisory Opinion of the Inter-American Court of Human Rights, on the *Legal Status and Human Rights of the Child* (2002) holds that the States parties to the American Convention on Human Rights "are under the obligation … to adopt all positive measures required to ensure protection of children against mistreatment, whether in their relations with public authorities, or in relations among individuals or with non-governmental entities". The Court quotes provisions of the Convention on the Rights of the Child, conclusions of the Committee on the Rights of the Child and also judgements of the European Court of Human Rights relating to States' obligations to protect children from violence, including within the family. The Court concludes that "the State has the duty to adopt positive measures to fully ensure effective exercise of the rights of the child".[13]

25. The African Commission on Human and Peoples' Rights monitors implementation of the African Charter on Human and Peoples' Rights. In a 2003 decision on an individual communication concerning a sentence of "lashes" imposed on students, the Commission found that the punishment violated article 5 of the African Charter, which prohibits cruel, inhuman or degrading punishment. It requested the relevant Government to amend the law, abolishing the penalty of lashes, and to take appropriate measures to ensure compensation of the victims. In its decision, the Commission states: "There is no right for individuals, and particularly the Government of a country to apply physical violence to individuals for offences. Such a right would be tantamount to sanctioning State-sponsored torture under the Charter and contrary to the very nature of this human rights treaty."[14] The Committee on the Rights of the Child is pleased to note that constitutional and other high-level courts in many countries have issued decisions condemning corporal punishment of children in some or all settings, and in most cases quoting the Convention on the Rights of the Child.[15]

26. When the Committee on the Rights of the Child has raised eliminating corporal punishment with certain States during the examination of their reports, governmental representatives have sometimes suggested that some level of "reasonable" or "moderate" corporal punishment can be justified as in the "best interests" of the child. The Committee has identified, as an important general principle, the Convention's requirement that the best interests of the child should be a primary consideration in all actions concerning children (art. 3, para. 1). The Convention also asserts, in article 18, that the best interests of the child will be parents' basic concern. But interpretation of a child's best interests must be consistent with the whole Convention, including the obligation to protect children from all forms of violence and the requirement to give due weight to the child's views; it cannot be used to justify practices, including corporal punishment and other forms of cruel or degrading punishment, which conflict with the child's human dignity and right to physical integrity.

27. The preamble to the Convention upholds the family as "the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children". The Convention requires States to respect and support families. There is no conflict whatsoever with States' obligation to ensure that the human dignity and physical integrity of children within the family receive full protection alongside other family members.

28. Article 5 requires States to respect the responsibilities, rights and duties of parents "to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention". Here again, interpretation of "appropriate" direction and guidance must be consistent with the whole Convention and leaves no room for justification of violent or other cruel or degrading forms of discipline.

29. Some raise faith-based justifications for corporal punishment, suggesting that certain interpretations of religious texts not only justify its use, but provide a duty to use it. Freedom of religious belief is upheld for everyone in the International Covenant on Civil and Political Rights (art. 18), but practice of a religion or belief must be consistent with respect for others' human dignity and physical integrity. Freedom to practise one's religion or belief may be legitimately limited in order to protect the fundamental rights and freedoms of others. In certain States, the Committee has found that children, in some cases from a very young age, in other cases from the time that they are judged to have reached puberty, may be sentenced to punishments of extreme violence, including stoning and amputation, prescribed under certain interpretations of religious law. Such punishments plainly violate the Convention and other international human rights standards, as has been highlighted also by the Human Rights Committee and the Committee against Torture, and must be prohibited.

V. MEASURES AND MECHANISMS REQUIRED TO ELIMINATE CORPORAL PUNISHMENT AND OTHER CRUEL OR DEGRADING FORMS OF PUNISHMENT

1. Legislative measures

30. The wording of article 19 of the Convention builds upon article 4 and makes clear that legislative as well as other measures are required to fulfil States' obligations to protect children from all forms of violence. The Committee has welcomed the fact that, in many States, the Convention or its principles have been incorporated into domestic law. All States have criminal laws to protect citizens from assault. Many have constitutions and/or legislation reflecting international human rights standards and article 37 of the Convention on the Rights of the Child, which uphold "everyone's" right to protection from torture and cruel, inhuman or degrading treatment or punishment. Many also have specific child protection laws that make "ill-treatment" or "abuse" or "cruelty" an offence. But the Committee has learned from its examination of States' reports that such legislative provisions do not generally guarantee the child protection from all corporal punishment and other cruel or degrading forms of punishment, in the family and in other settings.

31. In its examination of reports, the Committee has noted that in many States there are explicit legal provisions in criminal and/or civil (family) codes that provide parents and other carers with a defence or justification for using some degree of violence in "disciplining"

children. For example, the defence of "lawful", "reasonable" or "moderate" chastisement or correction has formed part of English common law for centuries, as has a "right of correction" in French law. At one time in many States the same defence was also available to justify the chastisement of wives by their husbands and of slaves, servants and apprentices by their masters. The Committee emphasizes that the Convention requires the removal of any provisions (in statute or common - case law) that allow some degree of violence against children (e.g. "reasonable" or "moderate" chastisement or correction), in their homes/families or in any other setting.

32. In some States, corporal punishment is specifically authorized in schools and other institutions, with regulations setting out how it is to be administered and by whom. And in a minority of States, corporal punishment using canes or whips is still authorized as a sentence of the courts for child offenders. As frequently reiterated by the Committee, the Convention requires the repeal of all such provisions.

33. In some States, the Committee has observed that while there is no explicit defence or justification of corporal punishment in the legislation, nevertheless traditional attitudes to children imply that corporal punishment is permitted. Sometimes these attitudes are reflected in court decisions (in which parents or teachers or other carers have been acquitted of assault or ill-treatment on the grounds that they were exercising a right or freedom to use moderate "correction").

34. In the light of the traditional acceptance of violent and humiliating forms of punishment of children, a growing number of States have recognized that simply repealing authorization of corporal punishment and any existing defences is not enough. In addition, explicit prohibition of corporal punishment and other cruel or degrading forms of punishment, in their civil or criminal legislation, is required in order to make it absolutely clear that it is as unlawful to hit or "smack" or "spank" a child as to do so to an adult, and that the criminal law on assault does apply equally to such violence, regardless of whether it is termed "discipline" or "reasonable correction".

35. Once the criminal law applies fully to assaults on children, the child is protected from corporal punishment wherever he or she is and whoever the perpetrator is. But in the view of the Committee, given the traditional acceptance of corporal punishment, it is essential that the applicable sectoral legislation - e.g. family law, education law, law relating to all forms of alternative care and justice systems, employment law - clearly prohibits its use in the relevant settings. In addition, it is valuable if professional codes of ethics and guidance for teachers, carers and others, and also the rules or charters of institutions, emphasize the illegality of corporal punishment and other cruel or degrading forms of punishment.

36. The Committee is also concerned at reports that corporal punishment and other cruel or degrading punishments are used in situations of child labour, including in the domestic context. The Committee reiterates that the Convention and other applicable human rights instruments protect the child from economic exploitation and from any work that is likely to be hazardous, interferes with the child's education, or is harmful to the child's development, and that they require certain safeguards to ensure the effective enforcement of this protection. The Committee emphasizes that it is essential that the prohibition of corporal punishment and other cruel or degrading forms of punishment must be enforced in any situations in which children are working.

37. Article 39 of the Convention requires States to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of "any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment". Corporal punishment and other degrading forms of punishment may inflict serious damage to the physical, psychological and social development of children, requiring appropriate health and other care and treatment. This must take place in an environment that fosters the integral health, self-respect and dignity of the child, and be extended as appropriate to the child's family group. There should be an interdisciplinary approach to planning and providing care and treatment, with specialized training of the professionals involved. The child's views should be given due weight concerning all aspects of their treatment and in reviewing it.

2. Implementation of prohibition of corporal punishment and other cruel or degrading forms of punishment

38. The Committee believes that implementation of the prohibition of all corporal punishment requires awareness-raising, guidance and training (see paragraph 45 et seq. below) for all those involved. This must ensure that the law operates in the best interests of the affected children - in particular when parents or other close family members are the perpetrators. 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, underlining children's right to equal protection and providing an unambiguous foundation for child protection and for the promotion of positive, non-violent and participatory forms of child-rearing.

39. Achieving a clear and unconditional prohibition of all corporal punishment will require varying legal reforms in different States parties. It may require specific provisions in sectoral laws covering education, juvenile justice and all forms of alternative care. But it should be made explicitly clear that the criminal law provisions on assault also cover all corporal punishment, including in the family. This may require an additional provision in the criminal code of the State party. But it is also possible to include a provision in the civil code or family law, prohibiting the use of all forms of violence, including all corporal punishment. Such a provision emphasizes that parents or other caretakers can no longer use any traditional defence that it is their right ("reasonably" or "moderately") to use corporal punishment if they face prosecution under the criminal code. Family law should also positively emphasize that parental responsibility includes providing appropriate direction and guidance to children without any form of violence.

40. The principle of equal protection of children and adults from assault, including within the family, does not mean that all cases of corporal punishment of children by their parents that come to light should lead to prosecution of parents. The *de minimis* principle - that the law does not concern itself with trivial matters - ensures that minor assaults between adults only come to court in very exceptional circumstances; the same will be true of minor assaults on children. States need to develop effective reporting and referral mechanisms. While all reports of violence against children should be appropriately investigated and their protection from significant harm assured, the aim should be to stop parents from using violent or other cruel or degrading punishments through supportive and educational, not punitive, interventions.

41. Children's dependent status and the unique intimacy of family relations demand that decisions to prosecute parents, or to formally intervene in the family in other ways, should be taken with very great care. Prosecuting parents is in most cases unlikely to be in their children's best interests. It is the Committee's view that prosecution and other formal interventions (for example, to remove the child or remove the perpetrator) should only proceed when they are regarded both as necessary to protect the child from significant harm and as being in the best interests of the affected child. The affected child's views should be given due weight, according to his or her age and maturity.

42. Advice and training for all those involved in child protection systems, including the police, prosecuting authorities and the courts, should underline this approach to enforcement of the law. Guidance should also emphasize that article 9 of the Convention requires that any separation of the child from his or her parents must be deemed necessary in the best interests of the child and be subject to judicial review, in accordance with applicable law and procedures, with all interested parties, including the child, represented. Where separation is deemed to be justified, alternatives to placement of the child outside the family should be considered, including removal of the perpetrator, suspended sentencing, and so on.

43. Where, despite prohibition and positive education and training programmes, cases of corporal punishment come to light outside the family home - in schools, other institutions and forms of alternative care, for example - prosecution may be a reasonable response. The threat to the perpetrator of other disciplinary action or dismissal should also act as a clear deterrent. It is essential that the prohibition of all corporal punishment and other cruel or degrading punishment, and the sanctions that may be imposed if it is inflicted, should be well disseminated to children and to all those working with or for children in all settings. Monitoring disciplinary systems and the treatment of children must be part of the sustained supervision of all institutions and placements which is required by the Convention. Children and their representatives in all such placements must have immediate and confidential access to child-sensitive advice, advocacy and complaints procedures and ultimately to the courts, with necessary legal and other assistance. In institutions, there should be a requirement to report and to review any violent incidents.

3. Educational and other measures

44. Article 12 of the Convention underlines the importance of giving due consideration to children's views on the development and implementation of educational and other measures to eradicate corporal punishment and other cruel or degrading forms of punishment.

45. Given the widespread traditional acceptance of corporal punishment, prohibition on its own will not achieve the necessary change in attitudes and practice. Comprehensive awareness-raising of children's right to protection and of the laws that reflect this right is required. Under article 42 of the Convention, States undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

46. In addition, States must ensure that positive, non-violent relationships and education are consistently promoted to parents, carers, teachers and all others who work with children and families. The Committee emphasizes that the Convention requires the elimination not only of corporal punishment but of all other cruel or degrading punishment of children. It is not for the

Convention to prescribe in detail how parents should relate to or guide their children. But the Convention does provide a framework of principles to guide relationships both within the family, and between teachers, carers and others and children. Children's developmental needs must be respected. Children learn from what adults do, not only from what adults say. When the adults to whom a child most closely relates use violence and humiliation in their relationship with the child, they are demonstrating disrespect for human rights and teaching a potent and dangerous lesson that these are legitimate ways to seek to resolve conflict or change behaviour.

47. The Convention asserts the status of the child as an individual person and holder of human rights. The child is not a possession of parents, nor of the State, nor simply an object of concern. In this spirit, article 5 requires parents (or, where applicable, members of the extended family or community) to provide the child with appropriate direction and guidance, in a manner consistent with his/her evolving capacities, in the exercise by the child of the rights recognized in the Convention. Article 18, which underlines the primary responsibility of parents, or legal guardians, for the upbringing and development of the child, states that "the best interests of the child will be their basic concern". Under article 12, States are required to assure children the right to express their views freely "in all matters affecting the child", with the views of the child being given due weight in accordance with age and maturity. This emphasizes the need for styles of parenting, caring and teaching that respect children's participation rights. In its general comment No. 1 on "The aims of education", the Committee has emphasized the importance of developing education that is "child-centred, child-friendly and empowering".[16]

48. The Committee notes that there are now many examples of materials and programmes promoting positive, non-violent forms of parenting and education, addressed to parents, other carers and teachers and developed by Governments, United Nations agencies, NGOs and others.[17] These can be appropriately adapted for use in different States and situations. The media can play a very valuable role in awareness-raising and public education. Challenging traditional dependence on corporal punishment and other cruel or degrading forms of discipline requires sustained action. The promotion of non-violent forms of parenting and education should be built into all the points of contact between the State and parents and children, in health, welfare and educational services, including early childhood institutions, day-care centres and schools. It should also be integrated into the initial and in-service training of teachers and all those working with children in care and justice systems.

49. The Committee proposes that States may wish to seek technical assistance from, among others, UNICEF and UNESCO concerning awareness-raising, public education and training to promote non-violent approaches.

4. Monitoring and evaluation

50. The Committee, in its general comment No. 5 on "General measures of implementation for the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6) ", emphasizes the need for systematic monitoring by States parties of the realization of children's rights, through the development of appropriate indicators and the collection of sufficient and reliable data.[18]

51. Therefore States parties should monitor their progress towards eliminating corporal punishment and other cruel or degrading forms of punishment and thus realizing children's right to protection. Research using interviews with children, their parents and other carers, in

conditions of confidentiality and with appropriate ethical safeguards, is essential in order to accurately assess the prevalence of these forms of violence within the family and attitudes to them. The Committee encourages every State to carry out/commission such research, as far as possible with groups representative of the whole population, to provide baseline information and then at regular intervals to measure progress. The results of this research can also provide valuable guidance for the development of universal and targeted awareness-raising campaigns and training for professionals working with or for children.

52. The Committee also underlines in general comment No. 5 the importance of independent monitoring of implementation by, for example, parliamentary committees, NGOs, academic institutions, professional associations, youth groups and independent human rights institutions (see also the Committee's general comment No. 2 on "The role of independent national human rights institutions in the protection and promotion of the rights of the child").[19] These could all play an important role in monitoring the realization of children's right to protection from all corporal punishment and other cruel or degrading forms of punishment.

VI. REPORTING REQUIREMENTS UNDER THE CONVENTION

53. The Committee expects States to include in their periodic reports under the Convention information on the measures taken to prohibit and prevent all corporal punishment and other cruel or degrading forms of punishment in the family and all other settings, including on related awareness-raising activities and promotion of positive, non-violent relationships and on the State's evaluation of progress towards achieving full respect for children's rights to protection from all forms of violence. The Committee also encourages United Nations agencies, national human rights institutions, NGOs and other competent bodies to provide it with relevant information on the legal status and prevalence of corporal punishment and progress towards its elimination.

Notes

[1] United Nations Secretary-General's Study on Violence against Children, due to report to United Nations General Assembly, autumn 2006. For details see http://www.violencestudy.org.

[2] Committee on the Rights of the Child, Report on the fourth session, 25 October 1993, CRC/C/20, para. 176.

[3] All the Committee's concluding observations can be viewed at www.ohchr.org.

[4] The Global Initiative to End All Corporal Punishment of Children provides reports on the legal status of corporal punishment at www.endcorporalpunishment.org.

[5] Committee on the Rights of the Child, day of general discussion on State violence against children, Report on the twenty-fifth session, September/October 2000, CRC/C/100, paras. 666-688.

[6] Committee on the Rights of the Child, general comment No. 1, The aims of education, 17 April 2001, CRC/GC/2001/1, para. 8.

[7] Committee on the Rights of the Child, day of general discussion on violence against children within the family and in schools, Report on the twenty-eighth session, September/October 2001, CRC/C/111, paras. 701-745.

[8] General Assembly resolution 56/138.

[9] Article 1.

[10] Committee on Economic, Social and Cultural Rights, general comment No. 13, The right to education (art. 13), 1999, para. 41.

[11] Corporal punishment was condemned in a series of decisions of the European Commission on Human Rights and judgements of the European Court of Human Rights; see in particular *Tyrer v. UK*, 1978; *Campbell and Cosans v. UK*, 1982; *Costello-Roberts v. UK*, 1993; *A v. UK*, 1998. European Court judgements are available at http://www.echr.coe.int/echr.

[12] European Committee of Social Rights, general observations regarding article 7, paragraph 10, and article 17. *Conclusions XV-2*, Vol. 1, General Introduction, p. 26, 2001; the Committee has since issued conclusions, finding a number of Member States not in compliance because of their failure to prohibit all corporal punishment in the family and in other settings. In 2005 it issued decisions on collective complaints made under the charters, finding three States not in compliance because of their failure to prohibit. For details, see http://www.coe.int/T/E/Human_Rights/Esc/; also *Eliminating corporal punishment: a human rights imperative for Europe's children*, Council of Europe Publishing, 2005.

[13] Inter-American Court of Human Rights, Advisory Opinion OC-17/2002 of 28 August 2002, paras. 87 and 91.

[14] African Commission on Human and Peoples' Rights, *Curtis Francis Doebbler v. Sudan*, Comm. No. 236/2000 (2003); see para. 42.

[15] For example, in 2002 the Fiji Court of Appeal declared corporal punishment in schools and the penal system unconstitutional. The judgement declared: "Children have rights no wit inferior to the rights of adults. Fiji has ratified the Convention on the Rights of the Child. Our Constitution also guarantees fundamental rights to every person. Government is required to adhere to principles respecting the rights of all individuals, communities and groups. By their status as children, children need special protection. Our educational institutions should be sanctuaries of peace and creative enrichment, not places for fear, ill-treatment and tampering with the human dignity of students" (Fiji Court of Appeal, *Naushad Ali v. State*, 2002). In 1996, Italy's highest Court, the Supreme Court of Cassation in Rome, issued a decision that effectively prohibited all parental use of corporal punishment. The judgement states: "… The use of violence for educational purposes can no longer be considered lawful. There are two reasons for this: the first is the overriding importance which the [Italian] legal system attributes to protecting the dignity of the individual. This includes 'minors' who now hold rights and are no longer simply objects to be protected by their parents or, worse still, objects at the disposal of their parents. The second reason is that, as an educational aim, the harmonious development of a

child's personality, which ensures that he/she embraces the values of peace, tolerance and co-existence, cannot be achieved by using violent means which contradict these goals" (Cambria, Cass, sez. VI, 18 Marzo 1996 [Supreme Court of Cassation, 6th Penal Section, 18 March 1996], Foro It II 1996, 407 (Italy)). Also see South African Constitutional Court (2000) *Christian Education South Africa v. Minister of Education*, CCT4/00; 2000 (4) SA757 (CC); 2000 (10) BCLR 1051 (CC), 18 August 2000.

16 See note 11.

17 The Committee commends, as one example, UNESCO's handbook, *Eliminating corporal punishment: the way forward to constructive child discipline*, UNESCO Publishing, Paris, 2005. This provides a set of principles for constructive discipline, rooted in the Convention. It also includes Internet references to materials and programmes available worldwide.

18 Committee on the Rights of the Child, general comment No. 5 (2003), "General measures of implementation for the Convention on the Rights of the Child", para. 2.

19 Committee on the Rights of the Child, general comment No. 2 on "The role of independent national human rights institutions in the promotion and protection of the rights of the child", 2002.
