

REPORT ON THE FIFTH ANNUAL MEETING OF THE SOUTHERN AFRICAN NETWORK TO END CORPORAL AND HUMILIATING PUNISHMENT OF CHILDREN

Cape Town Lodge, Cape Town, South Africa

24th and 25th February 2010

1 INTRODUCTION

The Southern African Network to End Corporal and Humiliating Punishment of Children met in Cape Town to discuss and reflect on the activities of the previous year, and plan for the coming one.

1.1 Participants

The meeting was attended by:

- Childline South Africa (Joan van Niekerk)
- Community Law Centre (Lorenzo Wakefield)
- CRAFT, Botswana (Tebatso Hule)
- Ditshwanelo, Botswana (Emily Ruhukwa)
- Global Initiative UK (Peter Newell)
- Global Initiative Ethiopia (Sonia Vohito)
- Lifeline/Childline Namibia (Reginald Mouton)
- REDE Came, Mozambique (Berta Fumo)
- Resources Aimed at the Prevention of Child Abuse and Neglect [RAPCAN] (Christina Nomdo, Samantha Waterhouse)
- Save the Children Swaziland (Elizabeth Kgololo, Nontobeko Sibandze)
- Save the Children Sweden (Deidre Kleynhans, Ulrika Sonneson)
- Save the Children Zambia (Petronella Mayeya, Lawrence Mulenga)
- South African Council of Churches (Keith Vermeulen)

- South African Human Rights Commission (Anthea van der Berg, Tasneem Sterris)
- Zambia Civic Education Association [ZCEA] Judith Mulenga
- Zambian Human Rights Commission (Peter Kanuka)
- Zambia Interfaith Networking Group (Yussuf Phiri)
- ZINGO (Friday Nkhoma)

Fairouz Nagia-Luddy (RAPCAN) rendered record-keeping services.

Apologies were tendered by the Mauritian Ombud for Children (Ismail Bawamia).

1.2 Objectives of the meeting

- To share information about in-country developments during 2009, to support the development of strategies at country level;
- To identify joint advocacy projects at regional and continental level;
- To take a 'lessons learnt' approach to discussions.

1.3 Agenda

Broadly, the two-day agenda focussed on domestic issues on the first day and regional_ones on the second day.

Day 1:

- Lessons learnt towards sustained advocacy for social practice and reform at country level (Botswana, Zambia, South Africa, and Mozambique, with an input on litigation by the Global Initiative.
- Promoting parenting in Southern Africa

Day 2:

- Global and Continental context – developing collective advocacy
- Advocacy at SADC level and with HR institutions
- Planning for 2010.

1.4 Expectations

Participants expressed their expectations that the meeting would provide a vehicle for working together, and sharing information and strategies. The Global Initiative to End Corporal Punishment offered its assistance in any way that it could help.

There was agreement that we need to “package” the work we are doing as the ***promotion of positive parenting*** (which includes the prohibition of corporal punishment) rather than focussing only on prohibition – there needs to be a focus on what happens to and with children generally within their home environments; it was also noted that we must be wary of appearing to be just taking something away rather than providing information on and access to alternatives. Further, the group agreed that it is important to follow legal prohibition through with strategies for implementation so that prohibition has impact on children’s lives. It was agreed that a focus on parenting addresses violence prevention and child protection.

2 LESSONS LEARNT TOWARDS SUSTAINED ADVOCACY

There were 6 presentations in this session, which was split in two, with the first part being chaired by Deidre Kleynhans and the second part by Petronella Mayeya.

2.1 Current situation in Botswana and lessons learnt – Emily Ruhukwa

Current Situation

- Legally – corporal punishment (CP) remains lawful in all settings
- Socially – CP is still widely accepted as a form of sanction of both children, youth and even adults
- Culturally – generally custodians of tradition in Botswana support the practice of CP
- In Botswana, corporal punishment is permitted in the home, school, penal system and institutional setting.
- 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 Act (corporal Punishment) Regulations for primary schools and secondary schools state that only the head teacher is authorised to use the cane but may delegate this power to a teacher
 - Male teachers may not whip female students
- Punishment should be “moderate to reasonable” in nature
- 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”
- The Ministry of Education asserts that CP is used as a last resort and the Ministry places emphasis on moral education
- 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
- The ministry of education acknowledged that flouting of regulations is of concern to them and the new minister of Education has made an undertaking to deal with those who “abuse” children whilst exercising CP
- The Ministry advises that they are reviewing the education Act and will consider the issue of CP in schools. They advised that during consultations most stakeholders still upheld continuation of application of CP including the children themselves
- The new Children’s Act which was gazetted in April 2009 initially looked as if it would provide a window of opportunity to repeal CP but this was not the case

Lessons learnt

- Not enough people to participate in the Reference group meetings
- Helpful to carry out focus group discussions with selected groups of teachers and parents
- Useful to approach issue from the point of view of positive discipline

Strategy

- Litigation as a means of bringing about change in the legislation
- Take advantage of new Minister to lobby for the Ministry of Education to re-examine the Regulations
- For now to not focus on the traditional leaders as do not believe that they are ready for change in status quo
- Explore possibility of working with the Botswana Council of Churches.

2.2 Challenges and lessons learnt in alliance building and sustained advocacy to end corporal punishment in Zambia – Judith Mulenga

Background to Zambia’s Alliance Building on CP & PD

- Formed in 2008. Currently has 14 organisations but 7 regular members.
- Composed of civil society organisations that work in children’s rights with a bias towards protection rights, the media, quasi governmental organisations and government departments such as the Child Protection Unit & Victim Support Unit.

- In 2009 developed an advocacy strategy with strategies on ending CP and promoting PD.
- In 2010 we will start to implement the strategic plan. We met in December to identify strategies & activities at two levels: at alliance level and at organisational level.

Lessons Learnt

- Alliance building has increased credibility and visibility; the public pay attention to discussions on CP and PD because more organisations are talking about the issues rather than one.
- Has broadened potential base of support because by joining forces has brought together our different constituencies that each of our organisations work with. Entry points for advocacy target groups e.g. traditional leaders, parliamentarians, religious leaders etc.
- Working together on ending CP & promoting PD has provided lessons in democratic culture.
- Has broadened the scope of each of our organisation's work adding to activities and therefore potential impact of each of our organisations.

Challenges

- Generates an uneven workload & can be embodied in the following story of four people called Everybody, Somebody, Anybody and Nobody:
 - 'There was a job to be done
 - Everybody thought
 - Somebody would do it
 - In the end Nobody did
 - what Anybody could have done.'
- Causes tensions due to imbalances in terms of different levels of body of knowledge of human rights & children's rights, skills and experiences.
- Diverse aspects & emphasis being brought to the table. Each organisation afraid of its objectives being diluted in the alliance. E.G. is CP a worse form of abuse than child labour, sexual abuse and neglect?
- Inconsistency in representation & commitment.
- Difficulty in reaching consensus on appropriate advocacy methods.
- Bloated action plan and activities.
- Distracts from other organisational work; the demands of an alliance, especially when you are coordinating it, can lead to neglect of other organisational priorities.

- Fear of talking against CP even by activists because of societal acceptance of it and the need to be politically correct.

Conclusion

- The alliance has identified activities from the Advocacy Plan to be undertaken in 2010.
- Yet to see how the implementation of the advocacy plan pans out.
- Will let you know at the next meeting!

2.3 Strategy for Social Reform, litigation, and Alliance building in South Africa – Samantha Waterhouse

Alliance Building

- National Working Group on Positive Discipline
- Supported by regular communication
- Mail group
- Working in sub-groups (regular meetings)
- Sharing workload
- Newsletter
- Annual national meeting
- Website application process
- Proactive efforts to extend membership
 - Carol Bower, Linali Consulting
 - Centre for Child Law, UP
 - Childline South Africa
 - Children’s Institute, UCT
 - Children’s Rights Centre
 - Community Law Centre, UWC
 - Mthatha Child Abuse Resources Centre
 - The Parent Centre
 - Quaker Peace Centre

- RAPCAN
- School Leadership Project, UCT
- South African Council of Churches
- South African Human Rights Commission
- Catholic Parliamentary Liaison
- Sonke Gender Justice
- Various individuals

Social Reform

- The primary aim of our work is to promote social reform
 - To change the behaviour of adults (parents and teachers in particular) towards children
 - To promote healthy and responsive relationships between adults and children
 - To prevent any form of violence against children
- Thus corporal punishment reform is an integral part of parenting programmes
- Violence against children is entrenched and defended in South African Society
- A wide range of interventions are necessary to change this value and practise
- Law reform is an important tool in this but not our only option (in fact on it's own law reform will not achieve this goal)
- Although SA failed to prohibit parental corporal punishment – there are legal provisions requiring government to implement parenting programmes and promoting non-violent discipline.

Social Reform: Ideas for 2010

- Maintaining public debate
 - Through responding to issues in the media
 - Through proactive engagement with the media
- Engaging with the religious sector to strengthen access to positive messaging at local level.
- Undertaking projects at local level
- Engaging with opportunities resulting from international obligations:
 - UPRM; CAT and OPCAT; ICECSR

- And domestic legislation:
 - Torture; child justice legislation; Schools Act
- Advocacy with Department of Soc. Dev. Re scaling parenting programmes up.

Department of Education

- Advocacy related to implementation of whole-school approach to positive discipline
 - watching for legislative opportunities
 - Implementing programmes in schools
 - Advocacy with National and Provincial departments
- Accountability relating to implementation of the law
 - See litigation strategy
- Project regarding DoE role in preparing the future parents in society
 - Linking of adolescent pregnancy and future parenting; developing curriculum for grade 8 learners

Law Reform

- Opportunities for legislative reform very limited at this time – not considered strategic
- Litigation has been HALTED
- Considerable preparation for this
 - Applicants, arguments etc, were in place
- Changes in the constitutional court bench: creates too much uncertainty
 - Swing towards more conservative Judges (4 progressive Judges have left)
 - Some unknown quantities in the 4 new Judges
 - New Chief Justice is more conservative
 - Not good to have such a significant case as one of the initial cases before the new bench
 - If case lost – lost for many years
 - Fears of eroding existing jurisprudence
- Considered best to reassess this at a later stage

Law reform: litigation

- An incremental approach will be taken to litigation at this time

- Taking less controversial cases regarding parent/child relationships
 - Such as divorced or step parents who have different approaches to corporal punishment
- Cases interdicting teachers who use corporal punishment will be sought and taken
 - This would lead into a bigger case to be taken against the Department of Education
- Cases against Police
- Maintaining strong public discourse regarding the issues is essential to support our eventual litigation strategy
- Working group members will continue to actively seek appropriate cases

2.4 Promoting legal action – or the threat of legal action – against corporal punishment – Peter Newell

This is to introduce new resources which the Global Initiative is making available. We – like you – are frustrated at the lack of progress towards prohibiting corporal punishment of children in all settings. Globally, there are more than 100 states in all regions where there is no real progress, despite states' human rights obligations.

The persisting legality of social acceptance of corporal punishment of children, in the family and in other settings, is a serious violation of their rights now. The Convention on the Rights of the Child, like other Conventions, is a legal instrument. It is not some sort of wish-list for children, and states cannot choose which rights to take seriously. Ratification of the CRC means taking on legal obligations to ensure all the rights within it are recognised for all children – and not just recognised, but realised and enjoyed by all children. Rights without remedies are meaningless, so states must also ensure that children and those representing them have accessible and effective remedies available when their rights – including their right to protection from all corporal punishment – are violated. It is 20 years since the adoption of the CRC and we need now to reassert the status of the CRC as a legal instrument.

Where governments are not taking their human rights obligations seriously and are not moving towards banning all corporal punishment, advocates should consider legal action to increase pressure – always seeing it as an additional rather than isolated strategy which needs to be linked to other forms of advocacy. There are now many examples of legal action and use of human rights mechanisms requiring governments to reform their laws to prohibit corporal punishment.

So the Global Initiative's contribution is two new tools:

- Individual state reports setting out the possibilities of using national legal action to challenge the legality of corporal punishment and of using regional or international

human rights mechanisms. "Model" reports are available and attached for Botswana, Zambia and Mozambique; and others will become available soon. We emphasise that these reports are based on information from NGOs and other bodies and from internet research – there will be gaps and inaccuracies which we hope you will help us to correct.

- An outline and detailed support with the commissioning of a formal legal "opinion" on the existing law and how to pursue remedies for breaches of children's right to protection from all corporal punishment. Commissioning an Opinion – if it has not happened already - could be a valuable first step and could also be a tool to use in advocacy with government and parliament – in particular if there is legislation being prepared or going through parliament which could be used to achieve prohibition in one or more setting.

Before taking legal action, all the risks need to be considered. And if the action requires finding individual victim children, then their protection in the process needs to be fully considered. But investigating the possibilities through the commissioning of an Opinion can be a valuable step in itself and the Opinion can provide an advocacy tool in itself – not necessarily leading to immediate action. Reviewing whether children have any remedy for breaches of their rights is a valuable exercise in itself.

Commissioning a legal Opinion

It will be important to find a "good" lawyer, with experience of human rights/children's rights and a clear understanding of and belief in the need to prohibit all corporal punishment, as a human rights violation. (This is such a personal issue that trying to work with a lawyer who doesn't really believe in the issue is unlikely to be productive). It will obviously be ideal to find a national lawyer who is respected by government as well as civil society and has an understanding of how to pursue human rights violations through national courts. It is less important that s/he should have a detailed knowledge of international human rights standards or use of human rights mechanisms, because these are well-documented. If there are no obvious lawyers to use in your country, there may be people in neighbouring states, or who work across Africa. Sometimes law/human rights academics can help.

Many lawyers are prepared to do this sort of work pro bono – for free – or at a much reduced cost for NGOs.

The **attached briefing** (see appendix) suggests questions that the Opinion should answer. There will soon be detailed resources available through the Global Initiative on the international and regional human rights standards, key judgments of high-level constitutional and other courts and decisions of human rights mechanisms. These can be drawn on for the Opinion.

The Global Initiative can offer advice and support and we hope these new tools will lead to accelerating progress towards our common goal.

In addition it was noted that:

- The CRC is not regarded by Governments as a legal document
- Most countries are far from attaining goals of CRC
- Legal action or the threat of legal action presents a route countries should be taking

- The Global Initiatives support national campaigns

Discussion

The passage of the new Children's Act in **Botswana** (which does not prohibited corporal punishment in any setting) paralleled the South African Children's Act to some extent with regard to prohibition, where the prohibition clause was removed suddenly and with very little warning just as the Bill was being finalised.

The Botswana Children's Bill did contain a clause prohibiting corporal punishment and mandating the responsible Minister to put parenting programmes in place, with corporal punishment classified as a form of abuse. However, these elements were excluded in the final text, which now specifically states that corporal punishment does not constitute a form of abuse in any setting, that it is one of the measures institutions can use, and is an appropriate sanction against a child in conflict with the law. It was noted that advocacy for law reform must include robust approaches as a very real danger is that corporal punishment can be entrenched where the lobby is not strong enough in relation to prevailing politics. This is an important lesson for strategy.

The need to engage with FBOs was again highlighted by the Botswana experience, where this sector was supportive of not banning corporal punishment.

It was helpful in **Zambia** to have government as part of network as this provides access to information on what is happening at government level, strengthening the ability of organisations to achieve their aims. The government members on that particular forum are human rights advocates.

Regarding **litigation**, a number of points were made:

- In respect of having an authoritative lawyer to write a legal opinion, some countries reported that this is a challenge, with most lawyers not having a rights-based approach; in some cases, those that do have a rights-based approach have been suspended or debarred by their legal associations.
- While there would be advantages in having a lawyer from the specific state write an opinion for that country, the existence of a group of well known African lawyers for pro bono work around children's rights would be very helpful. There is a shortage of the "right" sort of lawyer that needs to be addressed. It was noted that any legal opinion written by a lawyer from a developed country would probably not be taken very seriously.
- In this regard, it was noted that the Centre for Child Law is identifying regional experts, and providing training and support where it is expressed as a need; a database of special litigation lawyers and legal strategies is currently being developed by the Centre.
- It was further noted that Women's Lawyers Association could be an option as a source of potential appropriate legal people on this issue.

With regard to **traditional leadership** it was noted that addressing hardened perceptions where people live in traditional settings can be very challenging, and that timing is very

important – it is often easier to approach traditional leadership when there is no controversy about an issue. Finding entry-points with this constituency has proved difficult, and it was suggested that issues relating to children’s well-being could be a good starting point. It was noted that customary law is a strong influence, and that it is harder to get support for the prohibition of corporal punishment when it is not seen as a problem – we need to find ways to raise the issues, perhaps finding pockets of support within society and working with those initially. Caution should be exercised against the possibility of a back-lash.

Regarding ***building alliances and ownership***, it was noted that one of the strengths in South Africa has been that people have taken ownership jointly; it was agreed that our strategies should include ways to encourage all to take ownership of the issue – which is agreed is time-consuming. This has been particularly noticeable in the ***South African*** experience.

It was also noted that some of the work of “changing hearts and minds” needs to be done within our own organisations. Organisations working on this issue must be sure to allocate time and space for dissenting voices and debate.

Namibia is reforming its children’s legislation – and has expressed concern that not too much pressure is placed on government to avoid an outcome such as that in Botswana. Advocates there are focussing on the abolition of the common law defence. However, it was noted that global experience has indicated that this needs to be coupled with statutory reform, and explicit statutory provisions.

2.5 Development for advocacy in Mozambique – Berta Fumo

Who Are We?

- ANPPCAN – MOZAMBIQUE, part of the ANPPCAN, with representation in 26 countries of Africa.
- ANPPCAN – Moz, is still in the process of registration. Has 46 members
- We are working in 5 program areas:
 - Psycho-therapeutic and psycho-social assistance
 - Children in movement (national and cross border trafficking)
 - End Corporal Punishment and Parenting skills
 - Promotion of children’s participation in defending their rights
 - Institutional development of ANPPCAN Mozambique (to deliver quality services to beneficiaries)

The Legal Framework That Sustains Advocacy Work

- The Constitution of the Republic
 - Establishes children’s rights and responsibilities of families and the state in child protection
- The UN Convention on Child Rights
 - Ratified by the Government through Resolution 19/90 of October 23.
- The African Charter on the Rights and Well Being of Children
 - Ratified by Government through Resolution 20/90 of October 23.
- The Family Law – Law 10/2004 of August 25
 - Strengthens the Constitution in relation to child rights and protection and establishes rules about care and adoption.
- Law Against Family Abandonment – Law 2053.
 - Determines punitive measures for family abandonment and other forms of negligence
- Law Against Human Traffic - Law 6/2008 of July 9.
- Law of Child Protection - Law 7/2008 of July 9
- Law of Successions (Civil Code)

- focuses particularly on the protection of inheritance.

More Action Towards Advocacy Work

- More organizations are emerging to work towards promoting child rights
- There is an important move towards the establishment of provincial and district forums for the promotion of child rights
- The Government, including the institutions of justice, is increasingly adopting mechanisms to enhance the rule of law in child protection against all forms of abuse. (ex.: The departments to assist women and children victims of violence in Police Stations)
- Local networks are also playing important role in advocacy and identification of cases of abuse for reference.
- Church based groups
- Community based clubs (Uca Mwanas)
- The media is increasingly active in supporting prevention of child abuse
- The Child Helpline, recently established, is providing useful child information that is being used for advocacy and action against abuse and neglect.

Work done in Mozambique

- In Mozambique there are very few organizations with systematic programs of advocacy against corporal punishment and other forms of humiliation.
- With the capacity building and using material received from this Network ANPPCAN Moz, Child Help Line and Rede CAME jointly hold training and discussion sessions with adults and children between 6 to 16 years in communities and schools around Maputo.

Perceptions

- Adults of the 60 years generation defend that corporal punishment is a method of education. They believe that fear of suffering corporal punishment makes children be more respectful to parents and elders.
- That depending on the age of the child there is the choice of the tool to use for corporal punishment.
- Parents between the ages of 50 and 30 years are conscious about the negative impact of corporal punishment and try to avoid it.
- Children in the rural areas in general think that is the right of their parents to practice corporal punishment when they don't behave well.
- In the urban areas children are more aware of their rights and think should not suffer corporal punishment from other people, except their own parents.

The Recent Research on Corporal Punishment

- Main Intervening Institutions
 - The research was done under the auspices of Save The Children Sweden with coordination of Rede Came in Mozambique.
 - ANPPCAN – Mozambique was responsible for coordinating the training of data collectors and data collection process itself
- The Aim
 - The aim was to hear from the children themselves stories and facts about corporal punishment and other forms of humiliation within families and schools.
- Participating Children
 - Total of 2.682 children, between 06 to 18 years, of whom 1.345 boys and 1.337 girls:
 - 796 from 6 to 8 years
 - 1.060 from 9 to 12 years
 - 826 from 13 to 18 years
 - 2.000 from low income families
 - 682 from high income families
- Basic Methodology
 - Groups of 20 children responded to structured questionnaires.
 - Groups of 8 children responded to a recorded interview based on a model of conversation with the interviewer
 - After the interview each child had to make a drawing illustrating the home environment, always avoiding to expose specific cases
 - At the end of the session, each child volunteered to explain his/her drawing, sometimes pretending that the story is about another child from the family or neighbourhood.
 - Every participating child received, as a gift, a kit of basic school material (exercise books, pens, pencils and colour pencils).
- Main Conclusions
 - Corporal punishment is a very common practice in families and schools.

- Different perceptions prevail, even among children themselves, about corporal punishment and its effect in the education of children and in maintenance of social order within families.
- Systematic and long term programs and interventions need to be undertaken to increase the level of awareness on the need to prevent this practice within the Mozambican society.
- Law enforcement need to be imposed, particularly in schools, to discourage the practice.
- Whole Group
 - Over the whole group of 2.682, 34,5% of children reported being hit with hand at home.
- By Gender:
 - For boys (1345), 34,7% of children reported being hit with hand at home, contrasted with 34.3% of girls.
- Over the Whole Group (2.682), 37,4% of children reported being beaten with object at home.
- Over the whole group (2.682) 43.1% reported experiencing humiliating punishment at home.
- Over the whole group 84,6% who responded the question indicated that being punished by hitting with hand at home is unacceptable
- At School
 - Over the whole group (2.682) 35,4%, of children reported being hit with hand
 - Over the whole group 41,2% reported being beaten with an object
 - Over the whole group 44,4% of children reported experiencing humiliating punishment
 - 84,4% of the whole group indicated that being hit with hand at school was unacceptable
 - 82,5% of the whole group indicated that being beaten with an object at school was unacceptable
 - 87,7% of the whole group indicated that punishment by humiliation at school was unacceptable
- Principal Follow up Activities

- Carry out further qualitative research to have an in-depth knowledge of the situation, including more provinces and districts in the northern, central and southern regions of the country, especially in the rural areas
- Dissemination of the information generated so that different players can use it for advocacy and action. (unfortunately the report has not yet been published)
- ANPPCAN – Moz will specially use the findings to improve capacity building and advocacy material (e.g. training kits on good parenting skills for parents, teachers and children)
- At this moment ANPPCAN Moz is negotiating funding from potential donors to implement activities in the areas of parenting skills, prevention of corporal punishment and other forms of humiliation in families and schools, as well as psychotherapeutic assistance to traumatized children victims of violence, negligence and all forms of physical and psychological abuse.

2.6 Harnessing the power of religious institutions: ideas and possibilities - Friday Nkhoma

Background to ZINGO

- Interfaith Network on HIV&AIDS
- Established in '97 although formalized in 2003
- Composed of 7 major faith umbrella bodies in Zambia
- Core mandate is to coordinate, network, build technical and institutional capacities for the FBO response
- Advocacy, community mobilization for behaviour change

Definition of Corporal Punishment

" unwanted retaliation inflicted upon the physical body of the recipient in response to an act that was undesirable to the person inflicting the retaliation" - web dictionary

CP Background-Zambia

- Article 46 of the Juveniles Act (1956) covers cruelty to juveniles under 19 years of age but states: "Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer lawful punishment to him."
- Furthermore, provisions against violence and abuse in the Penal Code (1931) and the Constitution (1996) do not prohibit corporal punishment in childrearing.

- The provision in article 12 of the Education Act allowing the Minister to make regulations on corporal punishment in government and aided schools and hostels was repealed in 2003, but there is no explicit prohibition
 - Constitution of the Republic of Zambia
 - Juvenile Act
 - Education Act
 - Penal Code
- The Challenge of the above laws and statutes is the lack of harmonization
- The Draft Constitution adopted the Rights of the Child (Domestication of the UN CRC).
 - Draft Constitutions States, in Article 48 that every person has the right: *"to be free from all forms of violence from either public or private sources" and "not to be subjected to corporal punishment (or) to be treated in a cruel, inhuman or degrading manner"*.

Strategies for engaging FBOs

- Designing campaign strategies that involves them e.g.
- Radio Programs (BANA)
- Posters
- Engaging them to design/implement programs against CP
- Policy direction e.g. Communiqué
- Research within constituency around issue
- Education and knowledge building
- Engage Religious Leaders to advocate against religious mis-application of scriptures that fuel corporal punishment e.g. "Spare the rod; & spoil the child"
- Mobilise FBOs to address parenting, fatherhood and the family, development of parenting manual
- Engage them in actual programs e.g. "Learn without Fear"

Challenges & Opportunities

- Opportunities
 - Wide Network of Religious Leaders
 - A much more receptive and open minded "church"
 - The influence the church has on behaviour as a social network and teachings

- The growing movement of the charismatic churches who are much more open and less rigid
- Challenges
 - Legislative and policy environment still lacking to guarantee child protection (esp. challenges we have seen in the law-differences)
 - Rigidity of Some Religious Leaders (+-)
 - Charismatic movement
 - Community/school systems Cultural beliefs
 - Socialisation and enculturation

Lessons Learnt

- Work with Religious Leaders to own the issue
- Adopt a flexible approach considering variant views within the sector
- Adopt an approach that is central to faith teachings e.g. the family institution approach
- Work with parents and fathers
- Allow for time considering the process of socialization/enculturation
- Build coalitions and alliances with like minded FBOs

Is there hope?

"We recognize the pains and sufferings you are going through. We are called by all of our different faiths to take care of you. We commit ourselves and our resources to alleviating your sufferings" Religious Leaders in Zambia.

Discussion

The plenary was guided by the following themes:

- Research and research dissemination
- Drawing on the power of religious organisations
- Alliance building
- Social reform

As always, it must be remembered that much of the Biblical justification for corporal punishment is based on mistranslation and an over-emphasis on the sections in the Book of Proverbs.

The representatives from **Swaziland** noted that, in that country, regulations on the administration of corporal punishment have been written by government; these are, however, not followed. As the process involves certification by a doctor that the child is “fit enough to be hit”, many educators either find their anger has dissipated by the end of the process, or they simply do not follow the procedures and hit the children anyway.

In **Namibia**, police officers and social workers are being trained to deal with situations of physical violence against children in the Child Protection Units with Child Support Officers to assist the child throughout the process.

Women’s and children’s issues are usually lumped together and the children’s issues tend to disappear. In **South Africa**, organisations are trying to promote a mature approach to bridging the VAW and VAC sector – children’s issues need to be well developed in order not to be lost.

In **Mozambique**, with no Government department representing children, organisations find that women’s, social and youth issues are used to gain political support only. Thus the response to children’s rights is not good, and little attention is paid to children’s issues.

In a more general discussion which then developed on **parenting**, it was agreed that an understanding of traditional cultural ways of dealing with and responding to children is important. In some societies, it was the male relatives (usually the uncles) who pleaded that children don’t get hit.

While it is true that more and more **fathers** are taking responsibility in instances of divorce, many parents experience difficulties in raising children. Changing family structures mean that we are not looking at a homogenous category of family units. The home is very much a site where work needs to be done to build capacity to parent.

The **Church** is a platform to promote change and influence, in all settings but perhaps especially in rural and farming communities. The more limited access to information poses particular challenge, and this should be considered in our advocacy strategies.

Regarding the responsibilities of **duty-bearers and caregivers**, we often find that people who will not hit their own children will administer corporal punishment to other children. Much work is needed to engage caregivers and others caring for children not to hit these children.

Research in **South Africa** has indicated that it is helpful for advocacy when people are brought face to face with children’s experiences. We need to find ways to use existing research, and to create more space for new research to support advocacy.

We also need to find new places where **parenting issues can be raised** and new parents supported. Baptism classes as offered by some churches, and interventions at the pre-natal and ante-natal stages should be available to new parents. Clinics, maternity hospitals and pre-natal classes could be a site of information dissemination and capacity-building. Fundamentally, attitudes towards children need to change.

3 PROMOTING PARENTING PROGRAMMES IN THE REGION

There were two presentations in this session, which was chaired by Joan van Niekerk

3.1 Current African positive parenting initiatives - Carol Bower

Parenting in Africa Project

- Initiated by The African Child Policy Forum and International Child Support
- Project aims to investigate possible programmes where parents and the immediate environment can impart character, value and skills that will ensure that children grow up to becoming responsible adults.
- Will also deal with policy implementation and budget allocation issues
- Developments to date:
 - Discussion Forum:
http://www.parentinginafrica.com/index.php?option=com_content&view=article&id=44&Itemid=2
 - Resources:
http://www.parentinginafrica.com/index.php?option=com_remository&Itemid=37 (documents),
http://www.parentinginafrica.com/index.php?option=com_sobi2&catid=8&Itemid=41 (networks)
- Experts meeting held in October 2009 aimed at developing a holistic programme
- A book on parenting is planned – sharing experiences from across Africa on parenting
- 18 and 19 March 2010: International Symposium on Skilful Parenting in Africa, Nairobi, Kenya

For more information please contact

makda.taffesse@africanchildforum.org
beatrice.ogutu@icsafrica.org
<http://www.parentinginafrica.com/>

Positive parenting in Southern Africa

- Project of Childline South Africa funded by Save the Children Sweden
- First phase – focus groups with children and parents in South Africa, Zambia, Swaziland, Botswana and Mozambique in 2009.
- Reference Group established – September 2009
- Several posters and pamphlets produced – October and November 2009
- 5 of each prioritised and printed – December 2009
- Training of Childline Crisis Line managers – January 2010

3.2 Development of materials to support parenting - Carol Bower

Process

- Initial meeting held in September 2008
- Attended by:
 - Botswana: Ditshwanelo Centre for Human Rights
 - Lesotho: Child Help Line
 - Mozambique: Linha Fala Criança (Childline) and Rede Came
 - Namibia: Childline Namibia
 - South Africa: Provincial Childlines (Eastern Cape, Free State, KwaZulu-Natal, Limpopo and Mpumalanga South Africa)
 - South Africa: UCARC
 - Swaziland: Save the Children
 - Zambia: Zambian Civic Education Association (ZCEA)
 - Zimbabwe: Childline Zimbabwe
- Focus groups outlines developed
- Groups:
 - Parents (246 participants)
 - Children aged 6 to 12 (179 participants)
 - Children aged 13 to 18 (122 participants)
- Groups held in:

- Botswana: Ditshwanelo Centre for Human Rights
- Mozambique: Linha Fala Criança (Childline) and Rede Came
- Namibia: Childline Namibia
- South Africa: Provincial Childlines (Eastern Cape, Free State, KwaZulu-Natal, Limpopo and Mpumalanga South Africa)
- Swaziland: Save the Children
- Zambia: Zambian Civic Education Association (ZCEA)
- Analysis
 - Reporting format developed
 - Reports received and analysed – emergence of key themes across all age groups
- Reference Group set up, comprising:
 - Childline South Africa
 - Childline Namibia
 - Botswana Centre for Human Rights
 - Childline Mozambique
 - UCARC
- Consultant for graphic design identified
- 10 posters and 10 pamphlets developed
- Reference group prioritised the 5 of each that we have gone with
- There are 5 pamphlets and 5 posters which have not been produced

Themes

- Relationships in families
 - Show children that they are loved
 - Mutual respect
 - Equal and fair treatment
 - Spend time and do things together
 - Set a good example
 - Role of fathers

- Loving, listening to and appreciating each other to build relationships of trust
- Communication
 - Teach and explain
 - Listen to and take children seriously
 - Communication is a “two-way” street
- Discipline
 - Rules are necessary
 - Parents must guide and teach their children
 - Everyone can make mistakes
 - Children should be involved in making the rules and deciding the consequences
 - Be consistent and fair
- Developmental stages
 - Children of different ages are capable of different things
 - Their skills and capacities are growing
 - Teach them at their level of their capacity
 - Expect of them at their level of capacity

Products

- 5 pamphlets
 - Being a dad (relationships in families)
 - Getting the best out of your children (managing behaviour)
 - Talk to them (communication)
 - Teach them (relationships in families)
 - Birth to pre-school (developmental stages)
- 5 posters
 - Relationships in families in families
 - Communication
 - Discipline
 - Developmental stages

The way forward

- Counsellors from the 9 provincial Childlines were trained on the materials in January
- The materials have been distributed through 9 provincial Childline offices
- Materials are also to be sent to the participating organisations
- Participants in the Childline training made the following comments:
 - Regarding the "Birth to 6" pamphlet, it was felt that there should be more information about the sexual and emotional development of children.
 - Regarding the "Talk to them" pamphlet, it was raised that parents in African families seldom talk directly to their children and that this is culturally determined.
 - The pamphlets will be useful to the crisis line counsellors, and will be use during supervision and internal training
 - It would be useful to make the pamphlets available through clinics, libraries, doctors' rooms, government offices and other venues within communities (numbers permitting).

Discussion

After the presentations, the meeting broke into small groups to discuss the materials. They also agreed to take the feedback forms away, think about the materials and return the feedback forms with further comment the next day.

The following comments were made during the meeting:

Posters:

- No-one found anything offensive in the materials.
- The picture used in the *Talk to Them* poster would be good in the fatherhood materials, and it would be useful to show a smaller child communicating with adults.
- Rural applicability of pictures need to be considered – fatherhood picture not applicable to rural settings-suggestion: a better image would be of a father carrying child on shoulders.
- Backgrounds not relevant to all settings.
- Apparent age of father – suitable in context of fathers being quite young when they first have children.

Brochures

- Why is there no rights-based language?

- Advice given may not be appropriate for children of all ages.
- No specific sanction on physical discipline in language used.
- Perhaps we could sympathies with the hardships of parenting later in the brochure, or you may lose people at the beginning already.
- If we could stick to the pictures chosen for the posters, we have consistency and the development of a particular brand, and it will help to reinforce the messages in the posters. Seeing the materials would identify each of these as a set or reinforcement.
- Pictures are gender stereotypical. We need to break those stereotypes
- Pamphlets are too dense and needs to be summarised
- Change the title of *Being a dad* to *How can I be a good dad?*
- In *Being a dad* it states that good decisions made by fathers for family – this excludes participatory approaches in families where women and children are heard and participate in decision-making.
- The pictures used will not be suitable for other countries – Zambians for instance will not be able to identify with the people featured as they are clearly not Zambians. In this regard, ZINGO has pictures that could have been used more appropriately.
- Issues need to be looked at from the perspective of children, for example, why fathers are important to children, not just as complimentary to mothers.
- Photos can be made available from other members, but they should have permission from people featured – this was confirmed by group.

4 IN CONCLUSION, THE MAIN THEMES EMERGING FROM DAY 1 WERE:

- Ideas around **organisations focusing internally** on developing understanding of the issue of corporal punishment in order to further the work and debates
- Strengthening alliances is about **targeted action to build alliances** and support
- There is a need for **sustained activity** and engagements either with press or other targets
- There are issues around the **potential and actual backlash**, and a need to be cautious in advocacy strategies

5 GLOBAL AND CONTINENTAL CONTEXT

There were three presentations in this section, chaired by Judith Mulenga.

5.1 Global Developments and Opportunities to Support Advocacy in the Region: Peter Newell

Global Progress

There are now 25 states in the world – more than one in eight – which have clearly prohibited all corporal punishment of children in all settings. In addition, the interim government of Southern Sudan has done so, but as it is not as yet an autonomous state we can't add it to the list. Also two states – Italy and Nepal – have prohibited all corporal punishment by decisions of their Supreme Courts – but not as yet reflected in legislation.

In at least another 23 states, governments have made a commitment to enacting full prohibition and/or draft legislation which would achieve full prohibition is under consideration in parliament. If these 23 achieve a full ban, more than a quarter of the world's states will have done so (but I have to say that some of the commitments were made some time ago and show little sign of movement). One thing is very clear – without an active campaign there is little progress. Very few governments or parliaments move forward without pushing. But in some countries law reform has been achieved quietly – without much public advocacy but with intensive advocacy focused narrowly on government and parliament. Once achieved, it can be promoted as the essential foundation for child protection and for the promotion of positive, non-violent relationships with children.

Law reform often is a top-down process. To take one current example, in Brazil a big civil society campaign for full prohibition failed two years ago – because of last minute energetic opposition by the Protestant Bishops. But now, in the last few months of President Lula's presidency, there is a new Government-backed initiative. Lula was the youngest in his family, and his father consistently beat the children. When he started to beat Lula, his mother left home with the children and never returned. The President has a strong personal commitment to the issue, as does his Minister of Human Rights. And they have the advantage of also having the most popular TV super-star – Xuxa – who is passionate about achieving law reform; her programmes have an audience of 15 million plus.

If Brazil succeeds, it will be the first really big state to do so and – with 69 million children – will double the number of children enjoying full legal protection from being hit

There have been further advances against school corporal punishment – 107 states have prohibited it, but 90 still authorise it in schools. India prohibited it in a federal law last year – hugely increasing the numbers of children protected. And Belize in the Caribbean just achieved abolition in schools yesterday. Some have regarded the Caribbean as the region most resistant to change on this issue... But in fact there is a lot of progress now on ending school corporal punishment; in Jamaica it is banned in early years education and in several states there have been strong ministerial statements against all corporal punishment. There is an increasing recognition that corporal punishment has not been a big part of indigenous communities. It was a big part of the English colonial influence, in the context of slavery and military occupation during that period, and in the colonial development of school and penal systems. It was also promoted in families by much missionary teaching.

At least 43 states still sentence children to be caned, whipped or flogged. We still need prohibition in the home in 172 states and in all alternative care settings in 158 states. There

is a long way to go, but there is accelerating reform and that should help us all in all regions. State-by-state details and regional and global tables are all at www.endcorporalpunishment.org.

The human rights consensus on corporal punishment – that all corporal punishment of children is a violation of their rights and states have an immediate obligation to prohibit and eliminate it – has certainly strengthened and – optimistically perhaps – I would say it is beyond challenge now. The Committee on the Rights of the Child continues to systematically recommend prohibition in all settings and promotion of non-violent relationships with children. Other Treaty Bodies increasingly do so too, and certainly never condone corporal punishment. In particular, both CEDAW and CAT tend to recommend prohibition increasingly (CEDAW did so to Botswana in its last session). States being examined under the new Universal Periodic Review process at the Human Rights Council almost invariably face recommendations from other states that they should prohibit, and there is valuable follow-up to the Treaty Body concluding observations. The Global Initiative briefs all these Treaty Bodies and the UPR process before examination of every state.

Regionally, last year the Inter-American Court confirmed the obligation of all states in the Americas and Caribbean to prohibit and eliminate all corporal punishment. And the Inter-American Commission on Human Rights issued a detailed report with recommendations pursuing this. Paulo Pinheiro, in one of his roles as Special Rapporteur on the Rights of the Child to the Inter-American Commission, saw this report through and is following it up.

The African Committee of Experts issued its first concluding observations and recommended that Egypt should prohibit (more detail in Sonia's presentation).

Last November there was a conference hosted by the Egyptian Government and co-sponsored by the Organisation of the Islamic Conference – the organisation of 50-plus Islamic States. It produced a very strong outcome document – the Cairo Declaration – recommending among other reforms prohibition of all corporal punishment.

The Council of Europe, an inter-governmental body with 47 member states, focused on human rights and the rule of law, has continued to campaign explicitly for universal prohibition. In my view it is the pressure generated by the strong human rights standards of the Council and the existence of the European Court of Human Rights – which is now using the CRC to inform its judgments on children – which has led to the most rapid progress in this region. But as yet the pressure has not been sufficient to force the UK to ban all parental corporal punishment.

The UNSG's Study on violence against children certainly helped the law reform agenda, but then was a long delay before the Secretary General finally got round to appointing Marta Santos Pais as his Special Representative on violence against children. Marta, formerly the first Vice-Chair of the Committee on the Rights of the Child and most recently director of UNICEF's Innocenti Research Centre, is a strong supporter of prohibition of all corporal punishment and has emphasised that promoting prohibition of all forms of violence is a key priority for her. She wrote a strong supportive message for our 2009 Global Report:

UNICEF has recently published detailed results of research into discipline and use of corporal punishment gathered through household studies in 35 countries. Their involvement in

campaigning against corporal punishment varies from state to state and region to region. As you may have seen, there will soon be a new Executive Director.

Chris Dodd, a colleague in the UK (Churches' Network for Non-Violence), has been working to build global faith-based support for the elimination of corporal punishment, and she is currently preparing a global handbook to bring together the many positive statements by high level faith leaders and church organisations, including of course the South African Council of Churches and now I understand there is a positive statement from the African Council of Churches.

Now, briefly: the Global Initiative: I have a few hard copies of the 2009 Global Report – can send more if you ask (email info@endcorporalpunishment.org) and give address. We have also published answers to frequently asked questions including in a version for children (and these are available in English, French and Spanish). They are all on the website; we can send limited numbers of hard copies if asked, and you are welcome to adapt and print for yourselves if useful.

There is a GI newsletter now every two months: I will ensure that all participants receive the next one, due soon – you can always unsubscribe. And your organisation can, if it hasn't already, join the long list of supporters of the aims of the GI – sign up on the website. It is a good way of building solidarity across regions on the issue.

There is now a children's section to the website, with details from about 40 states of children's varied involvement in campaigning against corporal punishment. I would like to send you each a questionnaire on this – we hope that children's participation will grow and that children's groups may begin to work together across regions and globally.

The Global Initiative needs feedback on how we can most usefully support national campaigns with information or advice.

Two other pieces of information: I'm also involved in CRIN – the Child Rights Information Network (www.crin.org) which became independent a year ago and is moving from being simply an information network to be an advocacy network. It has already run petitions on various issues and has decided to launch its first issue-based campaign in June – against what we are terming "inhuman sentencing of children" – sentences of death, life imprisonment and of corporal punishment. We aim to publish detailed information on the laws allowing these horrendous sentences, on what is happening in reality, also to campaign internationally through UN mechanisms, the treaty bodies, special rapporteurs and so on. CRIN aims to support national campaigns with information and strategies, as well as describing successful campaigns that have stopped inhuman sentencing in some states in all regions. I hope some of you may get involved in this, and I will ensure that you are sent details.

And finally, the campaign for a new Optional Protocol to provide a complaints/communications procedure under the CRC – which is the only core international human rights instrument not to have such a procedure to complement its reporting procedure. There has been a strong civil society campaign for two years. Last June 2009 the Human Rights Council agreed to establish an Open-Ended Working Group to "consider the possibility" of elaborating the OP. It held a session in December. Now NGOs are lobbying in

the hope that the Human Rights Council will agree a resolution at its March 2010 session to revise the mandate of the Working Group to start drafting. It will be valuable for national NGOs to contact their Ministries of Foreign Affairs to support this move. There are full details including model letters on the CRIN website.

5.2 Developments and opportunities for advocacy with the ACERWC - Sonia Vohito

African Committee of Experts on the Rights and Welfare of the Child: What?

- African Union treaty body with the mandate to promote and protect the rights and welfare of children.
- Established by the Organisation of African Unity (OAU), now the African Union (AU) in 1999 through the African Charter on the Rights and Welfare of the Child (ACRWC).
- The Committee consists of 11 members of high moral integrity, elected by the Assembly of Head of States and Governments of the African Union.
- Secretariat is located within the Department of Social Affairs of the African Union Commission.

ACERWC Mandate:

Article 42 of the African Children's Charter mandates the Committee with the following functions:

- To promote and protect rights enshrined in this Charter and in particular to:
 - collect and document information, commission inter-disciplinary assessment of situations on African problems in the fields of the rights and welfare of the child, organize meetings, encourage national and local institutions concerned with the rights and welfare of the child, and where necessary give its views and make recommendations to Governments;
 - formulate and lay down principles and rules aimed at protecting the rights and welfare of children in Africa;
 - Cooperate with other African, international and regional Institutions and organizations concerned with the promotion and protection of the rights and welfare of the child.
- To monitor the implementation and ensure protection of the rights enshrined in this Charter.
- To interpret the provisions of the present Charter at the request of a State Party, an Institution of the African Union or any other person or Institution recognized by the African Union, or any State Party.
- Perform such other tasks as may be entrusted to it by the Assembly of Heads of State and Government, Secretary-General of the AU and any other organ of the AU or the United Nations.

ACERWC - Developments

- 10 State Party Reports have been submitted to the ACERWC – (Kenya, Tanzania, Niger, Burkina Faso, Egypt, Mauritius, Rwanda, Mali, Togo, Uganda, and Nigeria).
- 7 State Party Reports have been considered with 6 CSO Alternative Reports.
- 3 State Party Reports will be considered at the 15th session of ACERWC in March 2010.
- 2 concluding Observations (Nigeria and Egypt) have been sent to State Parties
- ACERWC will begin consideration of 'Communications' from March 2010.
- 6 out of the 11 members terms of office will come to an end by July 2010 – new members need to be elected by State Parties.
- CSO Forum on the ACRWC formed; meets prior to ACERWC sessions since April 2009 and making recommendation to ACERWC.
- ACERWC members participating more in CSO events at national, Regional and Continental levels.
- ACERWC now collaborating with UN CRC; The Un Special Representative on violence against children, the African Commission on Human & People's Rights; African Court, the Pan-African Parliament and other relevant UN organs.
- ACERWC developing a new 5 year Plan of Action (2010-2014) & Strategy – which may focus on 5 pillars:
 - Expounding the Provisions of the African Children's Charter;
 - Effective engagement with State Parties;
 - Building Partnerships;
 - Research and Publication;
 - Capacity building

Opportunities for Advocacy with ACERWC: 1

- CSOs can work with ACERWC members to advocate for the development/submission of State Party Reports at national levels.
- ACERWC members can and are willing to participate more in CSO programmes and Activities.
- Through the CSO Forum on the ACRWC, CSOs can now send regular recommendations to the ACERWC sessions.
- ACERWC has started sending out 'Concluding Observations' to State Parties.
- CSOs can send 'Communications' to the ACERWC
- CSOs can now input and influence the ACERWC Strategy and Plan of Actions.

- CSOs can collaborate with the ACERWC to advocate on Child Rights with other African Union and Regional Organs.
- ACERWC is increasingly working with other international Child Rights bodies; creating more opportunities for Child Rights advocacy at national, regional and global levels.
- CSOs can advocate with the ACERWC members to influence donors at national and international levels

Conclusions/Recommendations

- The election of 6 new members of the Committee is a crucial opportunity for CSOs for identifying and suggesting candidates to their ministry of foreign affairs
- The Plan of Action is also a crucial opportunity for CSOs to influence the Committee's strategies/actions in the next 5 years
- The Committee will be holding only 1 session in 2010. This is therefore a key opportunity for CSOs to develop a strategic partnership with Committee members and invite them to various activities, e.g. workshops

5.3 Report on the 2nd CSO forum meeting to the ACERWC, November 2009 - Sam Waterhouse

Delegation

- Based on members previously identified to work with ACERWC
- Judith Mulenga; Sam Waterhouse; Emily Ruhukwa (Daksha Kassan no longer working for CLC)
- Nikiwe Kaunda SCS
- Supported by Sonia Vohito

Objectives

- To engage civil society organisations before the meeting and at the meeting on the issue of corporal punishment and violence against children
- To have the issue included on the CSO forum agenda going forward
- To have the issue placed on the Committee plan of action

Outcomes

- Wide support from the delegates of need for committee to providing leadership on the issue.
- Meeting with Mme Diakhaté (current chair) and the member responsible for the Violence Against Children.
 - Expressed her support for the issue
 - Indicated that she would advocate for this with the committee.
- Recommendations from the CSO forum to the committee of experts include the recommendation that the committee:
 - "Develop General Comments including on the provisions provided in Article 11, Article 16 and Article 20 of the African Charter on the Rights and Welfare of the Child concerning the prohibition of corporal punishment in all settings. "
- Issue to be explored in greater depth at future CSO forum meetings.

Discussion and Planning

- Sonia confirmed that the Chair of the ACERWC is attending Civil Society Forum meetings; it was agreed that it would be useful to **engage Marta Santos Pais** (the Secretary General's Special Representative on Violence Against Children) **to**

encourage the ACERWC to take a position on the issue. Peter will be seeing her in Geneva at the Human Rights Council meeting, and will raise this if he can.

- There was interest in the information from Peter's presentation relating to the legacy of the **colonisers and the role played in the entrenchment of corporal punishment** in former colonies. Peter confirmed that there is currently limited factual support for this, but that the Global Initiative is seeking information from people who are working in this area. There needs to be a **critical examination of culture** and whether and to what extent the use of corporal punishment is part of indigenous cultures. There is some research, especially in East Asia. It might be useful to approach Dominic Plateau - in New Zealand, through the process of prohibition, it was discovered not to be part of Maori culture.
- Other organisations on the Continent, such as the Institute for Human Rights in Africa was noted as doing good work in the area, and the government of the Gambia seems to be supportive of it. It had been suggested that more resources would be directed to the ACERWC should it be based outside of Addis Ababa.
- **CRIN** sees itself as an information and advocacy network, and will increasingly provide more advocacy related information, and in some cases initiate and/or drive campaigns, for example, looking to ban inhuman punishment such as death sentences being imposed on children. CRIN has also launched a new electronic newsletter on litigation on child rights issues, which will be available on their web-site.
- It was noted that CSOs can offer assistance and information on national level activities, and that gathering comparative information would facilitate advocacy across countries.
- A valuable innovation could be the efforts of **children's campaigns** to network across regions. Peter will provide information on the tool used to gather information on children's campaigns.
- Regarding **Alternative Reports to the ACERWC**, it was noted that these may be submitted even before State Reports are submitted. All the countries represented at the meeting noted the delays in the submission of State Reports – for example, in Zambia, CSOs feel "stuck" because the State was supposed to report on the status of children, and there has been no feedback or information on progress in this regards as the State does not consult with CSOs.

It was also noted that, for CSOs, submission of Alternate Reports would be facilitated if a country was scheduled for examination.

- Regarding individual **complaints and communication procedures**, it was agreed that the Network should seek the advice of someone well-versed in the admissibility of communications to the ACERWC to advise it. It was noted that complaints can be lodged through existing channels, but only after all other (domestic) remedies have been exhausted.
- Individual countries noted the following challenges:

South Africa has never submitted even its Initial Country Report, which is now around 10 years overdue. The South African national group will lobby to for this. The South African Office on the Rights of the Child claims to have submitted and even provided an electronic copy thereof, but there is no evidence of the document actually having been submitted.

Zambian representatives noted that, when follow up was done on State Report, nothing new was forthcoming and no benefit perceived from their participation.

- Regarding **resources** and information relating to the **ACERWC** and engagement with it, a handbook on the issue has been developed; Carol will circulate this. Peter also referred to a range of useful resources. Sam will follow up with him to get this and circulate to all.
- Regarding engagement with the **faith-based sector**, there are numerous existing **resources**. Yusuf will resend the information to the Network. The Organisation of Islamic Countries (OIC) Cairo Declaration is also useful and Sam agreed to circulate this to the Network.
- Sonia and Emily noted that, in their direct experience, the ACERWC has failed to really engage with the issue of corporal punishment and that its use is actually supported by some members of the Committee. This has resulted in uncertainty on the part of the ACERWC about whether to give it the prominence it deserves. It was agreed that a **statement from the ACERWC** and consistent recommendations in the Concluding Observations to Country Reports are needed.
- Regarding potential **nominations** by the Network for positions on the ACERWC, it was agreed that the Network should consider nominating individuals who would champion "our cause". It was noted that Central Africa is not represented on the ACERWC – this should perhaps be addressed, with possibly a male member to achieve a more equitable gender balance on the ACERWC.

Suggestions for nomination to the ACERWC by the Network were:

- Sharon Nawa, a Magistrate from the Children's Court in Zambia
- Alice Mokwe, the Director of Ditshwanelo in Botswana
- Buyi Mbambo who lives and works in South Africa

The process would entail an approach to national Departments of Foreign Affairs. It might also be necessary to lobby national Ministries of Justice.

6 ADVOCACY IN THE SADC REGION AND WORKING WITH NATIONAL HUMAN RIGHTS INSTITUTIONS

There were three presentations made in this session of the meeting, chaired by Yussuf Phiri.

6.1 Scoping the child rights agenda at SADC - Patricia Martin

Do children's rights feature on the SADC agenda?

- The SADC agenda = the eradication of poverty through cross cutting measures
- SADC's RISDP commits SADC member states "not just to ensure better integration in global economic processes, but also to address the real needs of people using a comprehensive approach ...that goes beyond political and economic initiatives to focus also on social and human development concerns."

Children do feature

- Children feature in the RISDP
- Child malnutrition is a key indicator for measuring progress towards achieving the goal of poverty eradication
- The RISDP also prioritises poverty alleviation measures for children – in recognition of their vulnerability to the impact of poverty

Navigating the protection of children's rights pre-Nov 2008

- Before Nov 2008, children's rights were scattered across the SADC map
- Not in any coherent or systemic manner and not comprehensively
- Children received attention in a number of disparate thematic areas, directorates and projects

Children (rather than their rights) appeared in the following areas:-

- Health care programmes and projects – as described in various protocols and declarations – focus on core health problems commonly associated with high levels of poverty
- These include malaria, TB, maternal and child mortality and of course, HIV and AIDS
- The SADC member states are required, in developing national responses, to make specific provision for child and adolescent health

HIV and AIDS in the SADC

- HIV and AIDS started its life on the SADC agenda as – in many other jurisdictions – primarily a health issue
- It therefore features strongly within the current health agenda
- It has however evolved over time to become a cross cutting issue – requiring integration into all thematic areas and programmes

Education

- Education for children features as a priority area to ensure a sustainable workforce in the future
- It has translated into initiatives to streamline curricula, standards and information systems across the member states
- More recently – education and poverty alleviation have coalesced in the schools as centres of care, support and learning project
- This started as a civil society project and advocacy has culminated in its adoption by SADC

Protection from exploitative labour and social protection

- The labour framework makes provision for the protection of children from exploitative and unlawful labour practices by requiring national laws to regulate minimum work age
- In addition, this area deals with social protection for employed adults – and by extension – for the dependents of deceased adults who contributed

Children's issues that require protection in terms of the gender agenda

- Protection from discrimination
- Equal access to education
- Protection from harmful cultural attitudes and practices
- Equality of access to services and protection for the girl child
- Protection of property (inheritance) rights
- Protection from gender based violence

Trafficking of children

- Child trafficking has recently emerged as a priority intervention area in SADC, with a focus on vulnerable children
- The relevant documents speak about the socio-economic matrix which creates the vulnerability
- However, the trafficking framework seems to focus on addressing the consequences, more so than the causes of trafficking

An emerging comprehensive child "rights" agenda

- Up until Nov 2008, the child rights agenda is as described
- A "potjiekos" affair
- However, SADC introduced a comprehensive integrated, multi-sectoral framework for meeting the rights and needs of orphans, vulnerable children and youth
- This is the emerging child rights agenda at SADC

The vulnerable child within the SADC agenda

- The Framework is "the first deliberate effort to mount a regional response to the growing challenges of OVYC in SADC"
- It adopts a holistic and integrated approach to ensure comprehensive care and support among OVYC

- It is targeted at all vulnerable children (despite the strong HIV/AIDS discourse)

Vulnerable children defined

- Vulnerable children = Children who are deprived or likely to be deprived or harmed as a result of their physical condition or social, cultural, economic, political circumstances and environment, and require external support because their immediate care and support system can no longer cope. Examples are, children in a household where the parent is HIV positive, children in a child headed or elderly household, a child who is disabled, who is HIV positive, who has been traumatised by war, living on the street, is neglected by his or her parents, who is undocumented and is involved as a child labourer

The objective of the Framework

- The objective is to improve on the effectiveness of national and community efforts to achieve comprehensive developmental outcomes for children and youth
- In theory the Framework is developmental in nature and based on principles of holistic development, gender sensitivity, participation, sustainability and child rights centeredness

The recognised needs of vulnerable children

- Survival needs: Nutritious food, clean air, warm protective clothing, clean water and sanitation, good health, protection from harm, shelter
- Psycho-social needs: Learning, cognitive stimulation, mentoring guidance and counselling, participation, identity and belonging, family love and care, vocational skills
- The Framework aims to promote a systems approach to the question of vulnerability which will find articulation in a minimum package of services

A systems approach

- A systems practice promotes comprehensive and holistic interventions for child development
- Calls for interventions that address underlying causes and interrelationships that define deprivations and vulnerabilities
- It is guided by the Child Rights Based Approach to programming which recognises the child as a rights holder and not an object of charity

Where is the space for CP advocacy?

- The shift in perspective within SADC is opening up advocacy spaces
- These are new and fragile spaces
- They are accompanied by a growing recognition of the need to address underlying causes of vulnerability, not just the consequences of vulnerability

- As such there is growing emphasis on interventions that prevent, rather than remedy harm to children
- This implies space for advocates of positive discipline and parenting to advocate for SADC policies, projects and programmes to address the environmental factors that foster vulnerability to harm through CP
- It implies a space for promoting prevention strategies in the way of family support and development

Through which policies and programmes

- Education – the MIET project of schools as centres of comprehensive care and support. Advocate to build prevention and awareness into the project
- The Gender agenda with its focus on building the skills and coping mechanisms of female headed households and addressing GBV holds space to address the causes and consequences of violence against children
- The OVCY Framework and package of minimum services offers space to advocate for an environment which does not foster vulnerability

How do we, as civil society do this?

- Use the SADC structures, systems and processes
- Use the member states structures, systems and processes
- The SADC structures and systems are imperfect, but they exist to facilitate civil society engagement
- Part of our advocacy must be to make the processes work
- We have much to learn from the advocacy at AU level by the children's sector in making the Committee a more functional structure
- Advocacy starts at a structural level

SADC structures

- Janah Ncube, senior policy advisor in the Policy and Strategic Planning Unit at SADC & SADC's official civil society liaison officer
- There are a number of formal policy making structures at SADC
- These include the Summit, the Council of Ministers, the Troika, the Organ on Politics, defence and security, the Standing Committee of Senior officials etc
- But this is the end-point in terms of policy development
- The policy development process before it reaches this stage offers real advocacy space

Advocacy space within the secretariat structures

- The Secretariat is divided into 4 directorates
- The key directorate from a children's perspective is the Human and Social Development directorate
- It is where the OVCY framework and many of the other discreet projects reside
- It is where the framework was developed, largely informed by the civil society partnerships that have been built with the directorate players
- Establishing relationships at this level is critical

Where to start?

- SADC does not engage with individual NGO's or even regional partners unless they are representative of a number of countries, carry legitimacy and have something to offer SADC
- Conduits to SADC – the National contact points and National Committees
- And the SADC – CNGO
- The latter looking the most promising at this stage

The other directorates

- Trade, industry, finance and investment
- Food, agriculture and natural resources
- Infrastructure and services
- The organ on Politics, Defence and Security

SADC – CNGO

- Is looking to prioritise children
- Is looking to do this with strategic regional partners
- The SADC –CNGO also has a bigger poverty agenda and children must be mainstreamed into the broader agenda
- SADC-CNGO is also going to be engaging in structural advocacy to improve the processes within SADC to facilitate civil society engagement
- The SADC-CNGO has committed to opening doors for the children's sector to SADC

Challenges

- Are numerous
- Lack of trust, lack of an existing children's conduit, language, money, poor SADC structures

- Corporal punishment is one of the most problematic issues to advance regionally
- Is it worth the investment? Yes, more so than ever and in fact we are presented with a unique space and opportunities to mobilise the children's sector to advance children's rights in the region

Discussion

- It was noted that members of the Network had had difficulty in accessing Jana Ncube, and that that engagement with SADC structures, when it has succeeded, has not been meaningful.

Patricia clarified that there has been a shift in attitudes and commitment in SADC for CSO engagement. They have conceded to problems initially, but there has been a definite shift and they have stated that they are looking for coordinated engagement, rather than one-to-one engagement. SADC's experience has been that children's sector is disorganised, and that SADC is not willing to engage with individual NGOs. SADC has also clarified that existing projects and consolidated linkages, such as HIV/AIDS, minimum standards package, etc. should be identified.

- Save the Children Sweden (SCS) has been identified to assist in the development of the minimum package for children in the region, and has involved members of the Network in the drafting process.

6.2 The Role of National Human Rights Institutions: Challenges and Opportunities – Tasneem Sterris

What is a National Human Rights Institution (NHRI)?

- A NHRI is an institution established by a national government with specific goal of promoting and protecting human rights
- Paris Principles
 - Adopted by the General Assembly 1993, after numerous meetings calling for the establishment of national institutions.
 - Purpose: Need to ensure effective implementation of human rights at a national level;
 - Details the following
 - Competencies and responsibilities of NHRI's
 - Composition and Guarantees of Independence of NHRI's
 - Methods of Operation of NHRI's
 - Quasi-judicial competence of NHRI's

Competencies and Responsibilities of NHRI's

- Promoting and protecting human rights
 - (section 184 of the South African Constitution...borrowed from Paris Principles)
- Submit reports to government
 - (SAHRC mandate however does not contain this requirement but read in)
- Encourage ratification of international instruments
- Contribute to State reports
- Cooperation with UN bodies and Regional bodies
- Teach
- Research
- Publicise human efforts to combat all forms of discrimination

International and Regional Support for NHRI's

- International Coordinating Committee (ICC) Rules of Procedure adopted 15 April 2000
 - Status: Representative body of NHRI's, Established for purpose of creating and strengthening NHRI's in line with the Paris Principles
 - Functions: 'coordinate the activities of NHRI's at an international level, support the creation of NHRI's in line with the PP, ensure regular contact with OHCHR, Host international conferences for NHRI's to ensure cooperation with OHCHR, assist with establishing regional workshops of NHRI's, encourage cooperation amongst NHRI's, liaise with organisations who promote and protect human rights.'
 - Membership: Only NHRI's est in line with PP shall be members, Only one per state can be member but if more than one then still only one vote per state (e.g. SAHRC member)
 - Fair regional representation balance, regional groups are: Africa, Europe, America's and Asia-Pacific

Challenges faced by African NHRI's

- July 2009 report released by OHCHR: Survey on National Human Rights Institutions. *61 NHRI's responded*
 - Institutional characteristics and Performance issues (resource allocation, working methods, relationships and legal frameworks, mandate, budget)
 - Promoting and protecting human rights

- Large number of NHRI's not mature existence.
 - Its composition roughly only half rated their composition as good its diversity
 - Physical accessibility to vulnerable groups lacking. There is a need to enhance this
- Africa and Asia-Pacific organisational structure lacking.
- Encourage ratification of international instruments
 - Many NHRI's do not have this as inherent requirement
 - Lack of coordination within internal structure of NHRI
- Contribute to State reports
 - Government departments dealing with reports not easily identifiable
 - Not easy to access government department
 - Need to strengthen relationship with public bodies
 - (parliament, executive, judiciary) In Africa, participants noted the lack of interest in human rights issues from government public bodies thus making engagement difficult
 - Limited effectiveness in following up on recommendations. Government bodies do not respond well, also lack of human resources limit the NHRI's ability to track progress.
- Publicise human efforts to combat all forms of discrimination
 - Nearly half indicated that their budgets are insufficient especially its performing its of their mandate
- Cooperation with UN bodies and Regional institutions
 - Level of engagement of NHRI within the international and regional level remains underdeveloped reflecting the limited
 - familiarity of these systems amongst NHRI's
- Teach
 - Nearly half indicated that their budgets are insufficient especially its performing its of their mandate
- Research
 - Nearly half indicated that their budgets are insufficient especially its performing its of their mandate

- Publicise human efforts to combat all forms of discrimination
 - Nearly half indicated that their budgets are insufficient especially ito performing ito of their mandate
- Lack of Independence (PP refers to this)
 - Not mentioned in report but lack of independence of NHRI's in some countries due to political interference.

Opportunities

- Coordination, Collaboration and Lobbying
 - Increase awareness about Treaty Body system, encourage civil society involvement in process
 - Dissemination of Information at a regional level (through emailing system)
 - Become involved in report writing
 - e.g. Disability Convention, Convention on the Rights of the Child
 - Raise awareness domestically about regional processes
 - Possible VC link up with regional bodies to discuss strategies
 - Monitor implementation of treaties
 - Disseminate information to both civil society and regional bodies
 - Lobby through legislative and other processes to ensure that domestic legislation is in line with regional and International obligations
 - Share legislative developments domestically with civil society and regionally with other NHRI's (forms of best practice)
 - Raise awareness of internal NHRI complaints handling mechanisms
 - Involve civil society and other regional bodies in test cases and responses
 - Education and awareness raising campaigns
 - Collaborate with civil society on outreach programmes

SAHRC and its existing mechanisms

- The mandate of the SAHRC is to respect, promote, and protect the rights in the Bill of Rights, found in the Constitution
 - S 184 of the Constitution - Functions of the SAHRC:
 - 184 (1) The SAHRC must

- (a) promote respect for human rights and a cultures of human rights,
- (b) Promote the protection, development and attainment of human rights,
- (c) Monitor and assess the observance of human rights in the Republic.

Human Rights Commission Act

- specific functions and powers
 - Difference between mandate and powers?
 - Mandate: authorisation given by an act of parliament etc.
 - Powers: performing an act, within a specified mandate
 - Even though SAHRC as no mandate to monitor international law, these powers may be inferred from the PP founding the institution.

Parliamentary and International Affairs programme

- Work of a policy, advocacy and research nature.
- Monitor ratification of international and regional instruments, develop policies in this regard.

SAHRC Strategy Paper on engagement at regional level

- Discussion forum in which international and regional instruments are raised, how best to advocate within a SA perspective (which government departments etc.)
- Participating in the activities of the African Coordination Committee on National Human Rights Institutions
- Exchange visits between NHRI's
- ❖ Section 5 Committees
- ❖ Engagement through stakeholder meetings
- ❖ Dissemination of information at an international and regional level
- ❖ Education and awareness raising programmes
- ❖ Work disseminated to advice offices
- ❖ Developing training manuals and toolkits on Conventions

Clarification

- Section 5 Committees are established where a need is identified, usually through an International Convention for example.

6.3 Opportunities for Advocacy with Human Rights Institutions - Peter Kanuka

Introduction

- In southern Region, we have a history of gross human rights violations with impunity and that task of promoting and protecting human rights and fundamental freedoms is not one that can be assumed by one institution or organisation. To this end governments in the Southern Region are setting up National Human Rights Institutions.

Importance of National Human Rights

- These are mechanisms of accountability which is vital to enhancing democracy and good governance. Human rights Institutions are necessary for the promotion and protection of Human rights by;
 - Carrying out Human rights education.
 - Advising and monitoring government compliance with established international and regional human rights standards.
 - Carrying out impartial investigations of alleged human rights violations to complement work done by other institutions like the courts.

Opportunities

- National Human Rights Institutions are a creation of governments and are;
- Sustainable - As long as governments exist National Human Rights institutions will be there.
- Autonomous - National Human Rights Institutions, although created by government are autonomy bodies that do not have any political or government influence.
- Mandate - National Human Rights Institutions Have a broad mandate cutting across, as all rights are catered for as opposed in specializing in one right i.e. Right to Education
- Coverage - NHRIs cover the whole geographical of the country and its presence is felt across the country because its wide spread as opposed to most NGOs that are concentrated in urban areas.
- Linkages - By virtue of being NHRIs founded on the Paris principles and drawing most of its mandate from United Nations ,we work closely with UN agencies and other international donors

- Structures - NHRIs have structures on the ground, with experienced staff who would enhance the work of NGOs in places that they do not exist.
- Lobbying and advocacy - When it comes to policy and legislation change, Human Rights Institutions are better positioned due to the fact that they are a creation of Government and government does not view them as enemies.
- Observance of human rights - National institutions have greatly contributed to a better understanding of the rule of law, this is mainly to the advisory role the institutions play in informing government and other stakeholders of their duties and responsibilities.
- Accountability and transparency - The majority of NHRIs do publish annual reports on the state of Human Rights and make reports on their findings and make recommendations to be implemented, which highlights the state of Human Rights in the country.

Challenges

- Financial and human resources - Most of the NHRIs are affected by lack of adequate resources both financial and human resources. This lack of resources leads to institutions not to recruit qualified staff and inability to open up more offices making accessibility a challenge
- Donor funding - Most national institutions that have donor funding find it difficult to operate on one specific program because most of the times donor money are limited to single project as opposed to the broad mandate of institutions
- Suspicion - Nearly all national institutions are created by government as such they are viewed with suspicion especially from NGOs who might think that they would support government instead of NGOs and that they are just rubber stamps.
- Powers - National human rights institutions do not have prosecuting powers, just end up making recommendations and lobbying government. This to some people especially NGOs is merely an academic exercise in the promotion and protecting of human rights

Lessons learnt

- In case of the Zambian Human Rights Commission we have five thematic themes that help us work closely with NGOs namely;
 - Children's Rights Committee, deals mainly with:
 - Right to education
 - Children who come in conflict with the law
 - Corporal punishment
 - d. Child labour
 - e. Sexual abuse
 - f. Awareness on children's rights
 - Committee on torture, deals with:
 - Police visits/cells
 - Prison and other places of detention

- Awareness to law enforcement officers
- Gender Equality Rights Committee, deals in:
 - Gender issues with NGOs and government institutions
 - Sensitisation
 - Discrimination based on gender
- Civil and political rights, mainly concerned with;
 - Right to vote especially during and run up to elections
 - Sensitization
 - Conflict resolution
- Economic , social ,cultural and solidarity committee , concerned with:
 - Land issues with traditional leaders
 - Awareness creation
 - Lobbying policy and legislation change

Accessibility of NHRIs

- Human rights institution are very much accessible to all those that are interested in protecting and promoting human rights. Programmes can be identified and areas of interest can be worked out so as to achieve a society that respects human rights.

Conclusion

- In achieving progress to realize these Rights NGOs have played a major role as some have brought on board, experienced staff, funding, logistics and other resources. This has made it possible to have a united voice on the fight to have societies that respects and upholds human rights. The major constraint, however, has been the thinking that NHRIs will kick NGOs out of business.

Discussion (note that this discussion focused on both the immediately preceding presentations)

- There is no NHRI in **Botswana**, which reported in 2001 that there was only an Ombudsperson.

The NHRI in **Swaziland** was established towards the end of 2009. It is a dead body, constituted of members (including lawyers) who are not human rights inclined.

In **Mozambique**, the NHRI does not participate in joint activities with Government, and the relationship seems to be one of bias toward government - where there are conferences, and participants are paid to attend and receive per diems, etc, the relationship changes in favour of the one who pays, meaning government.

Mozambique has similar problems of non-engagement – NGOs who do policy oversight have an adversarial relationship with HRIs in the country who deny NGO findings. The situation is as if the HRI is a lawyer for the government, and NGOs are lawyers for victims

In **Zambia**, the HRC has not taken up engagement with CSOs to cooperate on roles and provide mutual assistance with mandates and objectives; there is no engagement. Only the Children’s Committee has been active – but suspicion arises

where there is no interaction. The Government needs to be educated that even though they provide funding, they do not own these 'independent' institutions.

In **South Africa**, we have different experience of the NHRI; the SAHRC is seen as an ally which takes issues brought by CSOs seriously. Commissioners are appointed by Parliament which also appoints Government, which is a way of enforcing independence. The SAHRC has a closer relationship with CSOs than government.

In general, NHRIs are weak even when they exist, and are perceived by civil society as government institutions. Government is identified as the funder of NHRIs, but there is some awareness that NHRIs can "stand up" to government (in some countries, the only one that can).

NGOs may also not view HRCs favourably because they are appointed by government, and often fall short in their abilities to promote human rights; Commissioners often lack the information, knowledge and skill to represent and advocate for the rights of people.

- In **South Africa**, the possibility of lobbying for a Section 5 Committee on Children's Rights in the SAHRC is currently being discussed, but Tasneem and Anthea did not know how far the process has advanced.
- There is a **network of African HRIs**, with a secretariat based in and coordination from Kenya. The meeting suggested that this network could be a vehicle for support for a Southern African call to ban corporal punishment.

There is a process of internal lobbying within the HRI network, and though South Africa has representation at that level, it is not yet on the footing to do this.

The meeting agreed to signal its intention to take on the issue at this level of regional network of NHIs, and commitments to do so were made by the two representatives from NHIs (South Africa and Zambia).

- It was agreed that the Regional Network should revisit **SADC** engagement and investigate possibilities, particularly given comments from NHRIs. Would this be a more viable entry point for NGOs to SADC? Patricia Martin, Christina Nomdo (RAPCAN) and others are investigating this option.

Patricia advised that there have been successful advocacy initiatives at that level and the space for children's issues is opening up. Different issues need to be linked to create space for children's issues at that level, and civil society needs to get structurally organised; a clear strategy going forward is needed.

- It was suggested that a change is required from a needs-based to a rights-based approach. We should not start from an issue-based perspective, but should identify spaces to push particular agendas **taking a structural approach**.

The Regional Child Rights Forum is considering how to advocate children's rights as an umbrella concept at the SADC level, and how to influence that agenda. (It was clarified that this Forum is made up of SCS partners and is looking broadly at how to engage structures in SADC and conclusions flowed from this).

- The Regional Forum is of the opinion that the corporal punishment issue may alienate SADC if it is pitched as a single issue; relationships need to be built now for structural advocacy, and networks like the Regional Network should be a part of this movement. Once the relationships are established, one can realise the fruits of this process. The need to engage different NGOs to plug into the broader advocacy of children's rights has been recognised. The Regional Forum is not representative of all activities in the region, and is open to other NGOs when engaging SADC.
- It was agreed that engagement with HRIs augments the process of engagement with SADC so should not be excluded – it is not a substitute.

Child rights are not visible within SADC. Since we are a regional network, concerned with regional issues, we should be engaging at regional level – with SADC – and there may be spaces in SADC for engagement which we should be taking advantage of.

We should also initiate engagement with NHRIs, and keep open the option of deploying Tasneem and Peter K at this level.

- It was noted that the coordination of a **network of networks** as a child rights lobby structure may be more effective. Regional advocacy with SADC on children's rights was proposed, with corporal punishment and parenting issues embedded, and the possibility of engaging MIET?
- Naturally, in-country advocacy by members of the network is not excluded by these proposals.
- It was noted that SADC has little to say on child sexual abuse, in a region with very high levels of CSA, and this is concerning. Children's vulnerability to both sexual abuse and violence are closely linked.

Further, corporal punishment is not receiving attention from the SADC region – lessons could be learnt here from the way that trafficking was presented as an issue through research, and from there lobbying started.

- Perhaps a **children's protocol**, akin to the SADC gender protocol, is needed. Perhaps this could be an objective for a network of networks. This could be achieved via a CSO Summit, hosted by the SADC Council of NGOs working with in-country NGOs. This could provide an opportunity to mobilise within the sector and have research prepared to look at the big gaps in the region, etc.

A challenge is the extent to which SADC can actually deliver in circumstances where engagement has proved difficult to achieve. If there seem to be space for engagement, we could then look at the development of a children's protocol, talking in different regions to identify relevant issues and interests, and plan to move forward to jointly lobby SADC.

7 PLANNING FOR 2010

This session was chaired by Samantha Waterhouse.

7.1 Review of 2009 Activities - Carol Bower

Planned activities

- Challenges
- General activities/tasks
 - that all were responsible for
 - that no person identified to take the lead
- Specific activities/tasks
- Some lessons learned?
- What should we try to carry over to 2010?

Challenges

- A VERY wide range of activities and tasks was agreed to
- Some tasks were very vague
- There were some where no-one had accepted responsibility (these were considered second tier)
- There were some where a small group was mandated to go ahead, but no-one was mandated to manage the process

General activities/tasks

- Circulate general presentations on corporal punishment

This is ongoing (refers to presentations by Network members), was not done

- Follow up on the status of AACC resolution

There is only a draft document and hence it has not been circulated. The resolution will be circulated and it should be the basis on which to hold the national council of churches to account. Yussuf or Keith need to be tasked with the completion of this.

Specific activities/tasks

- Circulate ACPF child-friendly documents

This was done

- Contacting Graca Machel as part of recruiting role models

A draft letter was sent by Judith to Sam, in relations to the Idols competition. This could be circulated to the members for comment before it is sent off. Do we want to pursue this?

- Develop or pull together from existing materials a toolkit on child participation

In retrospect, should this group be the one to do this? There are many tools but there are gaps that need to be addressed. It may be better to plug into the group that is doing work in this area. This kind of project requires dedicated funding and a lot of time.

- Engage the Chair of the ACERWC to follow up on the November 2008 meeting

This and a range of other activities and outcomes related to this was undertaken.

- Update the Network's Position Statement

This was done

- Develop a media strategy

This is planned for the current meeting

- Follow up with ISPCAN for support

This was done and it was noted that there is a focus on corporal punishment planned for the Developing Country Forum at the Hawaii Conference in 2010. There is a window of opportunity here.

- Circulate ZCEA Teacher Training materials

This has been circulated and comments were received from some. It has been revised, and is at the printers.

- Circulation of SAHRC policy on corporal punishment

The SAHRC is waiting for the adoption of the position statement which will be circulated with the policy.

- Impact litigation

A database of cases is being developed by the Global Initiative. There is as yet no documentation of the pros and cons of litigation. Key judgments exist, but this is a continuing process. The documents being collected by the Global Initiative should serve the purpose well. Momentum should be maintained on these issues

- Profiling the website

It has been profiled in the South African network, in Article 19, and in submissions to ACERWC. The documents are on the website.

- Develop an interfaith document on corporal punishment using existing materials

This is being worked on. It was noted that a document on the Shiite Shari'a perspective has been developed.

- Contact the NGO Advisory Council to the UN Special Rep on VAC

Contact was made and the communication was acknowledged. A meeting in Kenya, attended by the East and Southern representative of the NGO Advisory Council was a useful opportunity to engage with the East and Central African Network on Corporal Punishment to strengthen the positions of both networks.

It was noted that it would still be useful to keep contact with other African organisations, and not just link with the networks, because of the huge need for information.

Joan will be attending the skilful parenting workshop in Nairobi later in 2010 and can take materials with her.

- Facilitate liaison between the Mozambique Christian Council Women's Department and other Women's Departments in the Region

The list of women leaders of the Mozambique Christian Council Women's Department and other women's religious departments has been provided to all. There is good potential to revitalise engagement with the women's religious sector.

- Bring in new members from Lesotho, Namibia, Malawi and Zimbabwe

Namibia has been brought into this meeting. Engagement with Yoneca in Malawi, and Save the Children in Lesotho and Zimbabwe was suggested. RAPCAN will make contact with these parties.

- Develop a parenting skills document for the ACERWC

This has been taken off the list.

- Circulate Lloyd De Mause paper

This was done.

- Approach International Council of Child Welfare for support

This was done – there has been no response.

- Link to the ANPPCAN Regional Office

This was done – and a very positive response was received.

Some lessons learned

- Set more realistic goals
- Be clear about who is responsible
- Work in small groups / set up small Task Teams
- DO NOT TAKE ON MORE WORK THAN THERE IS TIME FOR

7.2 Communication strategy for the network: small and manageable, using existing tools, developing new tools? - Tebatso Hule

Tebatso Hule led this discussion in which various aspects of a communication strategy were discussed. It was agreed that:

- The Regional Network should use communications to increase its effectiveness.
- Branding would ensure visibility and enhance effectiveness of the Regional Network and its member organisations.
- The strategy should be simple without any major costs related to it.
- The Position Statement could be a tool for communication.
- The website should also be used for effective communication and for disseminating information.
- Relationships with media houses and specific people within these should be built.
- Engagement with Media Monitoring Africa and MISA was suggested. In addition, SCS has a relationship with media and could use the training of journalists as a vehicle to promote “our” issue and build relationships. Deidre could link with Save people who work with media institutions so that it is not an add-on.

It was noted that MISA (Media Institute of South Africa) is not always effective as it is seen as a union for media professionals and are not always taken seriously.

- Zambia based media houses could also be engaged.
- Organisations which have websites can upload position statement on their sites. RAPCAN and Carol can provide documentation for this.
- CRIN can be contacted to disseminate information on the Regional Network – perhaps a newsflash on the Regional Network can be sent to CRIN.
- A summary of this meeting can also be put in the newsletter of the South African Working Group on Positive Discipline.
- The Report on the Regional Network meeting could also be put on the website of the ACPF.
- There is also a need to approach friends of the courts to disseminate information.
- It was suggested that providing key messages to parenting magazine journalists and editors would be useful. These might be aimed at the middle class market, but they are widely read. Carol will buy magazines to scan contents.
- A useful strategy is to let people talk - having open discussion forums on a regular basis, such as with people from the religious communities. People could then have dialogues on the issues.
- In-country newspaper columns could also be looked at, as well as radio programmes and chat shows.
- Childline Namibia runs a children’s radio programme – perhaps similar programmes in other countries would provide access to children’s voices on issues such as corporal punishment. It was noted that Bush Radio does work like this in Cape Town - youth involvement, conferences hosted for children, etc. Perhaps this should form part of in-country strategies.
- A regional parenting manual is being investigated by ZINGO. Joan noted the work done in conjunction with the Durban Municipality - this has an urban context, but is simple and easy to use. Reginald will also circulate the Childline Namibia manual.

8 SUMMARY OF SUGGESTIONS FROM DAY 1 AND DAY 2

Samantha Waterhouse led this discussion, on consolidating the Action Plan for 2010.

Activities

- Members need to consider whether activities are part of projects housed within their organisations or within the Regional Network.
- Follow-up on activities will be strengthened by **Sam and Carol**.

- Regarding **Peter's** lobbying of MSP (UN Special Representative on children): can anyone else also strengthen or contribute to the lobby? Marta's involvement in the Africa Child Policy Forum, and similar forums was noted. It was suggested that a letter be developed on behalf of the Regional Network, to try to engage her at these forums through seeking access to present the letter on behalf of the Regional Network in these forums. We need to find more information on the NGO Council which exists to support Marta. Peter is in regular communication with her, but is not the right channel. A short e-mail should be written to Martha. **Carol** volunteered to do this, which needs to be in before the next meeting, which is in mid-March.
- Peter will circulate the New Zealand research.
- **Sonia** will circulate the reporting schedule for the ACERWC.
- **Carol** will circulate handbook on accessing ACERWC.
- Research on corporal punishment in the region should be collated.
- General Comment 8 should be simplified – this has been started and **Judith** will complete it.
- **SCS** will analyse the SADC OVYC framework document.
- **Patricia Martin and SCS** will make recommendations about structured advocacy with SADC.
- **Yussuf** will coordinate a subgroup to follow up on the status of AACC resolution.
- **Yussuf** will coordinate setting up meetings with other national Councils of Churches and the Interfaith Network. Members who will work with him are **Berta, Keith, Deidre, and Nontobeko**.
- **Friday** will approach World Vision to publicise information on children's rights (Friday).
- **Ulrika** will share the SADC Minimum Package of Services for Vulnerable Children with all.

Identification of the Icons

We need visible strong people to be vocal on the issue. The gatekeepers should be identified and engaged in a dialogue on the issues. However, it was agreed that it may not be worth putting energy into this as there are risks associated with the experiences and behaviour of these icons go. It was thus agreed not to pursue this.

Nominations for African Committee of Experts:

It was agreed that the Regional Network would like to nominate the following:

- Sharon Newa – **Judith** will follow up with the nominee and Zambian govt on this.
- Alice Mokwe – **Emily** will follow up with the nominee and the Botswana govt on this.
- Belinda van Heerden – **Lorenzo** will follow up with the nominee on this.
- Albie Sachs – **Deidre** will follow up with the nominee on this.

Nominees need to be consulted, and Government must be contacted and advised on nominees.

The letter to governments should be drafted by Monday afternoon, and **Carol** will do this.

In addition **Sam** will follow up with SA govt regarding our nominations

Meeting of the ACERWC

A subgroup to prepare for the meeting of the ACERWC is needed. Originally Sam, Ulrika, Daksha, Judith, and Emily worked on this. Daksha is no longer at the Community Law Centre and will be replaced by Lorenzo, and Deidre will replace Ulrika. The group now comprises **Emily, Judith, Sam, Deidre, Lorenzo, SCS Zambia, SCS Swaziland, Sonia.**

Sam and Sonia will both attend the 3rd CSO Forum in March.

Appendix

Encouraging legal challenges to corporal punishment of children

Global Initiative briefing on commissioning a formal legal Opinion – February 2010

The Global Initiative intends to develop this briefing into a detailed resource for those campaigning for prohibition of all corporal punishment. We welcome comments on it and if you want further information, please contact Peter Newell at peter@endcorporalpunishment.org

Globally, 25 states have prohibited all corporal punishment of children in all settings and another 23 have committed themselves to achieving this reform soon and/or have the necessary legislation under debate in their parliaments.

But this leaves 150 states where corporal punishment remains lawful in at least one setting. In more than 40 states, corporal punishment is still legal and authorised in the home and family, all forms of alternative care, schools and penal systems. This is despite states' clear human rights obligations under international law to prohibit and eliminate it.

The Global Initiative wants to encourage human rights institutions, NGOs, legal action centres and individual lawyers to consider taking legal action or using international or regional human rights mechanisms to increase pressure on governments to accept and act on their human rights obligations.

A first step could be to commission an authoritative formal legal Opinion. This briefing provides guidance on the questions which the Opinion should address and on relevant human rights standards and links to other material that may be referred to.

The Opinion should aim to:

- clarify the law authorizing corporal punishment and state obligations to prohibit and eliminate it
- identify the remedies which children and their representatives may have for the violation of their right to protection from all corporal punishment and how they can be pursued

The Opinion can be used both to prepare for legal action and also to place pressure on Government by indicating that there is a serious threat of legal action. It is important to consider how preparing for/threatening legal action can be linked effectively to all other advocacy strategies.

The Global Initiative has also prepared some state-specific reports on "Promoting legal challenge", which can provide a starting point for discussion and planning.

Questions to be addressed by an Opinion:

Relevant national legislation

What laws authorize the use of corporal punishment on children in their home and family, in alternative care settings (foster-care, institutional care, day-care, etc.), schools, and in the penal system for children - as a sentence of the courts and/or as a punishment in penal institutions. The detail should cover as appropriate statute and common law (including any recent interpretations of it), customary and religious law?

The Global Initiative has developed reports on the legal status of corporal punishment in each state – see www.endcorporalpunishment.org – which can be referred to and augmented as necessary.

Conflicts with constitutional principles, etc.

Do the authorizations of corporal punishment of children in domestic law conflict with any provisions in the Constitution or equivalent or in any general children’s statute?

Many states have provisions in constitutions or other basic laws which outlaw cruel or degrading punishment or treatment, assert individuals’ right to respect for their human dignity and/or physical integrity and assert the right to equality and equal protection under the law. These may be able to be used to challenge corporal punishment of children in some or all settings, in addition to using/quoting provisions from ratified international instruments – see below.

Conflicts with rights safeguarded by international or regional instruments which the State has ratified

Do the authorizations of corporal punishment of children in domestic law conflict with provisions in international and regional instruments which the State has ratified?

The legality of corporal punishment plainly conflicts with provisions in the Convention on the Rights of the Child, as interpreted by the Committee on the Rights of the Child and increasingly also by high level national courts and international and regional human rights mechanisms. The legality of corporal punishment in some or all settings has been found by other Treaty Bodies to be non-compliant with the International Covenants, with the Convention against Torture and the Convention on the Elimination of All Forms of Discrimination against Women; there are also relevant judgments and decisions of regional human rights mechanisms.

This section should review the applicable human rights standards: provisions of ratified instruments (and any relevant reservations), recommendations and General Comments etc of Treaty Bodies etc.

A summary of these standards together with links to the relevant documents is provided at

Challenging the legality of corporal punishment before national courts

If the legality of corporal punishment conflicts with the Constitution or other principles established in domestic law, how can a challenge be brought? Does the challenge have to involve one or more individual child victims? Is any form of class action possible, or action without identification of particular victims, which simply challenges the existence of non-compliant legislation?

What is the status of the Convention on the Rights of the Child and other relevant ratified international instruments in national law? Are they able to be applied before national courts? If not incorporated, can they nevertheless be quoted and used in the courts (and are there positive examples of such use in other cases)?

The Opinion should cover practical issues concerning bringing a case – if a victim is required, what sort of application, to what court, what evidence is required, is legal aid available, what are possible outcomes and risks, etc.

Challenging the legality of corporal punishment using international or regional human rights mechanisms

Has the state accepted any international communications procedures or regional human rights mechanisms that can be used to challenge the legality of corporal punishment?

If so, do they require the exhaustion of domestic remedies and how could a communication/application be pursued?

The Global Initiative has analysed which international and regional communications procedures and other mechanisms have been accepted by each state – see ...

Detailed advice on pursuing communications etc is available; see ... links to OHCHR, CRIN, ECHR, etc.

The Opinion will need to address the issue of exhaustion of domestic remedies. In general, the procedures only require applicants to have exhausted realistic and effective remedies, and the Opinion will need to explore whether, given the authorisations of corporal punishment in national law, such remedies exist.