

“The core human rights that apply to adults also apply to children”

Interview with Jaap Doek, Chairperson of the UN Committee on the Rights of the Child

In autumn this year, the UN Secretary General's Study on Violence Against Children will present its findings to the UN General Assembly. The study is the second to be conducted at the request of the Committee on the Rights of the Child, exercising a power granted by the Convention on the Rights of the Child. The first study, in 1996, dealt with the effects of armed conflict on children.

The Committee on the Rights of the Child requested the study on violence against children after devoting two Days of General Discussion to the theme in 2000 and 2001. After the request was approved by the General Assembly, in February 2003 UN Secretary General Kofi Annan appointed Brazilian professor Paulo Sergio Pinheiro as the independent expert to direct the study.

The study's aim is to “lead to the development of strategies aimed at effectively preventing and combating all forms of violence against children, outlining steps to be taken at the international level and by States to provide effective prevention, protection, intervention, treatment, recovery and reintegration.” It is a joint initiative supported by the Office of the High Commissioner on Human Rights (OHCHR), the United Nations Children Fund (UNICEF), and the World Health Organization (WHO).

Jaap Doek has been the Chairperson of the UN Committee on the Rights of the Child since 2001. A law professor and judge, he was instrumental in founding the International Society for the Prevention of Child Abuse and Neglect (ISPAN), the African Network for Prevention and Protection of Child Abuse and Neglect (ANPPCAN), and Defence for Children International (DCI).

Professor Doek attended the nine regional consultations that have been held in the process

of putting together the study, and is a member of the study's editorial board. Here he talks to *Early Childhood Matters* about the issues at the heart of the study and his hopes for its impact.

ECM: Why did the Committee on the Rights of the Child decide to request a study on violence against children?

JD: The Convention on the Rights of the Child gives the committee the power to request studies, and the only other time this power has been used, the results were positive. The study on the effects of armed conflict on children resulted in an Optional Protocol which has now been signed by 110 states, and the creation of a Special Representative in the office of the Secretary General in New York. The reports received by the Special Representative help to keep this important issue in the spotlight.

We are aware the power to request studies should not be used too often, because it would dilute its effect. But on the basis of the reports the committee had received from states parties by the year 2000, we could see that violence against children was a phenomenon that deserved more attention. There was enough to talk about to fill two of the annual Days of General Discussion with topics on the theme of violence – in institutions, on the streets, in the juvenile justice system, and in the home. It deserved a study.

What will happen to the study when it is published?

There will be two outputs. There will be a report, of around 30–35 pages, which will be presented to the General Assembly by the Secretary-General. And there will be a book, which will go into much more depth with chapters dealing with each setting in which violence occurs. The book should be seen as a background document for the report, but it is the report which will contain the key recommendations.

The Secretary General will present the report to the General Assembly. It is hard to predict what the impact will be. It depends on what the recommendations are, and what the General Assembly wants to do with them.

The report will set out a program of action and the success of the follow-up measures will determine the impact of the report. Ultimately it is up to states parties to implement the recommendations – there may be some activity at a regional level, but it is at national level where we will succeed or fail.

What will the follow-up measures be? Will the study ask for the appointment of a UN Special Representative on the issue of violence and children, as happened with the study on children and armed conflict?

The study may or may not ask for an Optional Protocol and a Special Representative – and if it does, this may or may not be granted. But what is crucial is that we have specific, concrete, timebound recommendations. These will provide the framework for UNICEF and NGOs to put pressure on states parties to implement the report's recommendations. A special representative can play a strong advocacy role, but so can a working group or committee, knocking on the doors of governments and NGOs, promoting the issue and encouraging them to take action. Without concrete and timebound recommendations, though, this becomes much more difficult.

It will be helpful to create a separate monitoring system for the issue of violence towards children. The Committee on the Rights of the Child depends on states parties submitting their monitoring reports – and some are better at this than others. But they can pay only limited attention to violence in an overall report on the convention. If we create a separate mechanism for monitoring on violence, they will pay this more attention.

One thing in our favour is that the nine regional consultations have established good momentum and networks of players in government, NGOs and the media that we will be able to draw on.

When the Secretary General presents the study, what reaction do you hope to get from the General Assembly?

Ideally what we want from the General Assembly is a strongly worded resolution with unanimous backing. If we can't have that, I would rather have a resolution that strongly supports the study and gets majority backing than a unanimously supported resolution with weak wording – ‘taking note’ of the study, for example.

UNICEF, WHO and OHCHR will be lobbying very hard to get a solid resolution drafted and then to win the support of as many states as possible.

Was there any difficulty in agreeing on a definition of violence that does justice to the issue of inflicting emotional and psychological damage?

Violence is not limited to the physical, that's for sure. But no, we had no difficulty about the definition of violence. Of course, it is difficult to translate it from paper into practice. What constitutes a cruel and humiliating punishment, for example? It differs from culture to culture. But within each culture, people know what is meant by a cruel and humiliating punishment, and that is what matters.

At the heart of all of this is emphasising that the core human rights that apply to adults also apply to children. Essentially, the right to integrity of physical and mental well-being is the value we are needing to instill.

Take the issue of corporal punishment. We could cite studies that show the bad effects of corporal punishment on children in later life. But we don't want to go down that route, because it would allow others to cite studies which show it's not harmful – there are fewer of those studies, but they do exist. We want to avoid this whole debate. Our view is that regardless of whether or not it does long-term harm to the development of children, corporal punishment is wrong because children have the same right as adults to be protected from violence.

Is corporal punishment likely to be the most contentious part of the study's report?

Yes, I think corporal punishment by parents is sure to be the most contested part of the report; indeed, I believe it will be the only seriously contested

part. Most states parties now agree that corporal punishment is unacceptable in schools, institutions, the juvenile justice system and so forth. But when it comes to corporal punishment in the home, there is no such consensus.

There are reactionary attitudes to corporal punishment in the most unlikely places. Here in the Netherlands, corporal punishment is supported by politicians who would normally see themselves as advocates for children. There is a debate raging in New Zealand, where a member of parliament is trying to abolish a law that excuses parents who hit their children. Others want to keep this clause, but explicitly define when it is reasonable for parents to hit their children.

The committee's view is simple. Of course you should abolish it. Once you start trying to explicitly define what is reasonable, you open the door to absurd discussions. Canada's Supreme Court recently decided that parents could hit their children provided the child was above the age of 3 and under the age of 12, and provided they used their bare hands – or feet – and didn't connect with the child's head. Why 12? Is it simply because, as a cynic might suggest, children above the age of 12 are more likely to hit you back?

So we have countries one would normally consider civilised discussing detailed guidelines on the circumstances in which they consider it acceptable to hit children. This is, in my opinion, embarrassing.

Why do you think there is such lingering support for parents hitting their children?

It is very hard for me to understand. There are deep-rooted traditional beliefs about childrearing, of course – 'spare the rod, spoil the child', and so forth. And there are the anecdotal stories – you hear high-ranking ministers talk about how they were beaten themselves and they believe it never did them any harm.

But a lot of it is fundamentally about power, about exerting control over the child. When parents say that hitting their children is in the best interests of the child, it is true that often they genuinely believe

that. But it is often, deep down, about asserting their power. They are showing who's boss.

You must also remember that practically it's much more difficult for governments to tackle corporal punishment in the home than it is in schools and institutions. If a teacher hits children, it's relatively easy to have him sacked and stop him from teaching again. If a parent hits a child, it's very difficult for the state to intervene, in all but the most extreme cases.

It becomes, then, a question of social pressure. The challenge is for us to make it socially unacceptable for parents to hit their children.

Do you believe history is on your side in this?

Yes, I do. There are a growing number of states introducing fully fledged bans on violence against children. In countries which are at the leading edge, such as Sweden, there has been a perceptible shift in public attitudes. But it is a long road ahead.

The study defines children as under-18s. At the Bernard van Leer Foundation, as you know, we focus on under-8s. What issues have come up in the study that you believe are particularly relevant for young children?

Young children depend much more on third parties for protection, which means we must pay this group special attention. The main issue here, I believe, is parenting skills. A lot of parents feel powerless because they cannot reason with a young child of 1 or 2 years old who is behaving in ways that make them desperate – throwing a tantrum in a supermarket, for example. These parents need professional tips on how best to act.

In my dream world, every new parent would pass a test in parenting skills, rather like a new driver having a licence to be allowed on the roads. Obviously that can never happen. But governments do have a big role to play in promoting the idea of parenting classes. Here in the Netherlands, it's increasingly seen as normal for fathers as well as mothers to go to such classes during pregnancy. That's the way it should be.



"The challenge is for us to make it socially unacceptable for parents to hit children." (Jaap Doek)

The problem is that it's the responsible adults who are most likely to go to parenting classes, but they're also the ones who are least likely to be violent to their children. We need to find ways of targeting the unreceptive, of getting the parents most at risk of violent behaviour to parenting classes. But we need to do this without stigmatising

the parents who are considered to be the high-risk cases. This is the challenge.