

Report on the two-day meeting of the Southern African Network to End Violence Against Children

Held on 16th and 17th April 2008, at the offices of RAPCAN, Cape Town

1 INTRODUCTION

Representatives from Mozambique, Swaziland, Botswana, Zambia, South Africa and Mauritius attended the meeting. Please see the appendix for the list of participants.



1.1 The name of this group

Sam led a discussion on the name of the group. There was quite a lot of correspondence on this issue during the year, and the name that seemed most favoured was:

Southern African Network to End Violence Against Children: Ending Corporal and Humiliating Punishment of Children and Promoting Positive Discipline.

Other options considered were:

- Southern African Network to end Corporal and Humiliating punishment of Children: Promoting Positive Discipline
- Southern African Network for the Promotion of Positive Discipline: A campaign to End Corporal Punishment.

It was noted that there is another Southern African Network looking at the socio-economic rights of children has adopted an African name. Perhaps we could look at this. The name should reflect holistic thinking but not lose sight of the CP issue.

Discussion:

It was agreed that there is resistance to the corporal punishment issue in some areas; it was felt, however the focus must remain on corporal punishment. The discussion considered whether the avoidance of directly dealing with the issue of corporal punishment meant that we lack courage? It was agreed that we need the courage to stand on the platform. However, it would be more strategic (and easier) to focus on positive discipline. It was agreed that, if we want to achieve law reform **and** a change in behaviour, we will need to do both.

It was noted from the South African experience of advocating for prohibition through the recent processes around the Children's Act, that the agenda has shifted from corporal punishment to positive discipline - this has enabled people to feel more comfortable. It was agreed that we remain clear that we must not lose sight of the CP issue. Again, it was asked why, when we do not have any problems with advocating for a prohibition on violence against women, we hang back when it comes to children?

These issues need to be considered in deciding on the name, and participants were asked to think about this and our identity as a group – both are legitimate positions and perhaps we need to look at a title that encapsulates both.

1.2 Purpose of the Network

The purpose of the network is to coordinate advocacy towards banning all forms of corporal and humiliating punishment and to promote positive discipline in Southern Africa. This means bringing together interested and committed organisations within the Southern African region to work towards a prohibition of corporal punishment through capacity building, information dissemination, and joint regional advocacy initiatives.

1.3 Roles

Coordinator

- To maintain an updated contact list of members
- To collate and facilitate information dissemination and ensure that members are updated on key issues
- Remind and follow up with members on tasks and hold members accountable to fulfilling agreed upon tasks
- To ensure coordination of any changes in plans and the development of new actions by the group where necessary.

Members:

- undertake various agreed upon activities of the regional network
- participate actively and fulfil commitments
- provide information to the network either directly with the network or through the coordinator
- report on Network activities in countries to the coordinator.

1.4 Activities in 2007

A wide range of activities was undertaken in the previous year, by various members of the network. These included:

- Finalisation of the names, purpose and roles of the Network
- Updated the Position Statement
- Made South African Fact Sheets available
- Produced and disseminated Article 19
- Made a submission to the South African Parliament with regard to the Children's Amendment Bill
- A letter was written to the AU
- Investigated the possibility of undertaking advocacy with the AU
- Developed a Handbook on advocacy to reform law.
- Made submissions to Human Rights bodies¹
- The guidelines on legal opinion were not developed.
- Positive parenting programmes have been developed.
- Each country developed country-specific plans for the period.
- Press releases were sent out but not were published in most countries. It was agreed that people feel free to change these releases and make them more relevant to their situations.
- The issue of using the press to publish information was used in Zambia very successfully. Although costly, it is worthwhile. Funders paid for this and were acknowledged by publishing their logos. There was a strong response from many communities and it generated debate. Paying for publication meant that the content was not altered.

2 COUNTRY REPORTS

2.1 Mauritius

BACKGROUND INFORMATION

- Mauritius is an island state of about 1860 km² located in the Indian Ocean
- The population of Mauritius is 1.2 million
- Mauritius has a multicultural society. All major religions are practiced freely. The majority of Mauritians are of Indian origin. Around 20% are of African origin and 2% are of Chinese origin. There is also a very small community of whites which represent less than 1% of the population but which is economically powerful.
- Several small islands also form part of the Republic of Mauritius. The inhabited ones are Rodrigues, St. Brandon and Agalega.
- Mauritius has a multi-party political system in which the parliament is supreme, compulsory general election and held every 5 years.

¹ To the UPR process at the UNHRC. Both South Africa and Zambia produced Shadow Reports; in Zambia, this was published in the press. It was agreed to circulate the South African and Zambian reports. The official name of the reports is Universal Periodic Review

PRESENT SITUATION

- Corporal punishment is prohibited in schools since 1957. However several cases are still being reported to our office, to the Child Protection Unit or to the Police, but the majority of cases are either not reported or resolve amicably at school level. Many Heads of School, teachers and parent are for the use of corporal punishment at school

No Corporal Punishment shall be inflicted on any pupil in any school.

Section 13(4) Education Regulations (1957)

- Corporal punishment is widely practiced in the family. It is still believed that parents can correct their children. In the Child Protection Act of 1994; it is stated that any person who inflicts harm on a minor shall commit an offence. There is even a duty to report on staff of a school or any medical or paramedical professional.

11. Duty to report

Notwithstanding any other enactment, where a person exercising any medical or paramedical profession or a member of the staff of a school has reason to suspect that a child he is examining or who is frequenting the school as the case may be, has been ill-treated, neglected, abandoned or otherwise exposed to harm, he shall immediately notify the Permanent Secretary.

13. Ill-Treatment

(1) Any person who ill-treats a child or otherwise exposes a child to harm shall commit an offence.

Child Protection Act 1994

- Cases of corporal punishment on children in Residential Care also have been reported to the various authorities.

So in Mauritius, despite provisions made in the laws, many parents, teachers and carers are for corporal punishment. However since 2006, after the death of children victims of corporal punishment have been reported; people now tend to alert the authorities for cases of battering, torture etc. The Criminal Code also have been amended to include a new section on culpable omission.

New Section 39 (A) of the Criminal Code reads:

"Culpable Omission

(1) Any person who is able to take prompt action, without risk to himself or to a third party, so as to prevent the commission of a crime, or a misdemeanour which is an offence against persons and who willfully fails to do so, shall be punished by a fine not exceeding 10,000 rupees and by imprisonment for a term not exceeding 2 years.

- In 2004, the Ombudsperson for Children launched a National Campaign on Violence against Children. She carried out sensitization campaigns to Police

Officers, barristers, Judges and Magistrates, the media people, NGO leaders, parents and children.

- In 2007, following the publication of the UN Study on Violence against Children she launched a kit on Prevention of Violence at School. A Network grouping different stakeholders in the education sector was set up. Further materials are being prepared to be sent to school.

Proposal of the Ombudsperson for Children in connection with corporal punishment.

1. To amend existing laws and regulations so as to include a clear definition of corporal punishment and to explicitly prohibit such punishment in the family, at school and in all other settings. We propose to define corporal punishment as 'any form of physical abuse administered to a child in a context of punishment or control.'
2. To sensitise parents and future parents, teachers and future teachers, carers and future carers and any other person working with children about the negative effects of corporal punishment on children. In this task the support of community and faith leaders, social worker, educators, opinion leaders and popular persons is essential.
3. To review to content of parental education and teacher education so as to empower parents and teachers in devising alternatives to corporal punishment suitable in different contexts.
4. To review the mechanisms of inquiring in corporal punishment cases at school so as to make them more partial and effective. Other stakeholders like parents, social workers, school psychologists, parent mediators, members of students councils (where applicable) should be involved in carrying out such inquiries.
5. Children to be sensitized on their rights and responsibilities. They should be made aware that, for their own protection, they should behave in a responsible way and as far as possible stay within the social norms. Adults should, on their part, respect to a certain extend the rebellion specially of adolescents, as this is part of their character formation. Both children and adults should be made aware of the importance of dialogue in the family, at school and in all other settings.
6. Awareness programmes should put emphasis on the risk of victims of corporal punishment becoming violent and on the need to break the transgenerational cycle of violence

The ombudsperson for Children is also sensitizing Heads of Schools, teachers, parents and children on positive discipline. IEC materials are being produced. The officers of her office are also delivering talks regularly.

She is also preparing a plan of action on Prevention of Violence against Children which will be given to the Ministry of Women's Rights, Child Development, Family Welfare and Consumer Protection for implementation.

2.2 Zambia

Report from Zambia Civic Education Association's on ending corporal punishment - Compiled by Judith Mulenga

1. Training of teacher trainers from all government-owned teacher training colleges on positive disciplining of pupils
2. Review meeting with the same group to discuss how implementation activities developed at the training was going
3. Information on how CP violates children's rights with:
 - In – service teachers at Civic Education in High Schools in-service teacher training workshops. ZCEA is invited by the Ministry of Education Curriculum Development Centre to train teachers on children's rights
 - Communities in five towns where ZCEA conducts quarterly workshops on legislations that protect children in Zambia and children's human rights
 - Law Enforcement Officers in five towns where ZCEA conducts quarterly workshops on legislations that protect children in Zambia and children's human rights
 - Children in schools in five towns where ZCEA conducts quarterly workshops on legislations that protect children in Zambia and children's human rights
4. Has spoken on the need to protect children against corporal punishment in both national electronic and print media and in community radio stations where ZCEA has featured either as a ZCEA –initiated programme or when ZCEA has been invited to guest appear on such programmes or as a ZCEA reaction to a media story of a child or children who have suffered severe bodily harm as a result of corporal punishment administered to them.

2.3 Botswana

Legal situation

- In Botswana, corporal punishment is permitted in the home, school, penal system and institutional setting. Generally acceptable practice in Botswana for purposes of disciplining children
- The Children's Act of 1981 does not make special mention of corporal punishment and merely talks about how any parent or guardian of a child who neglects, ill-treats or exploits a child shall be guilty of an offence.
- Neglect is defined as unreasonably failing to provide or pay for adequate food, clothing, medical care or housing for the child or exposing the child to conditions or circumstances which are likely to cause him physical, mental or psychological distress or damage.
- The Education Regulations for primary schools and secondary schools state that only the head teacher is authorised to use the cane-up to 5 strokes but may delegate this power to a teacher
- Male teachers may not whip female students
- Punishment should be "moderate to reasonable" in nature
- Punishment should be administered on the palm of the hands or across the buttocks with a "tupha" or light cane
- Each incident of CP should be officially recorded
- In terms of the Regulations "backwardness, lack of understanding or inability to do school work or do it properly shall in no circumstances constitute a breach of good order by the pupil

- Research conducted by DITSHWANELO has revealed that in practice there is flagrant disregard of these rules by teachers and sometimes teachers have indicated that they are not aware of the Policy and Regulations regarding corporal punishment

Processes regarding CP over the last year

- At policy level, DITSHWANELO in its recommendations to the Reference Group responsible for giving advice to the Ministry of Local Government on the drafting instructions on the review of the Children's Act incorporated issue of CP
- A proviso stating that the Government should put in place parental guidance programmes to develop the capacity of parents to discipline and guide their children without the use of force or violence
- Botswana is in the process of preparing her second report to the CRC Committee and her initial report to the African Charter Committee and it remains to be seen how they will address the issue of CP
- In 2007, DITSHWANELO was approached by a mother whose child was hit over the head by her teacher with a belt buckle and who now supposedly suffers from dizzy spells, nightmares and impaired hearing since the incident. DITSHWANELO is exploring the option of taking the matter to court.

Possibilities and actions for advocacy 2008/9

- DITSHWANELO is intending to raise awareness amongst the student teachers on CP through providing at least two guest lectures to at least two colleges of education
- It is also our intention to set up a reference group of teachers representing various teacher training colleges. The Reference Group will be supported by DITSHWANELO to find ways or strategies of integrating CP issues in the student training curriculum

Support from the Network members/region

- Materials
- Training
- Legal Precedents
- General sharing of information and news

Legal situation-Penal System and institutional set up

- Although the Constitution of Botswana states that no one should be subjected to inhuman, degrading or humiliating treatment or punishment the Penal Code of Botswana allows the courts to inflict CP as a form of punishment
- CP is to be inflicted only once and the sentence should specify the number of strokes which shall not exceed 12 and in the case of boys below the age of 18, a maximum of 6 strokes
- The following persons are exempt from CP-females, males sentenced to death, males whom the court considers to be more than 40 years
- The infliction of the strokes is regulated by the Criminal Procedure and Evidence Act
- The Customary Courts Act allows CP as a sentence for crime for all offences

2.4 Swaziland

Corporal Punishment as a Judicial Sentence

- **Common Law:** the right to effect corporal punishment has been reserved for parents, guardians and persons in loco parentis, such as teachers, people in charge of school hostel to maintain authority and discipline. The punishment administered must be moderate and reasonable
- **The criminal procedure and Evidence Act 1938, provides that;** 'when any male person over the age of 18 years is liable to be sentenced to be whipped, such punishment may be inflicted in addition to, or in substitution for any punishment to which he is otherwise liable, and the number of strokes to be inflicted, not exceeding fifteen, such, subject to any statute, be in the discretion of the court (S306(1)), **And** "the court shall specify the number of strokes which are to be given" (S306(2))
- **It further provides that** "where any male child under the age of 18 is convicted of any offence the court may in lieu of any other punishment or in addition to any other punishment except a discharge in terms of s311...sentence that person to receive in private a moderate correction of whipping not exceeding fifteen cuts with a light cane. Such correction shall be administered by such a person and in such place as the court may appoint. The parent or guardian of such person shall have the right to be present."

This basically means that in the Swazi National Courts, the Magistrates Courts and the High Court, corporal punishment is still allowed as one of the means by juvenile offenders to serve punishment in the kingdom, however only male juveniles are subjected to such kind of punishment. (S307)

- **The Constitution:** "A child shall not be subjected to abuse or torture or other cruel inhuman and degrading treatment or punishment subject to lawful and moderate chastisement for purposes of correction" (Section 29(2))
- In principle, the Constitution restates the common law position that corporal punishment may be administered to children.

Corporal punishment in Schools:

- It is still administered. The Education Act 1982 provides that;
 - 'the general discipline in a school shall be vested in the head master....who may, however seek the advise of his deputy or other members of staff'
- Education Rules 1977 provides that;
Corporal punishment shall be administered to boys by the headmaster or by any staff specifically so authorised by such headmaster or by a house master for offences committed within a boarding establishment
 1. Corporal punishment shall be administered to girls only by a female teacher in the presence of a head master
 2. Corporal punishment shall not be given in public
 3. No cane or stick exceeding 0.83 metres (two and a half feet) in length and 1.5 centimeters (half an inch) in diameter, shall be used for the infliction of corporal punishment

4. All corporal punishment shall be administered on the buttocks and not on other parts of the body
5. Head masters and House masters shall ensure that pupils are in a physically fit condition to receive corporal punishment before restoring thereto
6. Punishment shall not exceed four strokes in the case of boys and girls 16 years of age and over
7. Every instance of corporal punishment shall be recorded forthwith in a punishment book, the entry specifying the name of the pupil, the date and the nature of offence and the number of strokes administered

Processes of note relating to corporal punishment in Swaziland

- Propose Bill; consultations were finished and a discussion paper was developed
- Finalised working document was handed to MOJ – AGs office for drafting
- In community awareness raising on rights of children, alternatives to corporal punishment are discussed
- Held media campaigns on Swaziland Broadcasting and Information Service and Swaziland Television has been conducted by SC

Actions for Advocacy in 2008/2009

- In our core programme we have an activity that will target 40 schools in the constituencies we are working with this year, and do an intensive programme on Positive discipline . This will serve as a pilot in addition to the awareness that we do in other groupings and with the media

Activities to push the proposed Children’s Bill are in place for this year

- Due to limited funding not much could be done but we are still seeking some funding to target leadership structures and groupings that work with and for children

Support from the Network

- We have been relying to RAPCAN in the past years who conducted initial training of trainers for a variety of groups through SCS help e.g. NGO representatives, Career guidance officers within the Ministry of Education, Senior inspectors.
- However, we feel more can be done, targeting places of safety for children, the newly formed Children Rights Consortium, Church forums i.e. The Council of Swaziland Churches, the Swaziland Conference of Churches and the League
- Expertise from the region would be of great help, on the technical know-how.
- A follow-up on training of trainers, especially on using or adopting a manual which RAPCAN as partner has already developed
- Sharing of ideas on how best can we include Positive discipline as a module for teachers, whilst training.
- How best can children be involved in tackling this issues (Lessons from other countries who still have corporal punishment legally.

2.5 South Africa

Review of 2007

Corporal punishment is prohibited in all settings in South Africa, except in the home. Efforts have been made during the past two years towards law reform through the Children's legislation that was being processed through parliament. To this end a strong alliance of organisations have coordinated advocacy efforts regarding prohibition during 2006 and 2007. This group ensured coordinated submissions to parliament through various phases of the parliamentary process, and the development of capacity of community based organisations and youth in order to promote their involvement in the consultation process with parliament. In addition a proactive media strategy was developed, this was highly successful and resulted in a large amount of positive media on the issue.

In spite of having managed to secure strong support for prohibition from certain high level government officials and members of parliament a decision taken at the ANC caucus saw the prohibition being removed from the Bill in the final hour. The lack of high level champions (as opposed to supporters) is likely to have contributed to this situation, in addition the pre election phase politics within the ruling party also has a strong influence on the willingness of the party to back such a controversial issue.

Plans for 2008

Law Reform

The possibilities for law reform going forward are limited, in spite of the parliamentary committee committing to addressing the issue in 2008, this seems unlikely given the parliamentary agenda and the issue being raised in parliament at this phase is likely to be unsuccessful. We will thus be preparing for law reform through a possible legal challenge to the constitutional court.

Alliance Building

We will continue to build on the support base that has been developed in order to ensure prepared and vocal responses to the issue as it arises and in order to maintain some level of pressure towards prohibition.

This includes maintaining contact with young people to ensure their involvement in advocacy.

Identification of high level supporters and champions

We will establish contact with key leaders/politicians to encourage their ongoing support on the issue.

Implementation of positive parenting programmes

In spite of prohibition not being achieved in recent law reform, the law does require government to make parenting programmes available. The alliance will continue to target appropriate government departments and organisations to ensure that the rollout of good quality parenting programmes.

Implementation of positive discipline in schools

The alliance will continue to pursue advocacy with the Department of Education to promote implementation of the prohibition in schools.

3 GLOBAL DEVELOPMENTS

3.1 International and regional developments: Ulrika Sonesen

International

Seven countries prohibited all forms of corporal punishment in 2007, with New Zealand being the first English-speaking country to do so. Three Latin America countries (Chile, Uruguay and Venezuela) were added to the list, and there is now a strong push in South America. This is a lobbying point that we can use, as these are developing countries.

There are now 23 countries with full prohibition, and numerous others are considering it, including Brazil, Canada, Costa Rica, Nicaragua, Philippines, Switzerland and (possibly) South Africa.

Progress is faster in Latin America than in Africa and Asia. In addition, international actors are increasingly taking a stance. For instance, UNICEF has begun to discuss corporal punishment in "A World fit for Children"; Amnesty International raised the issue in their report "Safe Schools: Every Girls Right"; the Council of Europe has launched a Europe-wide initiative to support prohibition of corporal punishment and the promotion of positive discipline, and they have developed an entire kit around this which can be distributed; the Human Rights Council in their Universal Periodic Review process, have include information on CP.

Faith-based organisations are also increasingly taking up the issue – for example, Norwegian churches are supporting an update of the references to chastisement in the new the translation of the Bible.

However, 150 states have not made any commitment to prohibit corporal punishment in the home.

Regional

Faith based organizations such as the SA Council of Churches and the Zambian Interfaith Networking Group on HIV/AIDS have taken stances against Corporal punishment, and this has been important on a global level. In Africa only South Africa has made a commitment to prohibit parental corporal punishment. Botswana, Lesotho, Swaziland and Zimbabwe are among 17 states around the world which have not prohibited corporal punishment in any setting.

3.2 Discussion

Child Helplines International has signed a commitment to banning corporal punishment. Joan van Niekerk was asked to access an official statement relating to this.

ISPCAN is also taking ending corporal and humiliating punishment of children more seriously. It was agreed that the ISPCAN Council should be asked to make a clear statement on this issue at their next Conference in Hong Kong in September 2008.

Bertha reported that law reform on a ban on corporal punishment in schools is being considered. With regard to the faster pace of reform in Latin America, the group

enquired as to what extent they have an ombudsman for children? In Africa there, is only one country ombud for children, in Mauritius. It was noted by the representative from Zambia that, in Africa, the biggest challenge is corporal punishment the home, and there was general agreement on this.

4 UPDATE ON THE GLOBAL STUDY ON VIOLENCE AGAINST CHILDREN – CAROL BOWER

Carol presented the background to the Study, and noted that one setting that was not considered was children in armed conflict. This omission had been much debated; however, children in gang settings and corporal punishment were focused on right from the beginning.

The Study Report was released in October 2006. It made a number of findings about the high levels of violence against children globally, about the fact that perpetrators of violence against children come overwhelmingly from the child's immediate environment, and about the high cost to society of these levels of violence. Its key finding was that no violence against children is ever justifiable, and that all violence against children can be prevented. Recommendations related to each of the five settings studied were made, in addition to a set of overarching recommendations, which included the appointment of a Special Representative on Violence Against Children (the post has recently been created, but is not yet filled).

There had also been a strong sense of the need for a structure similar to the NGO Advisory Panel, linked to the SR, and addressing some of the short-comings of the original Advisory Panel, such as the lack of representivity on the Panel.

In the follow-up to the Study, the NGO Advisory Council has recently been established, in 2007. Nine international organisations are represented, as are each of UNICEF's nine regions. Child representation is also flagged. Jo Becker from Human Rights Watch remains the co-chair, with Sara Austin of World Vision.

The Council was established in 2007. Its membership comprises:

- World Vision: Sara Austin. Some concerns were expressed about this as, in Africa, World Vision is not seen as supporting prohibition of corporal punishment.
- Human Rights Watch: Jo Becker*
- International Save the Children Alliance: Roberta Cecchetti**
- Defence for children International: Virginia Murillo Herrera*
- Crin: Veronica Yates**
- Epoch: Peter Newell*
- ECPAT: Theo Noten
- World Organisation Against Torture/OMCT: Cecile Trochu Grasso
- Plan international: Ann Kristen Vervik

Members marked with * were also members of the Advisory Panel to the Study. Members marked with ** were closely involved from the beginning. Roberta Cecchetti chairs the Subgroup on Violence Against Children of the NGO Group in Geneva.

In addition, there are the 9 representatives from the UNICEF regions. In Africa this is Gilbert Onyango from the Cradle in Kenya with whom we should interact.

The first Report on the follow up to the Study was presented in October 2007.

Resources linked to the Study include the Report itself, material for youth, and child friendly materials. Information on the study is available at www.violencestudy.org or www.crin.org/violence/unstudy/ or www.violencestudy.org/a554. The last has child-friendly materials in English, French and German.

5 DISCUSSION: STRATEGIES TO USE GLOBAL DEVELOPMENTS IN ADVOCACY IN THE REGION AND IN OUR RESPECTIVE COUNTRIES

A number of issues were raised in this discussion, which was facilitated by Judith Mulenga. These included:

1. Support from international organisations should be sought.
 - UNICEF is developing a global child protection strategy that includes corporal punishment. We will try and get a copy of this.
 - Support from both Child Helplines International and ISPCAN would be useful.
 - If the World Health Organisation has made a definitive statement on corporal punishment, could we request support from them?
2. There may be lessons to be learnt from the South American experience, given that three countries from that region have recently prohibited.
3. All the International Conventions should be explored for clauses supportive of the prohibition that enable us to develop a framework to report on corporal punishment. A reminder system of reporting dates to the various UN Committees will assist in supporting the activities of member organisations with respect to reporting. It was noted that it is not necessary to submit a full Alternative Report, and NGOs can submit comments to the relevant Committee – Botswana has done this and the UNCRC has responded.
4. 'Popular' versions of the Violence Against Children Study and other UN documents would be helpful. UN Treaty Bodies and their timelines are known to governments but not to civil society organisations. Ulrika noted that a popular version of the Violence Study might exist, and it was agreed that we need to explore websites and identify appropriate documents which will need translation.
5. A 'popular' version of General Comment 8 of the UNCRC would also be helpful, and we need to think about how to use it.
6. The All Africa Conference of Churches has a conference in Mozambique this year – this is a forum that could be used to send a common message with regard to ending corporal punishment. There might be an opportunity for the meeting to have a side event on this issue as the General Secretary takes children's rights seriously. Rev Japhet Ndlovu is the special advisor on leadership in the All African Conferences of Churches.
7. Interactions with the Pan African Parliament and the African Child Policy Forum were flagged for discussion later.
8. It was agreed that the Council of Europe Toolkit might be useful and should be flagged.

9. There is still a need for research on the issue of banning corporal punishment, and on positive discipline. This needs to be verifiable.
10. We should find ways to use our African representative on the NGO Advisory Council in following up the Violence Against Children Study recommendations.
11. Within the faith-based organisations, we need to flag the positive discipline issue in order to obtain support. Materials here need to be collected and distributed and shared.
12. SADC has certain institutionalized protocols that are binding to member states, including a Gender Protocol. However none of these are linked to children. They have a Regional Strategic Development Plan which sets priorities, strategies, etc. (RIDSP).
13. Another NGO that may bring value internationally is the International Association of Child Welfare.
14. It was agreed that there should be a network in each country, similar to the Working Group in South Africa, and that we need to find ways of interaction in which there is an exchange of information.

6 REGIONAL STRATEGIES

6.1 Regional Instruments to address violence against children: the African Charter on Human and People's Rights and the African Charter on the Rights and Welfare of the Child. Jacqui Gallinetti.

The African Charter on Human and People's Rights was adopted in 1981 and came into force in October 1986. The mandate of the drafters was to draw up a charter congruent with African legal philosophy and African traditional values.

Article 5 relates to corporal punishment – it talks about human dignity and the need to avoid cruel and degrading punishment, and has been interpreted to be referring to corporal punishment in schools and the penal system.

Article 18 relates to the protection of the rights of women and children.

Chapter 2 deals with the duties of the individual, including the duty to preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect parents at all times and to maintain them in case of need. Unfortunately this clause has been interpreted in a way that corporal punishment is allowed in order to instil a sense of respect and responsibility.

However the Charter promotes protection from all forms of violence.

The African Commission on Human and People's Rights came into being with the functions of

- protection of human and people's rights
- promotion of human and people's rights
- interpretation of the Charter
- collection of documents and undertaking of research on African problems in the field of human and people's rights
- formulation and development of principles for resolving human rights issues.

In developing the *African Charter on the Rights and Welfare of the Child* (ACRWC), the overall approach of the OAU has been criticized for a focus more on the situation of children rather than taking a child rights approach.

Olowu notes that the development of the ACRWC was not seen as conflicting with, but rather complementary to, the UNCRC. Article 20 deals with discipline, which must be administered with humanity and in a manner consistent with the inherent dignity of the child. Art 44 mandates the Committee to “draw inspiration” from international conventions and treaties.

Article 31 deals with the responsibilities of children, from a rights-based perspective, and the family is placed at the centre of the ACRWC, rather than the child.

Criticism has been levelled at the Committee of Experts because of delays in effecting appointments, and the manner of work, among other things.

States are obliged to ensure that their domestic legislation is compliant with the ACRWC, which is seen as the bare minimum that shall be tolerated. The African Committee has the potential to break new ground through its jurisdiction, because unlike in the CRC, there is an individual complaints mechanism within the ACRWC, and a direct approach can be made to the Committee after domestic avenues have been exhausted. The Committee’s function is to promote and protect.

Once they have ratified the ACRWC, State parties should report every three years, with the reports to the Committee of Experts and to the Committee on the Rights of the Child being used to complete each other. The committee can hear individual applications and anyone can bring a matter to it, but this is primarily a right on paper which is largely unenforceable.

The ***African Court on Human and People’s Rights*** was established by Protocol in 1998. Again, in-country opportunities have to be exhausted before approaching the court.

6.2 Issues relating to the functioning of the African Committee of Experts on the Rights and Welfare of the Child. Carol Bower

The African regional human rights system is

- the least developed
- the most controversial
- the first to adopt a regional charter of children’s rights. It has the capacity to add value to the UNCRC.

The African Charter is complementary to the UNCRC. It reinforces African cultural heritage and historical background, and was adopted in 1990. It took until 1999, though, to come into force – which requires ratification by at least 15 countries. There were none for the first 2 years, and the Charter has only been ratified by 27 of the 53 states. Interestingly Ethiopia, the country in which the Committee of Experts meets, has not ratified the Charter.

One issue that delayed ratification was that of child refugees, with not many countries aware that ratification can be done with reservations. The language of the Charter is also somewhat inaccessible. It emphasizes different concerns to the CRC, especially discrimination and harmful cultural practices. It is also stronger than the convention in some respects – e.g. the best interests of children are of primary concern (Charter) vs. of paramount concern (CRC). Other differences between the two include that the Charter is more concerned with the welfare of the extended family than that of individual, and is more protective of child soldiers, child refugees

and internally displaced persons. The definition of child is set at people under the age of 18 years. Finally, the Charter has an individual complaints mechanism which the CRC does not.

The African Committee of Experts met for the first time in 2002. Because resources are limited, the meeting overlapped with another Commission to save costs. A lot of time was spent on institutional arrangements and procedures.

Ongoing problems include that no countries has yet submitted a Country Report, and meetings and institutional arrangements are still not in place. The Charter requires a report in the first two years and thereafter every 3 years. There is little clarity on how to approach and communicate with the ACERWC. There are serious capacity constraints, including a lack of administrative capacity and support.

Deogratias Yiga, from ANPPCAN Uganda, was seconded to the Committee in 2005 to set up structures and provide support to the Committee, but this did not really address the situation.

The Committee consists of 11 members who serve for 2 years. The requirements include that one has to be impartial and must not be a member of and government.

How can we use the African Committee of Experts?

- We should link with regional networks such as ANPPCAN, Conafe
- In 2005, there was some thought about an NGO Group-type situation to support the ACRWC, but nothing really came of this. It should perhaps be pursued.
- We should explore using the individual complaints mechanism.
 - We could start the development of Shadow Reports and advocate for governments to submit their country reports. These could develop out of and linked to the Country Reports to the CRC.

Discussion:

A contribution from each government is supposed to provide the Committee with the resources that it needs, but bureaucracy and procedure is strangling progress.

Save the Children (Sweden) is looking at how the Committee can be capacitated. Although the Committee is facing many challenges, if it could be made to work, it would be more accessible. Members of the Committee do make country visits, and we should look at how Committee members can be used to promote the cause of abolishing corporal punishment. The Committee meets regularly and the minutes are reflected in a Pretoria law journal, but without a proper secretary, dissemination of their work is problematic. In addition, the Committee has no website.

The Charter confers rights directly on the child but the state remains the duty bearer.

No countries in Africa have committed a second report to the UNCRC – all have submitted their first report. Judith Cohen noted that there is a growing intolerance of the lack of reporting to international bodies. South Africa was the only country which had not submitted a written report to the UPR process, which went ahead because it does not require a written report.

6.3 Strategy for accessing the African Committee of Experts on the Rights and Welfare of the Child. Ulrika Sonesen.

A letter on this issue was prepared some time ago regarding a request from the group to make a presentation to the African Committee of Experts, which has agreed to give us a slot in November. However, the Committee is also meeting in May this year, so we now have three options:

1. Not to make a presentation – it was felt that this is not really an option.
2. To attempt to meet with the Committee at their May meeting, and present on ending corporal punishment.
3. To wait until November, when we have a slot.

In deciding when to meet with the African Committee of Experts, the meeting discussed whether the information was still relevant, or whether it needed to be re-processed. It was agreed that we need to prepare a media strategy around this, and that our presentation needs to be brought to the attention of the media. If the Committee makes a pronouncement, we also need a media strategy for this.

There was no clarity on who is entitled to present in May, and whether only accredited organisations would be able to do so. However, NGOs can apply for observer status, which requires a letter of application including a copy of the Memorandum of Association or founding document, a list of donors, a list of all international organisations with which they have links, current and past activities relating to children, board members. This must be in one of the languages of the African Union, i.e. in English, French, Portuguese or Arabic. It is essential, though, to include Assefe Baquele as he is a co-signatory to the letter.

Regarding May, a meeting then might be unrealistic because:

- People may have to apply for observer status
- We have to get a wider group of people on board
- We may not be well prepared – and present poorly.
- How will we select people who will represent the network - should we have a representative from each region?

However, May should be considered because:

- There are lots of opportunities for law reform at present in a number of countries.
- If the Committee made a declaration on the issue of corporal punishment, this could be useful in the current law reform processes.
- If we don't use the May opportunity then we may lose out altogether.

The final decision was to meet the Committee in November. In preparing for this meeting, it was agreed that:

- The letter must be updated, and include a request for a time slot.
- It should then be sent out for confirmation to the broader network.
- The statement and presentation must be prepared. It will then be processed and prepared for the Committee.
- A media strategy will be developed and implemented with the Media Monitoring Project. A layer of media strategies will be needed, targeting NBC Africa and SABC Africa among others.

It was noted that the Community Law Centre and Ditshwanelo – the Botswana Centre for Human Rights - are both members with observer status at the AU Human

Rights Commission and possibly also with the African Committee of Experts. It is also possible that the SAHRC has observer status.

It was agreed that it may be important to plan a submission to the African Commission, but protocol is more complicated than for the Committee of Experts, and the Regional Network would research this. Other members of the network should apply for observer status in the meantime, and Child Helplines International is to be encouraged to do this.

There is to be a conference in Swaziland soon; this presents an opportunity to begin to pave the way for the presentation to the African Committee of Experts. There was concern that, because neither Zambia nor Mauritius have ratified the Charter, these countries could be excluded from the proposed meeting with the African Committee of Experts. It was agreed that Network members from these countries should lobby their governments to sign and ratify the Charter.

More information and understanding of the work of the African Committee of Experts can be found in its documentation, which the group should try to access.

6.4 Developing Other Joint Advocacy Actions by the Network in the Region/Continent: Open discussion chaired by Enoch Mulembe

It was agreed that, as a Network, we need to identify concrete steps and activities – this discussion was intended to address this need, and identify other regional advocacy initiatives and activities with which the Network should engage. Regionally, it was agreed, lack of awareness is an issue and a proposal to develop an easy read version of the Global Study and other documents was made.

A wide range of other activities and strategies was discussed.

1. Development of a website for this network – both the CLC and RAPCAN have the capacity to do this.
2. We should look at ways of approaching SADC.
3. We should send information packs to the Pan-African Parliament.
4. The next ANPPCAN Conference is in 2009 – a request from the Regional Network should be made that ending corporal punishment is a theme for this, or at least a stream.
5. African Child Policy Forum is having its biennial conference in Addis Ababa in May, and we need to take forward their commitment to ending corporal punishment.
6. ISPCAN is hosting its Biennial Conference in Hong Kong in September. The corporal punishment issue should be raised in the Developing Countries Forum.
7. Media opportunities were discussed at length – some of these are costly but community radio can often be used to mainstream human rights issues. The costing of a video and various other options were discussed in relation to using the media.
8. The meeting also considered the issue of training journalists. The areas of activity identified under 7 above would likely be country-specific, although we could develop a regional video.
9. We can also use the agendas of other meetings to raise the issues around corporal punishment, as well as commemorative days such as the Day of the African Child on 16th June and World Day against Child Abuse on 19th November.

10. We could also make better use of African Human Rights Institutions including the Institute for Human Rights in Africa, based in the Gambia, and the Indian Ocean Child Rights Observatory.
11. Berta reported that research is being undertaken in Mozambique.
12. We could also use *Article 19* by finding or writing articles for submission on, for example, developments, good practices etc.

The meeting ended with a discussion on whether we have the capacity for some of these activities, and whether we were being realistic. We should consider piggybacking on some existing processes such as the Southern Africa Council of Churches meeting later this year in Maputo – Rede Came could assist and support the SACC meeting. The possibility of video-conferencing some of these important meetings around the world was also raised, possibly with the assistance of Southern African human rights institutions.

The day ended at 16:30.

7 DEVELOPING NATIONAL STRATEGIES

7.1 Challenges for faith-based organisations in advocating for prohibition: Yussuf Phiri, Zambia

Achievements:

- The coming on board of religious groups to address the issue
- The identification of strong advocates against corporal punishment
- The building of allies and coalitions to empower the network on the subject.

Challenges:

- How do you reconcile divine law and modern secular law – faith can sometimes lead to rigid interpretations.
- Social conditioning leading to a life of different hats.
- The “foreign agenda” perception syndrome
- Interpretation of Scripture, which is just that – interpretation.
- The whole concept of human rights versus religious rights, which are often seen as conflicting.
- The capacity of FBOs to engage with the issue in the midst of contrary views from within the sector needs to be built.
- Socio-economic challenges also impact on perceptions about rights and the openness to consider alternative options to the challenges that parents face.
- How does one put issues around corporal punishment onto a national agenda when ‘interference’ in the life space of the family is strongly resisted?

The way forward:

- Advocacy around the issue must continue
- The capacity of FBOs to take it on must be built.
- Materials should include periodic briefings on this subject.
- Advocacy skills and the skills to promote positive discipline are needed.
- The parenthood and fatherhood projects that are underway should be utilised.

7.2 The role of faith-based organisations in law reform - toward the prohibition of physical and humiliating punishment. Keith Vermeulen

Keith clarified that an FBO is an NGO based on a specific or combination of faith/belief systems. The claim by many FBOs globally an FBO is more than an NGO raises questions about the organisation's perception of and/or relation to secular/public law. Lourens du Plessis has claimed that in South Africa, the process of Constitutional development has been a task of "Copernican proportion for public law", and questioned whether FBOs and faith communities have taken or are taking on board an understanding of these developments in their organisation and work.

The area of international human rights instruments is contentious and lies at the heart of the law and religion debate. Monotheistic religions argue that law – and for some this means human rights law - is the offspring of religion, giving FBOs (or faith communities) the right to disregard or override the law, or reform it in the image of its religious and faith tradition. Within the ecumenical faith community, this position has been determined by affirmation and support for human rights beyond a mere moral approach to law that benefits the "common good." These developments require further dialogue and discussion in faith communities. There is a deep need for NGOs, especially those advocating support for human rights, to engage FBOs in dialogue on the principles being promoted.

FBOs are well placed to hold before their constituencies the common values that religious moral codes and the law espouse, and to promote the values of tolerance and social cohesion - after all 'religion' is defined as the glue that holds society together. Some common threads in law and religion are the promotion of justice (social, political and economic), human dignity and respect for all, equality for women, children, gays, lesbians, bisexuals and transgendered, those with disability etc. – in other words, the promotion of societies that live together - despite all their cultural and religious diversities – in harmony and peace. Law and religion both exist for the development of just and stable societies – or do they? Perhaps this discussion needs to continue?

For faith communities to engage the process of law reform requires some capacity-building for practising faith in the public arena by advocacy and influencing public policy. Collective bargaining is better than 'going it alone', and the faith community has learned this in South Africa through advocating for alternative macro-economic fiscal policy, government spending and priorities through the People's Budget Campaign.

Another model is the cooperation between faith communities, CSOs and academics on law reform for the care and protection of children, such as the Children's Bill Working Group has been. Advocating for the rights of children is advocating for a respectable and responsible society. Law reform in this regard starts in the *home*, in the *family* – and thus raises the debate of what is private and what is public. It can be argued that faith communities cannot demand anything that is not exemplary for a society based on the values of equity, dignity, respect.

Dealing with the high levels of violence in society (including drugs and crime) requires a Copernican revolution in the use of conflict resolution mechanisms. The focus in law and religion on retribution and punishment has not worked. Redefining justice as restorative and putting in place law reforms that acknowledge such this

may be a move toward a paradigm shift of law and religion cooperating for such a society.

In addition, FBOs have a wealth of experience to draw on of nonviolent communication and positive discipline through the history of the Quakers, for example. These engagements have assisted, for example, the SACC to convince at least some of its constituency to be open to a revised interpretation of scripture that appears at first to support corporal punishment.

These factors, and the history of the SACC's engagement with the reality of South African society, strengthened its call for government to adopt the proposals in the Children's Amendment Bill.

The SACC is committed to ongoing research on public policy matters and matters of law reform, to support its advocacy work on proposed law reform. Education and awareness-raising lead to socially responsible programmes of action such as care and protection of children.

Keith closed his presentation by quoting Ghandi: "I must be the change I want the world to become" to illustrate that FBOs must lead the way in their own organisational and domestic structures.

7.3 Reflections on South African National Meeting having relevance to the SADC/southern African Region Countries

Because the South African experience included the recent failure to achieve prohibition, it was felt that some reflection on this would be useful to the Regional network.

It was noted that government and civil society are at different levels at this point, and that, even with regard to the SACC position, there is some unclarity on whether the position on corporal punishments is 'trickling down'.

The 'powers that be' are not all on board, and there different groupings at different levels. For example, the presentation by the Department of Social Development showed clearly that, although the officials do get the message, they are backing off the issue. Carol's presentation was good, but was 'preaching the converted' and we should perhaps consider using it in a different forum ('swanky breakfasts' was one suggestion).

The situation of the reluctance of government to deal with violence against children but their wiliness to take on gender-based violence is a regional one, and not unique to the South African situation.

Members of the network from outside South Africa, felt that the attendance of government officials was very positive, pointing out that, in some countries, it is difficult for civil society to engage in law reform and this is seen as a very technical issue. The participation by young people, and by parents, was helpful – as well as participation by parents. The meeting highlighted that corporal punishment, the death penalty and abortion – the 'red flag issues' - require that we focus on changing hearts and minds, and with regard to corporal punishment, it was agreed that there is a need to develop more opportunities around parent participation

The Department of Education has made several really concerning policy decisions regarding learner pregnancy, the Bill of Responsibilities, the oath of allegiance, and the policy (outlined in their presentation at the South African meeting) that the DoE has no role in building capacity to parent.

Monitoring of legislation is not happening in all our countries. Group members from outside South Africa noted that the lobbying in South Africa had been extensive, and that the 'personal touch' had been important. It was agreed that avoiding the use of the term 'corporal punishment' (as opposed to 'positive parenting' or 'positive discipline') is sometimes strategic, but should not obscure our real intentions.

8 PRESENTATION – DEVELOPING POSITIVE PARENTING. CAROL BOWER AND JOAN VAN NIEKERK

Joan van Niekerk presented to the Network the work that Carol Bower is doing with Childline to develop materials for positive parenting and the abolition of corporal punishment – and clarified that this is intended to be a **regional** resource.

Several issues with regard to this initiative were brainstormed by the meeting, including identification of existing research or research in process. Zambia has undertaken research on fatherhood, and Carol and Joan will request a copy of this, as well as the South African HSRC research on young fathers.

Joan reported that she had been involved in a small project on parenting in the Durban area, and that they had developed a very nice questionnaire.

The meeting developed a range of ideas for the way forward, including:

- Circulate and look at the questionnaire from the Durban group
- Include questions about what parents are presently doing that seems to work?
- Ask children: what is your parent doing that seems to work?
- What else do you think would work?
- Encourage people to respond, upload the information to a website, collate the responses, and use this to guide the development of materials.

There was concern that the materials should address the needs of child-headed households:

- What are their parenting needs?
- What opportunities exist for supporting them in carrying out parenting functions?

It was stressed that this initiative is not looking to establish new groups but using existing groups of children and parents/caregivers to gather information about parenting and parenting needs. A core question should be: what is your child's behaviour telling you?

The role of government was debated

- This is their (governments') responsibility
- Civil Society needs to develop and test quality materials
- Civil society also has a role in advocating and lobbying for quality scaling up.

Research ideas were explored:

- What can we learn from traditional practice?

- What do we learn from traditional beliefs and values, and discussions on rights – these are not foreign values?
- What are parents doing that works?
- We need to have questionnaires that tap into religious practices – perhaps even to religious leaders.
- Needs to be urban and rural, male and female, rich and poor.
- Need to look at a range of parenting behaviours.
- How do we decide on the range and number of focus groups?
- Use school clubs in Zambia and the Children’s Committee Lesotho.

The next phase will consist of the collation of all of the above research, and the development of materials which will then be tested across the region, using the existing group as a resource. We need to use the ongoing input of people in the region who are invested in the abolition of corporal punishment, and the development of positive parenting materials.

Yussuf (Jeff) reported that, in the research that was done in Zambia, the initial focus was prevention of HIV/AIDS. Arising out of this, several issues were identified

- Mothers are seen as the care-givers and fathers as the bread-winners in society.
- Poverty makes children particularly vulnerable
- As a result of corporal / negative discipline, children are pushed onto the streets and pushed into risky behaviour. Mothers were therefore setting the limits.
- In high income families one finds that usually neither the mother nor father is available.
- Emotional expression and connectedness are often lacking between children and parents.
- The research has identified the need to work with families and develop appropriate materials.
- The research conducted in urban, rural and peri-urban areas.
- It was found that using kitchen parties as one of the groups that could give information was useful.

In the discussion of the Zambian research, it was pointed out that the experience in Swaziland was that mothers are no longer necessarily the care-givers, and that sometimes it is the father who is living at home. Thus, different methodologies bare needed. Sometimes, in interviews and verbal interactions, respondents will give tell you what they think you want to hear, so observation is needed as well.

A Reference Group was suggested:

This should be:

- relevant for Southern Africa;
- comprise a core group for more intensive work, and a broader group for testing materials.

The following were proposed for the core group

Joan
 Carol
 Bertha
 Ismael
 Judith
 Yussef
 Nomzamo
 Bernadette

The following were proposed broader reference group

Emily/Mareile

Sam

Thakanyane

Tebatso

Enoch

Next steps

- Carol will type up the notes, and the questionnaire will be developed.
- This will be circulated with a request for feedback.
 - The meeting was requested to give feedback on any research that members are aware of, and to assist in this process.

The meeting closed at 14h00.

List of tasks

Person	Task	Time-line
Joan	Obtain a copy of UNICEF's global child protection strategy (includes corporal punishment).	
Joan	Obtain statements of support from CHI and ISPCAN	
Joan	Request WHO support via Alex Butchart	
Joan	Support the corporal punishment issue at the ISPCAN Developing Countries Forum at the Conference in Hong Kong in September.	ISPCAN conference
Ulrika	Look at lessons from South America	
Jacqui Gallinetti	Explore all the International Conventions and look at supportive clauses that enable us to develop a framework to report on corporal punishment	
Sam – coordination Carol	Develop a 'reminder system' for treaty-body reporting.	December 2008
Daksha, Emily, Sam and Ulrika	Updating of the letter to the African Committee, including a request for a time to address them. Circulating the updated letter to the African Committee for input.	15 th June 2008 In process
Daksha, Emily, Sam and Ulrika	Prepare the statement and presentation to the African Committee.	July 2008 In process
Ulrika	Development and circulation for input of a letter to Sophie.	
Ulrika, Joan and Sam	Develop and implement a media strategy with the Media Monitoring Project. A layer of media strategies will be needed, targeting NBC Africa and SABC Africa among others.	
Ismael and Judith M And Carol	General Comment 8 of the UNCRC – we need to look at this document to see if and how it could be used. It needs to be popularised and summarised.	
Sam/RAPCAN – coordination And Carol	Develop a website with information and links for this network. Explore websites and identify appropriate documents (some may need translation from French) which can be included.	August 2008

Person	Task	Time-line
Sam	Address the African Child Policy Forum's commitment to ending corporal punishment at their meeting in May.	
Carol	Establish if there is a popular version of the Report on the Global Study, and obtain this.	
Yussuf and Keith	The All Africa Conference of Churches has a conference in Mozambique this year – this is a forum that could be used to send a common message with regard to ending corporal punishment. There might be an opportunity for the meeting to have a side event on this issue as the General Secretary takes children's rights seriously. Rev Japhet Ndlovu is the special advisor on leadership in the All African Conferences of Churches.	End 2008
Carol	Obtain a copy of the Council of Europe Toolkit should be flagged.	
Carol	We should find ways to use our African representative on the NGO Advisory Council in following up the Violence Against Children Study recommendations.	
Yussuf and Keith	Within the faith-based organisations, we need to flag the positive discipline issue in order to obtain support. Materials here need to be collected and distributed and shared.	
Carol/Joan?	Another NGO that may bring value internationally is the International Association of Child Welfare – we should contact them.	
Carol to set up sub-group	Look at ways of approaching SADC	Set up a sub-group to deal with this issue. Chaired by Ismail?
Carol	The next ANPPCAN Conference is in 2009 – request that ending corporal punishment is stream for this.	

Person	Task	Time-line
Carol	The agendas of other meetings should be used to raise the issues around corporal punishment; commemorative days such as the Day of the African Child on 16 th June and World Day against Child Abuse on 19 th November should also be used for this.	Raise in follow-up e-mail – does anyone know the themes and how we could link to them?
Carol initially	We should also make better use of African Human Rights Institutions (e.g. the Institute for Human Rights in Africa and the Indian Ocean Child Rights Observatory).	Raise in follow-up e-mail – Enoch, Ismail?
All	Tasks as set out in country reports	

Regional Network meeting - 16 and 17 April 2008
Attendance register

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