

UPR -Women & Children

Recommendation No 93 Prohibition of Corporal Punishment

In August 2012 the Guyana's Parliament set up a special select committee to decide the way forward for (1) abolition of corporal punishment, (2) abolition of the death penalty and (3) the decriminalization of consensual adult same sex relations and discrimination against LGBTs. However the select committee has to date only convened to receive and hear submissions based on written submissions on "the attitude of Guyanese, especially parents and children, to corporal punishment and its possible abolition". Since then no report, communication or action has been taken, even though Help & Shelter has written repeatedly to the chairperson asking for further information.

Incidents of severe cases of corporal punishment continue to be reported in Guyana's newspapers. An inquiry into corporal punishment of a 13 year old Port Mourant Secondary School student cleared the school and headteacher of any wrongdoing, it being found that her actions were in keeping with the Ministry of Education guidelines on the use of CP in schools. Chairman of the Regional Education Committee, David Armogan, in defending the action taken said the child had a 'history of misdemeanor in the school' and added that the incident was unfortunate as the child had placed his hands in front of the target (his buttocks), and this was probably why his hands were hit. On January 31, 2014 a 7 year old West Ruimveldt Primary School student was severely beaten by his headteacher with a bamboo wrapped with adhesive tape for having allegedly taken firecrackers to school. Media sources have confirmed that a report is being compiled and that the head could face disciplinary action by the Teaching Service Commission (TSC). On February 26, 2013 two families from Jacklow, an Amerindian community on the Essequibo Coast, Region Two, reported that their children were being subjected to corporal punishment by a certain teacher at the Anna Regina Multilateral School. The parents told the Guyana Times that despite several reports being made to the headmaster and officers from the Regional Education Department, little has been done about the situation. The female student, a first former, had complained about body aches but it was a teacher who had witnessed the whipping and "benchings" and told the mother. On being questioned the mother said her daughter admitted to "benching" and constant whipping from a particular teacher for absence from class. Another parent told the Guyana Times that her child came home with marks on her skin and was told they were the result of "whipping". She said her daughter was beaten and embarrassed in front of her entire class.

In February 2014 the Minister of Education Priya Manickchand admitted that the use of corporal punishment in schools was so commonplace that teachers appear not to recognise when they are using it. Additionally, the very fact of allowing "regulated and documented use of corporal punishment" gives teachers permission to use it. Minister Manickchand acknowledged that while the ministry has its rules and regulations for administering corporal punishment, the reality is that they are being breached.

A - 17. Continue, in implementing the Sexual Offences Act, to work towards a fuller realization of the rights of victims of sexual offences

A - 15. Expedite implementation of the law against Sexual Offences, and ensure coordinated implementation of the National Domestic Violence Policy

None of the 22 sexual offences cases taken before the courts between 2011 and 2013 resulted in a conviction. Instead, there have been a number of hung juries, witnesses failing to attend court and some victims deciding not to pursue the matter according to Attorney General Anil Nandlall.

These are shocking statistics as the Guyana Human Rights Association (GHRA) research on sexual violence cases 2000-2004 revealed that only 1% of reported rapes resulted in convictions. Seven years after the report, the conviction rate is even worse. The GHRA research stimulated nationwide Stamp it Out consultations that resulted in the enactment of the Sexual Offences Act 2010, which is recognized in the Caribbean as modern and forwarding looking. While the AG has blamed the archaic jury system as well as reluctant witnesses for lack of convictions, Help & Shelter & Red Thread are of the opinion that the lack of full implementation of the SOA 2010 is equally responsible due to the State's failure to put in place the necessary human, financial and material resources needed for its full functioning.

- It was nearly 3 years after the SOA was enacted before provisions for paper committal could be fully utilized and only after the Act was amended. This delay resulted in a backlog of over 100

cases. One of the compelling reasons for the new Act was that paper committals would cut down the time cases would take to be heard. Based on H&S and RT firsthand experience of assisting sexual offence survivors, long delays are one of main reasons for complainants not going forward with cases. Lack of sufficient high court judges to hear cases also contributes to the backlog of cases and delays. Also of grave concern is the backlog of cases under the previous sexual offences legislation. H&S has written to the Chancellor of the Judiciary in relation to child client sexual offences cases that have been in the system for over 5 years, asking that a solution be found to resolve these delays, but without success. We recommend that special courts be established to deal with the backlog of cases or special judges be assigned to hear them as a priority.

- The police, court personnel, judiciary and magistracy need ongoing training on the Act, including how the perpetuation of rape culture and rape myths fuel attitudes and behaviours that contribute to the high incidence of and minimize or condone sexual offences
- The vast majority of Guyanese, even those at high risk from sexual abuse do not know or have little or no information on the Act and so are unable to use it.
- Another reason for dismissal of SOA cases is poor and often unprofessional police investigation. Police still tend to rely heavily on confession statements, which too often are the result of coercion. We recommend that courts have access to DNA evidence, which will do more to instill confidence in the justice system than unsatisfactory police investigations that often lead to dismissals.
- Survivors need comprehensive services from special units in every hospital or, where no hospitals are available, other appropriate venues. The services should be victim-centered, with nurses trained in gathering forensic evidence and treatment of survivors, counselors to address the psychological and physical trauma, and police officers to take statements in a humane and professional manner. They also need court advocates to attend to their and their families' needs throughout the court process
- The Sexual Offences Task Force needs to be reconvened and resourced without delay so that the national plan of action for the prevention of sexual offences, including all the above, can become a reality, and more importantly, be enforced without fear or favour regardless of status and income, sex, sexual orientation, ethnicity, geography, age or disability. We have been informed by the Minister of Human Services that the State has employed a consultant to write the national plan of action, but this would not be in keeping the Act, which clearly specifies this as the function of the Task Force. Additionally neither H&S nor RT, both members of the Task Force, were consulted on this plan of action. The Task Force has met on only 3 or 4 occasions and meetings were mostly procedural.

National Domestic Violence Policy (NDVP) Implementation

Policy implementation oversight is vested in the National Domestic Violence Oversight Committee, supposedly comprising high ranking officials in the ministries, agencies and organisations that have a role to play in reducing domestic violence, and non-affiliated individuals who because of their commitment and experience may be invited to serve on the committee. The functions of the committee are to annually review the NDVP; monitor and evaluate implementation and issue an annual report. In order to carry out its functions the committee should be provided with the necessary resources.

The committee should submit an Annual Action Plan, which will be part of the process of budget preparation; the Ministry of Human Services should acquire and provide the necessary human and financial resources policy implementation and government should ensure that adequate resources are available or are identified as a priority in and through its negotiations with international financial institutions and other donors and from public funds to address the reduction and alleviation of domestic violence as a key development issue for Guyana. Despite this, the committee has not met since February 2013. H&S and RT have been active members of the committee since its inception and at the meeting in November 2012, it was agreed that a secretariat be established up in the Ministry of Human Services with adequate staff and other resource to enable the committee to carry out its functions as set out in the

policy. This has not been done. At the last meeting, NGO representatives recommended that draft DVA Regulations sent out for comments would benefit from the advice and expertise of legal professionals, including the chancellor and the DPP and that a round table discussion be convened to discuss both the draft DVA regulations and the DVA, which was felt to be in need of amendments. Since then the committee has not been reconvened despite repeated promises by the Minister of Human Services that it would be. In fact, the policy has expired and needs to be extended.

From the inception, the committee has also suffered from non-attendance by high-ranking decision-makers from ministries and non-implementation of decisions taken. This situation is exceedingly frustrating as the policy is still be the best option for a multi-stakeholder approach to addressing the continuing and escalating problem of domestic violence in Guyana. Last year there were 22 murders of women by intimate partners and so far this year there have been at least 16 murders of women by intimate partners. H&S face-to-face counselling statistics for June 2012-December 2013 show that of the 815 people who accessed our services, 76% were women who had experienced intimate partner abuse.

A - 16. Continue undertaking efforts to address the issue of violence against children and particularly, with regard to sexual exploitation against girls

Childcare and Protection Agency (CPA) statistics indicate that there were over 2,925 cases of child abuse in 2013, of which 670 involved sexual abuse and 590 sexual abuse of girls. It is no secret that the majority of survivors/victims of sexual offences in Guyana are children. The CPA was established in May 2010 with responsibility to enforce the Protection of Children Act (PCA) 2010. The PCA specifies that any person who knows that a child is at risk or in harmful circumstances must make a report to the director of the CPA, a probation officer or a police officer. Additionally, teachers social workers, counselors, coaches, doctors, nurses, police, lawyers, NGO, religious leaders etc. are also duty bound to report child abuse to the CPA. Unfortunately, the human, financial, technical and material support services needed to meet the provisions of the PC are lacking. For example, in some remote/hinterland regions there are no CPA officers and few probation officers. In other regions, CPA officers are burdened with large case loads making it very difficult to give needed attention to individual cases. This lack of resources, coupled with a backlog of cases and increasing reports of child sexual abuse is also a factor in the low number of sexual abuse cases reaching the courts (22 cases between 2011 and 2013). In September 2013 an MOU for the establishment of a Child Advocacy Centre was signed between the Ministry of Human Services and 2 NGOs but the centre has not been established and we understand that some state agencies have questioned the authority and jurisdiction of such a centre. Even though a number of workshops and meetings have been held between CPA and NGOs on partnering in delivery of social services for children, these are yet to materialize, making the situation even more frustrating for those affected. H&S and RT both have years of experience in offering comprehensive court support for child survivors of sexual abuse. H&S 1995-2010 counselling and court support services statistics show that 1,136 child clients, 52% of them sexual abuse survivors, received court support counselling & advocacy, yet since 2010 H&S has not been allowed to offer child protection services unless approved by CPA and or other state agencies.

A - 18. Ensure that the conditions of detention are in conformity with minimum international standards

In August 2012, there was a mass breakout and torching of a female dorm by students at the only juvenile detention centre in Guyana, the New Opportunity Corps (NOC). Stabroek News reported that 46 of the inmates between the ages of 14 and 18 years were charged with various offences relating to the unrest and were remanded to the facility, the other six to be held in police custody until the end of their trial. At the time of the incident a letter by a number of individuals attached to NGOs including H&S and RT was sent to the Minister of Culture, Youth & Sports, who has responsibility for the NOC. In that letter the Minister was reminded of the 2010 outlawing of whipping of students for any offences committed at the NOC, especially in the face of reports that one of the triggers for the unrest was beatings and the threat of beatings. A commission of inquiry was established to investigate the matter and make recommendations. Even though the findings of the COI are still to be released, aspects of a summary report reported in the press indicate poor administration and inappropriate handling of the juveniles at the NOC, unqualified

staff members and claims of abuse of teenage inmates. Several of the children who were interviewed during the inquiry complained of various forms of abuse. “It was bad being there,” a juvenile sent there for ‘wandering’ was quoted as saying. The boy complained that police went to NOC at one point and proceeded to “beat everybody.” A 15-year-old, sent to NOC for ‘wandering’ told the COI that he was taken to the Suddie Hospital after a staff member punched him in his mouth “five times,”.... “The magistrate tell Sir King to stop beating us but he still beats us,” he added. Other children were reported as being beaten with whips and pipes. Another juvenile told the COI, “the majority of the staff treat you good and some of them handle you rough.”

In spite of the above, in May of 2014, four girls alleged being sexually and physically abused by NOC staff members. They also reported that after they had escaped on March 22, 2014, boys from the institution visited their hideout and took food for them but demanded sex in exchange. The girls also told their parents of being placed in what the NOC officials have now said is a “quiet room”, but which the children said is a “detention room” where they were made to stay in various forms of undress for long periods. They alleged too that they were denied food while in the room and were given a bucket instead of being allowed access to toilets. A High Court judge has granted the CPA’s application to remove four teenage girls from the NOC. CPA head Ann Greene told Kaieteur News that the agency had moved to the courts to have the girls removed in order to continue the investigation into allegations of abuse and that the girls would remain in protective custody. Investigations are continuing. In May H&S and RT made the following demands of the responsible Minister and others through a letter to the press, which reiterated many of the demands made after the August 2012 unrest.

- Immediately release the findings of the COI set up to investigate the 2012 incidents at NOC and establish a task force to investigate the most recent allegations of sexual abuse of students
- Ensure that students detained and/or charged be granted independent legal representation ASAP in keeping with their rights under the Sexual Offences Act 2010 and the Convention on the Rights of the Child
- Ensure that appropriate measures are put in place immediately to abolish the use of any form of corporal punishment at the NOC as outlined in the Juvenile Offenders Amendment Act and Training School Amendment Act 2010. NOC staff who cannot manage without recourse to the whip be trained and reoriented in appropriate and humane ways of enforcing discipline in keeping with Guyana Laws and the CRC.
- Demonstrate leadership and accountability in holding NOC staff members to the highest possible standards of discipline and professionalism. Provide ongoing psycho/social support to suitably reoriented and retrained staff to ensure their own emotional health and capacities are in good working order so as to carry out their roles and responsibilities in a professional way.
- The National Assembly to repeal the offence of “wandering” (a status offence) as children charged with this ‘offence’ who make up a large section of NOC students are not offenders but victims of child abuse and neglect.
- The promises made by the 9th Parliament in 2009 to have the Juvenile Justice Bill, passed must become a reality in the 10th Parliament.
- The NOC be placed under an independent management committee comprising individuals with the necessary expertise, experience, interest and knowledge of human rights law and practice to run a successful juvenile rehabilitation centre. (3302 words) maximum allowed are 2925 (over by 377)