



Violence against Children in Africa

The Challenges and Priorities for Action

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The African Child Policy Forum (ACPF)
P.O. Box 1179
Tel +251 11 662 81 92/96/97/99
Fax +251 662 82 00
Addis Ababa, Ethiopia
www.africanchildforum.org
www.africanchild.info

“No violence against children in justifiable, and all violence against children is preventable.”¹

I. Introduction

Violence remains a pervasive problem hidden, from the public view and almost totally absent from the political agenda. ACPF studies of children in Uganda, Kenya and Ethiopia suggest that almost all children under the age of 15 experience some form of violence at home, at school, in institutions, on the streets or at the workplace.² Girls particularly are vulnerable with a huge proportion reporting to have been victims of one form of violence or another including physical, sexual and psychological abuse. Because much violence is ubiquitous and yet largely invisible, because it is an assault on the inherent dignity of children and because of its serious adverse implications for their physical and psychological wellbeing, urgent action is needed to prevent and end all forms of violence.

We believe we are at an opportune moment in the history of childhood to bring this about. The issue has been gaining increased attention in recent years, especially at the international level. Following the recommendation of the Committee on the Rights of the Child, the United Nations Secretary General appointed in 2003 an independent expert to lead and conduct an in-depth study on violence against children. This culminated in the publication of the Secretary-General’s Study on Violence against Children in 2006 and subsequently in the appointment of a United Nations Special Representative, Marta Santos Pais, in 2009. Here in Africa, the African Committee on the Rights and Welfare of the Child (the Committee) has shown, perhaps more than any other body in the region, particular interest and addressed the issue in several of its previous sessions. In 2006 it dedicated the theme of the Day of the African Child to violence against children in Africa.

These positive developments at the level of the UN and the AU provide an excellent opportunity for vigorous action and momentum on this important issue. In this regard, the Committee as the custodian of the African Charter on the Rights and Welfare of the Child (African Children’s Charter) has a moral and political responsibility to take the leadership in what is still by and large an embryonic movement to end all forms of violence against children and to promote a culture of zero tolerance to it here in Africa.

II. The problem

Almost all children in Africa are exposed to some form of physical, sexual and psychological abuse in the home, at school and in the community. Much as children are valued as precious beings both in their own right and as sources of social and economic security, they are not always treated with sensitivity, consideration or respect in their everyday life. This happens either in the name of what tradition dictates or because they are not viewed as whole human beings with all the rights that adults have.

Studies by ACPF show that, alarmingly, more than 84 % of girls in Ethiopia, 94% in Uganda and 99% in Kenya reported to have experienced some form of physical abuse. A large proportion of girls - 42% in Uganda, 40% in Burkina Faso and Nigeria, 30% in Cameroon and Ethiopia, 27% in DRC, 26% in Kenya and 17% in Senegal - reported to have been victims of rape³.

¹ UN (2006) *Secretary-General’s Study on Violence Against Children*

² ACPF (2006) *Violence against girls in Africa: A retrospective survey in Ethiopia, Kenya and Uganda*, Addis Ababa: The African Child Policy Forum

³ Ibid

ACPF studies also point to the home setting, which is considered the basic nurturing environment for a child, as the one that needed the greatest attention.⁴ Some estimates indicate that as many as 38 million children in Sub Saharan Africa report to have witnessed violence in their own home.⁵

Violence is also prevalent within the school setting where children are subjected to corporal punishment, sexual harassment and even rape by their peers and teachers. For example, some 72% of school children in Ethiopia report to have been slapped while at school; 67% of school girls in Botswana were sexually harassed by teachers; and that 32% of reported child rape cases in South Africa were carried out by teachers.

Violence against children in Africa should not be viewed only in physical terms. It also manifests itself in the form of harmful traditional practices such as female genital mutilation (FGM), early and forced marriage, and abduction. Reports on harmful traditional practices indicate the wide scale nature of the problems. Estimates suggest that as many as 42% of children in Africa are forcibly committed to marriage. In Mali, Mozambique, Niger and Chad, 70 to 80 % of girls marry before the age of eighteen, and in some regions of Nigeria, girls marry on average after their eleventh birthday. Some 6000 girls are subjected to FGM every day in Africa, with the prevalence being as high as 78% in the Gambia and 96% in Egypt.⁶

In many cases, abusers may not consider an act of violence to be violence at all, viewing it as necessary for discipline or justifying it on cultural grounds. Children too often feel ashamed or guilty believing that the violence was deserved. This often leaves the child to be unwilling to speak about violence. Disturbingly, a large proportion of the girls surveyed also considered the physical and humiliating abuse committed against them as acceptable. Some 91% in Nigeria, 89% in Senegal, 87% in DRC, 74% in Burkina Faso and 68% in Cameroon never talked about the abuse.⁷ These sets of factors partially explain why data on the nature, incidence and magnitude of violence is likely to be an underestimate and of dubious value

III. Law and policy frameworks

Although the issue of violence has not received the political attention it deserves at the national level, it nonetheless has been widely covered in international human rights instruments and legal and policy frameworks concerned with the rights and wellbeing of children. Some key examples include:

- United Nations Convention on the Rights of the Child (CRC) articles 19, 24, 28 (2), 34, 35, 37 (a), and 39
- The Optional Protocols to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts and on the Sale of Children, Child Prostitution and Child Pornography, 2000
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979 (Articles 9, 16 (1) (b) and 16 (2))

⁴ ACPF (2006) *Violence against girls in Africa: A retrospective survey in Ethiopia, Kenya and Uganda*, Addis Ababa: The African Child Policy Forum

⁵ UN (2006) *Secretary-General's Study on Violence Against Children* pg 71

⁶ ACPF (2009) *Female Genital Mutilation in Africa: Promising Action and persisting Challenges*, Addis Ababa, The African Child Policy Forum

⁷ Ibid

In Africa, the subject has been covered in continental legal and policy frameworks. These include

- The African Charter on the Rights and Welfare of the Child, 1990 (Article 16 and 21)
- The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2003
- The Call for Accelerated Action on the Implementation of the Plan of Action towards Africa Fit for Children (2008-2012)

Nationally, a number of African States have developed legal frameworks in line with their international obligations to address violence against children including 'harmful traditional practices'. These legal frameworks vary significantly in nature, from constitutional provisions, to single provisions amending penal and criminal codes, and from comprehensive laws calling for the criminalization of violence to those calling for preventative and other measures.

A State's constitution establishes the fundamental principles by which the State is governed. Enshrining the rights of children to be free from violence including "harmful traditional practices" within a national constitution represents the highest form of commitment towards the prohibition of violence against children. Specific examples include the following.

- Article 36 (d) and (e) of the Ethiopian constitution provides that "every child has the right not to be subjected to exploitative practices, neither to be required nor permitted to perform work which may be hazardous or harmful to his or her education, health, or wellbeing" and "to be free of corporal punishment or cruel or inhuman treatment in schools and other institutions responsible for the care of children".
- Article 28 of the 1996 South African Constitution provides every child with the right to be protected from maltreatment, neglect, abuse or degradation.

Several countries have enacted comprehensive laws addressing one or more harmful practices (such as corporal punishment, FGM, early marriage/forced marriage) mandating preventative measures, as well as protection, support and assistance for the victim and survivor, in addition to criminalizing the act of violence.

- In Kenya, the Children's Act 2001 recognizes that children "shall be protected from physical and psychological abuse, neglect and any form of exploitation including sale, trafficking or abduction by any person".⁸ The Act specifically prohibits harmful cultural rites such as female genital mutilation/cutting and early marriage of girls and establishes that every child shall be protected from economic exploitation.⁹
- The Gambia's Children's Act 2005 specifically prohibits child betrothal, dowry transactions, and giving out a child in marriage.¹⁰
- In Togo, the Children's Code provides that no child can be subjected to harmful traditional or modern practices that are prejudicial to his/her welfare. The Children's Code and the law of November 1998 relating to FGM associate FGM to voluntary violence.¹¹ In 2003, Togo also enacted the prohibition of female genital mutilation practice.

⁸ The Children's Act, 2001 (No. 8 of 2001) Section 13(1)

⁹ Ibid, section 14

¹⁰ Children's Act 2005, section 25

¹¹ These are punished with a penalty of two (2) years up to five (05) years of imprisonment and a fine of XAF 100 000, to XAF 1 000 000 or any of these penalties.

- Lesotho's Children's Protection and Welfare Bill 2005 prohibits corporal punishment while South Africa's Schools Act 1996, section 10, abolishes corporal punishment in schools, by making the administration of corporal punishment at school a criminal offence.¹²
- The Child Right's Act of Nigeria contains extensive provisions on care and protection proceedings. The Act gives powers to specialized police units to remove children from their home on an emergency basis without a court order for up to 72 hours and allows flexible standards of evidence applicable in court proceedings concerning child abuse.¹³
- Ghana's Human Trafficking Act prohibits trafficking and includes provisions related to the rehabilitation and reintegration of victims of trafficking.¹⁴

A number of African countries have undertaken legal reform in relation to harmful practices including amendments of penal codes.

- Burundi has revised its Penal Code to include the protection of children against abuse and exploitation.
- The Penal Code in Burkina Faso, amended in 1996, criminalizes forced marriage, female genital mutilation and rape.

Some countries have put in place specific national policies that address violence against children. In Ethiopia a National Plan of Action on Sexual Abuse and Exploitation was reviewed and adopted by the government, incorporating the recommendations of the United Nations Secretary General's study. In Uganda the Ministry of Education and Sports passed two circulars in 1997 and 2006 concerning corporal punishment in schools. The circulars state that corporal punishment should not be used in schools.

Despite these important but scattered national initiatives in the legal and policy area, children in Africa for the most part are neither covered by national protective policies and mechanisms nor reaping the protective benefits of laws on protection from violence, abuse, inhuman and degrading treatment.

IV. Causes of violence against children

There are several underlying reasons why violence remains widely prevalent, largely invisible and socially accepted, but four may be especially important.

There is first of all a insufficient appreciation or recognition of the serious consequences and unacceptability of violence resulting in a **total lack of awareness and complacency**. This has its genesis in a general acceptance of violence as a form of discipline and in the continued justifications given for traditional practices, harmful though they may be. At the political and policy level, the reticence and complacency of leadership is related in part to insufficient knowledge on the huge nature of the problem and its impact on child survival, development and wellbeing, and ultimately on the establishment of a culture of peace, rights and good governance in Africa.

The second main source of violence is the **inequality that exists between men and women and the overall subordination of women and girls** in society at large. The social belief that women are

¹² ACPF (2007) *In the Best Interests of the Child: Harmonising Laws in Eastern and Southern Africa*, Addis Ababa, The African Child Policy Forum

¹³ Nigeria Child's Rights Act, section 44 and 43(7)

¹⁴ Human Trafficking Act, 2005 (Act 694)

fundamentally of less value than men results in deeply entrenched gender inequalities and institutionalised social customs, norms and attitudes. This in turn supports and perpetuates violence against girls. As Carol Bellamy observes, “to be born female is to be born high risk. Every girl grows up under the threat of violence ... This chronic condition of violence amounts to the most pervasive human rights violation in the world today”.¹⁵

Finally, violence continues to prevail because of **weak legal and policy frameworks** and response mechanisms. Despite the achievements registered in some countries in enacting national legislation to curb violence, not all countries have put in place national legal frameworks that prohibit or penalize violence. Where there are, they suffer from various weaknesses such as: the limited awareness of the laws among duty bearers; the absence of provisions on specific forms of violence such as corporal punishment in the home and school environment; and, the non-prohibition of harmful traditional practices. Finally, where good legislation is in place, enforcement remains a key obstacle due to insufficient budget allocation to ensure implementation.

V. Proposals for consideration by the Committee

In light of the above, although action against violence is primarily a national responsibility, the Committee and the African Union can play a major role in providing political leadership for action. The Committee has the potential moral and political power and the legal basis to influence the climate of public opinion in Africa, the tone of discourse and the behaviour of African governments to act in accordance with their international and national obligations to put children first. In order to do so, it may consider taking the following actions to bolster its capacity and engage effectively both within the AU and in the wider Pan-African arena.

1. **Make violence against children a particular area of concern in national reporting.** In order to do so, the Committee may (a) require that violence against children be an important consideration and sufficiently covered in state party reports, and (b) put in place a mechanism within the Committee that could take the form of a focal person responsible to pay particular attention to and report exclusively on violence against children.
2. **Establish a programme of cooperation with the UN Special Representative** on Violence against Children in order to accelerate action especially legislative and policy reforms in Africa.
3. **Embark on a major programme of advocacy and action.** This may involve at least two things:
 - (a) A continent-wide **campaign to promote non-violent and positive values** in dealing with children and one that gives a central role to the family and skillful parenting in promoting child wellbeing.
 - (b) **Preparation of an Africa report on violence against children**, what is being and what can be done about it. While some progress has been made in documenting the magnitude of violence against children at the global level as witnessed in the UN Secretary General’s Study, specific and comparable data and information at regional and national levels remains inadequate. Africa would gain considerably from an in depth empirical and analytical study that documents systematically the phenomenon while highlighting the peculiarities and unique nature of violence against children on the continent e.g. FGM and early and forced marriage. The Committee, in collaboration with the UN Special Representative on Violence against Children and concerned partners, may therefore commission an advocacy and action-oriented Africa Report on violence against children. This report could be the basis for an AU-led continent wide action and advocacy on violence against children.

¹⁵ Former Executive Director of the United Nations Children’s Fund (1995-2005)

4. **Promote national policy and legal reforms.** Laws are fundamental for action. A good beginning would be to use the Charter and the CRC for legislative reforms, more specifically to encourage countries to domesticate them and harmonise their national laws with international legal frameworks.
5. **Put child wellbeing in general and violence against children** in particular **on the political agenda** by engaging Africa's top political leadership .Political leadership and commitment is key to action and progress. Africa's professed love for children should manifest itself in a more vigorous and renewed commitment by **placing the issue on the agenda of a future summit of African Heads of State and Government**. A collective reflection and deliberation at the highest level of political authority could well constitute an auspicious beginning to end all forms of violence, to promote a culture of zero tolerance, and to realize our dream of an Africa safe and fit for children.

This report is submitted with humility to the Committee for its kind consideration.