The child’s right to physical integrity

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Implementation of the UN Convention on the Rights of the child provides a new opportunity to uphold children’s rights to physical integrity worldwide. While in most societies adults’ protection from all forms of inter-personal violence is supported by the law and by social attitudes, when it comes to children the law tends to draw its protective circle not around the child but around the adult who uses violence as a means of discipline. Hitting children, with hands, belts, sticks and other objects – a common habit in most countries of the world – confirms their current low status as lesser people than adults and passes from one generation to another the dangerous message that it is acceptable to use violence to solve inter-personal conflicts.

It is only in the last three decades that child abuse has been “discovered” and become an issue of serious concern around the world. But even in societies which have begun to take active steps to reduce it, child abuse is defined in a way which leaves some arbitrary level of violence both socially and legally acceptable.

Prevalence of physical punishment

In the United Kingdom interviews with parents in 1985, found that two-thirds of a large sample of mothers were already hitting their baby before the age of one. Earlier interviews revealed that 22 percent of seven year-olds had been hit with an implement, and another 53 percent had been threatened with an implement. In Romania a survey early in 1992 found 84 percent of a sample of parents regarded spanking as a normal method of child-rearing; 96 percent did not consider it humiliating or degrading.

In the USA, a 1985 survey of a representative sample of 3,232 families with children under 17 found that 89 percent of parents reported hitting their three year-old during the previous year; about a third of 15-17 year-olds had been hit by parents during the year. In Korea, a 1982 survey by the Children Protection Association found 97 percent of interviewed children had been physically punished, many severely. In Barbados a 1987 survey found 70 percent of respondents “generally approving” of parental physical punishment; of this 70 percent, 76 percent endorsed beating children with belts or straps. In St. Kitts, 73 percent of children interviewed in 1987 agreed with the

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It is for children’s own good that parents beat them,” and 94 percent of caretakers agreed that: “He who spares the rod spoils the child”. In India a survey of university students, reported in 1991 that 91 percent of males and 86 percent of females had been physically punished in their childhood.

In many countries, particularly those subject to the earlier colonial influence of Britain, physical punishment is still commonly used outside the family home to discipline children in schools, child care institutions and foster-care. European schools are now free of corporal punishment, apart from some private schools in Britain and Ireland where parents can still pay to have their children beaten. But in the USA, only 24 states have so far abolished corporal punishment in their public schools. In India, all or most of Africa, Korea and many other states it is still permitted in both schools and child care institutions. In Gambia, courts can sentence children and young people to be whipped; children aged seven or over may be summarily punished by caning if a police officer believes there is reliable evidence that the child has committed an offence. In Guyana, boys who break schools rules can be whipped; girls can be kept in solitary confinement for up to a day. In Zimbabwe judicial whipping of juveniles was re-introduced in 1992.

The UN Convention and physical integrity

The UN Convention challenges all violence to children. Its preamble emphasises the “equal and inalienable rights of all members of the human family”, and also children’s rights to “special care and assistance”. Article 2 insists that all the rights within the Convention must be available to all children without discrimination of any kind. Article 19 asserts children’s right to freedom from violence: “States Parties must take all appropriate legislative, administrative, social, and educational measures to protect the child from all forms of physical or mental violence, injury of abuse, neglect or negligent treatment, maltreatment of 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”. Thus the Convention makes it clear – reading Article 19 with Article 2 – that the right to physical integrity is an absolute right, one which neither culture nor religion, tradition or material circumstances should limit. In considering the issue of physical punishment in a worldwide context, it is important to emphasise this: religion is quite often cited as a justification for beating children.

Another article in the convention (Article 28(2)) covers school discipline, which “must be administered in a manner consistent with the child’s human dignity and in conformity with the Convention”, i.e. in conformity with Article 19, without any form of physical or mental violence.

Two other articles are relevant to children’s right to physical integrity. Under Article 37, children must not be subjected to torture, or to “other cruel, inhuman or degrading treatment or punishment”; and under Article 24(3) states must