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Statement submitted by World Organization against Torture, a non-governmental organization in consultative status with the Economic and Social Council

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.



Statement

Elimination of corporal punishment of girls and women

The World Organization against Torture is the leading global network of civil society organizations against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment or punishment in the world.

Despite the absolute international legal prohibition of torture and other cruel, inhuman or degrading treatment or punishment, girls and women continue to be subjected to forms of corporal punishment, imposed by both State and private actors, in violation of international standards. As stated in the report of the expert group meeting on prevention of violence against women and girls, held in Bangkok from 17 to 20 September 2012, we are at a critical moment where international bodies, States and civil society must come together to solidify commitments to ending violence against women and girls, given that deteriorating economic conditions, persistent environmental degradation, internal conflicts and wars all contribute to the exacerbation of violence against women and girls and violations of their rights. The Organization stresses that a legitimate commitment to ending all forms of violence against girls and women must include the elimination of all corporal punishment as one of its highest priorities.

The foundations of the human rights obligation to prohibit and eliminate all corporal punishment and all other degrading forms of punishment lie in the rights of every person to respect for his or her dignity and physical integrity and to equal protection under the law. Corporal punishment has been progressively condemned in successive judgements of the European Court of Human Rights, advisory opinions of the Inter-American Court of Human Rights and decisions of the African Commission on Human and Peoples' Rights, as well as in the concluding observations of the Committee against Torture and the reports of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The Declaration on the Elimination of Violence against Women, adopted in 1993, extended the prohibition of corporal punishment to the private sphere of the family.

Importantly, the Convention on the Rights of the Child builds on these principles and requires States to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. The Committee on the Rights of the Child, in its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading punishment, provides detailed guidance to States on prohibition and elimination as an immediate obligation. The positive obligation of States is also outlined in the Convention on the Elimination of All Forms of Discrimination against Women, under which States are to take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

The Organization remains gravely concerned by the number of women being sentenced to corporal punishment, particularly by religious and ad hoc courts, in violation of international standards that prohibit torture and cruel, inhuman or degrading treatment or punishment. Such punishment is disproportionately applied to women, largely as a result of laws that criminalize adultery and sexual relations outside marriage. These laws are often used as a means to circumscribe and control female sexuality. In addition, evidentiary requirements that provide that pregnancy constitutes irrefutable evidence of adultery, or that give less weight to the testimony of women, reinforce gender discrimination in the administration of justice. As a result, women are sentenced to corporal punishment in far larger numbers than men.

The Organization stresses that corporal punishment may amount to torture. The Special Rapporteur on torture emphasized in his report to the Commission on Human Rights (E/CN.4/1997/7) that torture and cruel, inhuman degrading treatment or punishment extended to corporal punishment, such as stoning to death, flogging and amputation. He also noted that States must be considered responsible for the consequences of sentences of corporal punishment handed down by informal or quasi-official agencies, such as ad hoc village tribunals or religious courts, if those sentences were carried out with their authorization, consent or acquiescence.

The persistent use of corporal punishment by parents, teachers, carers and others in the name of discipline is also of great concern and one of the most common forms of violence against girls. In some countries, incidents of death on account of corporal punishment have been reported. Unfortunately, this form of violence is widespread in many societies worldwide and tolerated by many States. There is a view held by many teachers and parents that corporal punishment is necessary to teach good behaviour and that it encourages children to learn. It is closely related to other forms of gender-based violence, particularly intimate partner violence against women. Childhood experience of corporal punishment for girls is often the beginning of a life of violent victimization by authority figures and family members.

The situation is also alarming in detention facilities. Based on its experience, the Organization has consistently observed the use of corporal punishment against girls and women deprived of their liberty. In several detention centres, corporal punishment is considered one of the most common forms of violence and is often perceived as a legitimate practice among prison staff. Through its monitoring visits to prisons, interviews with detainees and prison administrators, as well as bilateral discussions with authorities and the judiciary, the Organization has also noted that the legal safeguards for women and children who have suffered corporal punishment are very limited or, in some cases, non-existent.

The Organization has noted that, even in some countries where national legislation complies with international human rights standards regarding the prohibition of all forms of corporal punishment, the law is not always enforced. In effect, many times prison staff are not knowledgeable about the legislation and there is a considerable gap in the implementation of existing safeguards protecting women and girls in conflict with the law against corporal punishment. Moreover, some States where corporal punishment is legally prohibited fail to prevent and respond to such acts of violence against girls and women. Regrettably, these violations often remain invisible.

Challenging corporal punishment is rarely included in the global challenge to end all violence against women and girls. Silence on the issue in reports and resolutions on violence against women and girls colludes with its legal and social acceptance. In effect, in several countries, corporal punishment constitutes a cultural form of correctional education for children, both at school and at home, and has devastating consequences for individuals, families and societies.

Reluctance to address the issue may also stem in part from the fact that corporal punishment is still perceived as an effective form of education and is not necessarily considered to be an act of violence, in particular in private settings. Thus, addressing violence in societies necessitates confronting this reality. Far from being a distraction from other forms of violence, addressing corporal punishment becomes central in eliminating and preventing all types of violence against women and girls, in the family home and elsewhere.

Based on the harmful consequences of corporal punishment against girls and women, the Organization requests the Commission on the Status of Women to explicitly address, during the current session, the social acceptance of corporal punishment and the fact that corporal punishment of girls and women is still considered lawful in many societies. States have an obligation under international law to prohibit all forms of corporal punishment against girls and women and to prevent it, investigate allegations and punish the perpetrators.
