

GBV 73

Communities, Equality and Local Government Committee

Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill :

Stage 1

Response from: Global Initiative to End All Corporal Punishment of Children



Response to Stage 1 Consultation on the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill

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The Global Initiative was launched in 2001, aiming to map the legality and prevalence of corporal punishment in every state and to act as a catalyst for its prohibition and elimination across the world. Its aims are supported by UNICEF, UNESCO and many other international, regional and national organisations (see www.endcorporalpunishment.org).

This submission urges the National Assembly's Communities, Equality and Local Government Committee to recommend in its Stage 1 Report that the Bill should include a provision to remove the "reasonable punishment" defence in relation to common assault on children in Wales (amending section 58 of the Children Act 2004).

The UK Government is increasingly isolated in Europe in defending the legality of violent punishment of children. Among the 27 EU member states, the UK is now one of only five states which have neither prohibited all physical punishment of children nor committed themselves to achieve this soon (Belgium, Czech Republic, France, Ireland and UK).

Successive Welsh Governments for more than 10 years have, unlike the UK Government, been committed to achieving a complete ban on physical punishment. **Since the first**

commitment was made in Wales in 2002, 27 states (including 15 in Europe) have fully banned all physical punishment. In October 2011 the First Minister confirmed that the National Assembly can now legislate to achieve removal of the defence in relation to assaults on children in Wales.

We were concerned that the Welsh Government did not use the obvious opportunity presented by the passage of the Social Services and Well-being (Wales) Bill to achieve this reform earlier this year. Given the National Assembly's unanimous adoption of the Rights of Children and Young Persons (Wales) Measure in 2011 and the obligation which the Measure places on Ministers to have due regard to the Convention on the Rights of the Child as well as the very strong commitments made by Welsh Government Ministers to promote respect for the rights of the child, surely there cannot be any further hesitation or delay? This Bill with its focus on all forms of violence in the family provides another obvious and immediate opportunity.

Physical punishment of children is the only form of inter-personal violence which remains legalised in the family. This is an archaic anomaly which undermines the well-being of children and their safety and protection. For the Assembly to consider a Bill focussed on violence in the family, without addressing this anomaly, would undermine the implementation of the Bill's general principles. It would also directly conflict with successive Welsh governments' and the Assembly's long-standing commitments to respect children's rights.

Equality is part of this Committee's remit: the persisting legality of violent punishment of children is a fundamental equality and human rights issue. Enabling parents and some others to justify common assault as "reasonable punishment" reflects a view of children as possessions rather than individual people and rights-holders.

The Welsh Government's long-standing commitment to ban all physical punishment has been reported to United Nations and European human rights monitoring bodies. The Committee on the Rights of the Child was told of the Welsh Government's strong commitment to remove the "reasonable punishment" defence, and thus accept the Committee's repeated recommendations to the UK Government, in the Government's report to the Committee in 2007. In its 2008 concluding observations, the Committee noted that it "*welcomes the commitment of the National Assembly in Wales to prohibiting all corporal punishment in the home, but notes that under the terms of devolution it is not possible for the Assembly to enact the necessary legislation*". The Committee went on to express its concern at the failure of the UK to explicitly prohibit all corporal punishment in the home, "*and emphasises its view that the existence of any defence in cases of corporal punishment of children does not comply with the principles and provisions of the Convention, since it would suggest that some forms of corporal punishment are acceptable.*"

This was the Committee's third recommendation to the UK to remove any defences and thus prohibit all physical punishment (included in the Committee's concluding observations issued following examination of the UK's reports in 1995, 2002 and 2008).

Wales now has a second immediate opportunity to maintain its leadership within the UK in fulfilling children's rights and to fulfill its long-stated commitment to ban physical punishment. The Global Initiative closely follows the accelerating progress of prohibition and

elimination of violent punishment of children globally. We would be very glad to brief the Committee on the detail of law reform in other countries, on how it is implemented and enforced in the best interests of children and on research into the positive impact of a ban from a number of the states which have achieved one.