

PAIN WITH PUNISHMENT AND THE  
NEGOTIATION OF CHILDHOOD: AN  
ETHNOGRAPHIC ANALYSIS OF CHILDREN'S  
RIGHTS PROCESSES IN MAASAILAND

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The practice of corporal punishment in schools in Kenya is widespread. It is practised in both urban and rural schools and in schools catering to students of different classes, ethnicities and religions. Children's rights activists contend that corporal punishment in schools is a form of child abuse (Human Rights Watch 1999). The practice is thought to violate a number of international conventions, which Kenya has ratified. By some, it is considered cruel, inhuman and degrading because it hurts and humiliates children; it can cause emotional distress, lower self-esteem, provoke anger and feelings of revenge, and instil violent temperaments in children (Smith 2006). Others argue further that corporal punishment in schools creates a hostile environment, hindering children's learning and leading them to drop out (Human Rights Watch 1999). Yet most parents and teachers in Kenya and in Maasailand consider corporal punishment, if properly employed, to be one of the most effective ways to instil the discipline necessary for children to grow and learn well. With the growing attention to international sanctions on the rights of the child, and in response to a number of severe cases of corporal punishment in Kenya, it has become a topic of public debate (*The Nation* 2006; Siringi 2006).

Aware of this, I found it initially shocking when I was approached by a teacher friend who told me with a broad smile, 'Too bad you missed it. I beat all the class eights this morning, every one of them.' I had been volunteering only a week at this Maasai boarding school in a town at some distance from my eventual field study site. Apparently the students had not properly returned their desks to the classroom after cleaning them. 'I had them all line up in a row,' she continued, snapping her index finger against her middle finger amusingly in the way that Kenyans do when they mimic the caning action. 'I bet you don't see that in Canada!' A few days later, during their routine jog around the school compound, a few of the girls in class eight again openly broached the topic. 'Mrs Margret is the worst. She beats us for everything we do.' 'No, Mr. Kenny is the worst. You can still see the marks on my hands!' 'Do they beat you like this in schools in Canada?' 'I bet you they don't.

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They are much more civilized.' Throughout my fieldwork among the Maasai, I repeatedly found that teachers, parents and students confided in me about the beatings they delivered or sustained. They did so in a way that was almost provoking, as if wanting to elicit a reaction. They assumed that as someone from the West I would be against the practice. They seemed to take a peculiar pleasure in reminding me that among the Maasai corporal punishment was acceptable.

Through investigating the practices and meanings of corporal punishment in Maasai homes and schools, this article sheds light on how and why this aspect of the children's rights mandate is the subject of resistance and is transformed by teachers, parents and even students in Maasailand. The article responds to recent calls for a renewed engagement of anthropology with the question of rights, one which skirts the normative theorizations of what rights processes ought to accomplish, in favour of an empirical approach that describes and analyses what rights processes have actually accomplished (Wilson 2004; Goodale 2006a; Cowan 2006; Englund 2006). I take up the task of tracing the encounter between the international discourse of children's rights and a rural Kenyan community. As I relate below, discourses on children's rights arrive in Maasailand already reshaped, in law, in the school curriculum, and in the practices of civil society organizations, in such a way as to make the proper use of corporal punishment permissible and commensurate with human rights standards. Such a sanction is further reconciled through existing Maasai ethical frameworks, according to which corporal punishment is integral to children's development and well-being. This case challenges the reductive tendency to view rights as either universalist or particularist, global or local. Negotiations over corporal punishment are part of dynamic trans-local processes, across various settings and social actors, in which new practices and meanings come to life (Goodale 2006b; Cowan 2006).

#### THE STATUS OF CORPORAL PUNISHMENT IN KENYA

Many children's rights activists believe that the practice of corporal punishment violates international human rights standards. They appeal to a number of international human rights instruments, central to which is Article 19 of the United Nations Convention on the Rights of the Child, which protects children from 'all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation' (UN 1989: 5). Although this is not explicitly stated in the various instruments, the practice of corporal punishment is commonly interpreted by activists as constituting a form of physical violence and maltreatment. The UNCRC has been ratified by 191 countries, including Kenya.

Soon after the adoption of the UNCRC, the Kenyan government also ratified the African Charter on the Rights and Welfare of the Child (ACRWC). This regional charter was conceived to better



FIGURE 1 Brochure illustration of corporal punishment (GOK 2001)

accommodate a concept of childhood that would be applicable to African contexts (Ncube 1998). It includes a section outlining the duties and obligations of children, such as the obligation to respect parents, superiors and elders at all times, and to preserve and strengthen African cultural values and social and national solidarity. The charter makes no explicit mention of corporal punishment *per se*, but does assume that parents and teachers 'discipline' children and obliges them to do so with dignity and respect. 'States Parties to the present Charter shall take all appropriate measures to ensure that a child who is subjected to school or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child and in conformity with the present Charter' (OAU 1990: Article 11). Article 16 protects children from 'all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse' (*ibid.*: Article 16). Consistent with other human rights instruments, definitions of violence, abuse and maltreatment are left subject to interpretation. Despite this interpretive flexibility, these treaties have become the pillars on which international children's rights campaigns against corporal punishment have been based, as they tend to offer considerably more protection than most state legislation.

Kenyan law is not clear on the extent to which corporal punishment is prohibited in schools. In 1972, the Kenyan government passed the Education (School Discipline) Regulations promulgated under the Education Act (GOK 1968), which authorized the use of corporal punishment for certain behaviours following a full inquiry and administered in a standardized manner. The Global Initiative to End Corporal Punishment of Children (2007) reports that the regulation was repealed and corporal punishment became illegal with the Kenyan government's adoption of the Children Act (GOK 2001). However, close inspection of the legislative text of the Children Act uncovers no explicit mention of the practice of corporal punishment. The closest the Act comes to addressing corporal punishment is in the section on child offenders, where there is an illustration of an exaggerated act of corporal punishment, with a teacher leaping over the body of a young boy, cracking him on the buttocks with a thick whip.

#### THE DIFFUSION OF CHILDREN'S RIGHTS DISCOURSE IN ENKOP

Enkop is a small and comparatively 'traditional' Maasai community located in Kajiado District in southern Kenya. It comprises three contiguous group ranches, which together cover an area of approximately 587,000 acres with an estimated 17,500 residents.<sup>1</sup> The heart of Enkop, a small cluster of a dozen shops, lies 35 kilometres from the nearest paved road. The community is far from any national park or industry, and is settled among semi-arid plains and rolling hills that are suitable for little else than animal husbandry. Enkop appears to be more dependent on a 'traditional' livestock economy than other areas of Maasailand for which comparable data exist.<sup>2</sup> People there also live in larger family settlements, a traditional strategy used to pool resources and labour in the management of herds.<sup>3</sup> Despite its distance from urban centres, Enkop has been infiltrated by various modernizing institutions which produce powerful discourses on children and childhoods and open lines of communication for the international children's rights discourses to be heard. The school is one such institution.

It is only fairly recently, within the last decade, that the majority of parents in Enkop have begun to send their children to school. In 2004, two thirds (66 per cent) of children aged six to fifteen had attended one year or more of formal school compared with less than half

<sup>1</sup> Population estimates are based on a household survey conducted by the author in 2005.

<sup>2</sup> In Enkop 27 per cent of households are reported to be practising some form of cultivation. In 1997–8 Coast found among two other Maasai sites in Kajiado, chosen explicitly to represent the range of rural diversity, an average of 52 per cent of households reported to be cultivating. Across all three of her chosen Kenyan Maasai sites she found 46 per cent to be cultivating (Coast 2002: 93).

<sup>3</sup> Further comparing Coast's data, the number of families living in a homestead is slightly larger in Enkop than in other Maasai sites in Kenya (2.75 compared with 2.6 respectively) (Coast 2002: 87).

(47 per cent) of the age-group above them (aged 16–25) (Archambault 2007). Among adults aged 46 and above, only 16 per cent had ever attended school. In Enkop there are seven full government primary schools and a number of new school initiatives beginning to offer early grades. All are day schools. The first secondary school in the area is currently still under construction and plans to open in 2009. The recent and dramatic increase in school participation in Enkop is believed to stem from a growing sense of impoverishment among residents and a realization, especially in the light of population growth and current privatization of formally held communal lands, that pastoralism may not be a viable livelihood for the youngest generations. Although it is recognized that today schooling offers little economic security for those unable to complete secondary, the chance to achieve security is critical.<sup>4</sup> The school is turned to as a central institution of development, a place where children will learn the knowledge and skills that will give them access to new resources and livelihood options. Thus the national school curriculum plays a key development role, as it provides an opportunity to channel state perspectives of development directly to its most distant and rural locales.

In the light of its modernizing mandate, it is interesting that corporal punishment is also not explicitly prohibited in the national school syllabus. As early as the first grade, Kenyan children learn about their 'rights'. These rights are clearly spelled out and include the right to a name, the right to education, the right to play and rest, the right to worship, and the right to be protected from harsh punishment, among others (Jomo Kenyatta Foundation 2004a: 43).

Practices that fall in the category of 'harsh punishment' include the burning of children's hands and other parts of the body, refusing to give children food, chasing children away from home, and locking children outside of the house at night. 'Beating' is included among these only when it is practised with a 'big stick'. For example, the textbook illustration shown in Figure 2 is captioned: 'This girl is being punished by her mother. She is using a big stick to beat her. It is wrong to beat a child heavily' (*ibid.*: 48).

Christianity, another powerful modernizing force in Enkop, is deeply embedded in the Kenyan school curriculum. One of the core subjects of study is Christian Religious Education (CRE). Within the community, 53 per cent of wives and 44 per cent of husbands self-identified as Christians (Archambault 2007). While Catholicism was the first denomination established, today, following an explosion of new churches started mostly by local Maasai, Protestant congregations

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<sup>4</sup> Among the cohort of people currently aged 26–35 in Enkop who had entered primary school, 66 per cent finished primary school, 31 per cent went on to secondary school, 20 per cent finished secondary, and 9 per cent entered some form of tertiary education. Only 20 per cent of this schooling cohort reported having a semi-skilled or skilled job. The likelihood of having a skilled job increased only slightly between those who finished primary school compared with those who dropped out (21 per cent versus 17 per cent respectively) (Archambault 2007).



FIGURE 2 Textbook illustration of mother beating with 'a big stick' (Jomo Kenyatta Foundation 2004a: 48)

are the largest. Through weekly sermons, curricular lessons, and public prayer sessions, Christians produce powerful discourses on how to raise children properly. Lessons abound on the virtues of care, compassion and love towards children. But the practice of corporal punishment is never explicitly raised. In fact, along with the support of actual biblical references endorsing the use of the cane, Christian lessons reinforce the centrality of discipline, respect and obedience.

Enkop, not unlike the rest of Maasailand (Igoe 2006), is further penetrated by numerous Maasai-led civil society organizations aimed at promoting the development of the Maasai. Dupoto e Maa, The Christian Children's Fund, Neighbourhood Initiative Alliance, and Iloodokiliani Child and Family Programme are a few of the more prominent organizations active in the community with explicit children's rights mandates. Their messages and discourses over a variety of topics are heard by all through pamphlets, newsletters, billboards, community meetings, workshops and public performances. Surprisingly, given their level of activity, they do very little to denounce publicly the practice of caning in schools and homes. Nowhere, in the pamphlets or distributional documents circulating at the time of research, were there references to caning by parents or teachers.

'We don't want to rock the boat,' an assistant manager of a local NGO concerned with the rights of children once explained to me. 'We emphasize use of excess force, torture,' she continued. 'You cannot say in front of children that teachers should not beat you! Because [the children] will become very arrogant.' Such was the opinion of most parents and teachers in Enkop, whether educated, Christian, or active in the NGO world, and regardless of personal disciplinary preferences. Caning was viewed as more than merely an act of punishment. It was part of a larger social model of human development in which children learn and grow by acting and being acted upon in the world.

#### MAASAI CHILDHOODS AND A SOCIAL MODEL OF GROWTH

Maasai parents insist that children are born playful and foolish. In contrast to a more biological model of maturation, in which children may be largely left to their own devices, Maasai parents view early childhood as a critical period of intervention. This period, during which children's characters are seen as most malleable, is dedicated to teaching children 'respect' and 'discipline' (*enkanyit*). 'You can correct young ones, but once you have circumcised them it is hard.'

Maasai parents attribute children's characters to a number of different forces. Inheritance seems to play a role, as people claim that certain skills or dispositions have been passed down by parents or grandparents. Divine forces may also be at play, as children's qualities are vulnerable to personal and supernatural curses. Spencer (1988) writes of the power of the parental curse, particularly the father's, in controlling children. Talle (1995: 62) shows how particular deformities or disabilities among children may be explained by divine curses, God's punishment for the sins of family ancestors. But most commonly evoked is children's susceptibility to the ways in which they are nurtured. Bad parenting is one of the most common reasons for explaining the bad character of a child. Children are believed to be sensitive to neglect and easily influenced by wayward parents or the 'bad company' of peers. With the dramatic increase in school participation in Enkop, teachers are regarded as central players in the nurturing of children's personalities.

According to the Maasai, children grow or develop by doing. Pratt (2003) provides a detailed analysis of Maasai perceptions of children's growth that is non-linear and contingent on social and interpretive circumstances. Maasai use the terms 'big' (*kitok*) and 'small' (*kinyi*) to refer not to chronological or predetermined stages of growth but rather to children's capabilities or maturity in different contexts. Children become 'big' in a particular domain when they are mature and capable enough to accomplish the respective task. Children's capabilities do not develop naturally; rather, they must be learned and cultivated through explicit training and corrective punishment.

The training starts young. As soon as boys are able to balance themselves on two feet they are given switches to begin cultivating their

herding skills. Their capabilities are tested periodically by giving them tasks of increasing complexity. Not long after, as young as 5 or 6 years old, boys will be given the responsibility to herd the young goats and calves. They grow in the context of herding by displaying discipline and respect towards their responsibility for the care of the animals. Eventually, boys will become big enough to care for the mature herd, to bring animals to the river, to spray them with medicines, to dig wells and pans, and to deliver messages to faraway homes. In the end a boy becomes disciplined and skilled enough to become a man, when he is circumcised into a 'warrior' (*olmurrani*). Throughout this period of his life he is expected to cultivate a tremendous sense of self-respect, displayed through dietary, sexual and social restrictions that test his discipline and self-denial (Spencer 1988; Hodgson 1999; Talle 2007).<sup>5</sup>

When very young, girls are also expected to demonstrate their skills and devotion to herding. In addition, they imitate their mothers in household chores such as sweeping, cooking, washing clothes, milking, cleaning gourds, beading, constructing houses and taking care of younger siblings. As they prove themselves capable they are given these tasks to perform. Once girls demonstrate a level of discipline in household chores they can be entrusted to leave the confines of the homestead unsupervised and can, at that point, participate in fetching firewood and water. Once girls are sufficiently mature, they too will undergo circumcision, entering into womanhood, a stage in which they must cultivate respect and discipline towards their husband and new family members (Llewelyn-Davies 1981; Talle 1988; von Mitzlaff 1988).<sup>6</sup>

Since capabilities do not develop naturally and children are said to be born foolish, they persistently need to be shown what is right and wrong; most parents in Enkop argue that corporal punishment is the most effective means to instil these values in children. It follows, therefore, that most uses of corporal punishment in the home are to correct children's mistakes as perceived by their parents or elders. Children are physically punished for a variety of offences, mostly for having failed to accomplish their tasks. They can fail either by poor performance (for example losing animals or coming home late from chores) or by refusing or forgetting their responsibilities.

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<sup>5</sup>Despite the recent increases in education among the young generation, young men still pursue a form of 'warriorhood' by participating and following as many of the ceremonies, rules and lifestyle attributes that they can under the constraints of schooling (Archambault 2007).

<sup>6</sup>Emphasis on the cultural determinants of children's growth by no means suggests that Maasai do not recognize and act according to certain biological changes in their children. In fact, very near to puberty relationships between parents and children get redefined. Around the age of twelve the relationship between boys and their fathers turns from one of affection to one of mild avoidance and heightened formality. Boys will no longer sleep in the same house as their mothers and will display affection only on special occasions. Even earlier, around the age of six, the relationship between fathers and their daughters changes from affection to strong avoidance. They will avoid direct contact and conversation, and will not sleep in the same house.



Children are also beaten for 'naughty' behaviour. This could include stealing food or objects from other houses within the homestead or beating other children without good reason. The widespread Christian influence in Enkop has also contributed to producing new categories of inappropriate behaviour, in particular inappropriate sexual behaviours. 'Playing sex' is increasingly considered to be inappropriate for anyone unmarried and over the age of seven, and can result in caning. This new restriction may be in response to increasing fears of early pregnancy, HIV/AIDS, and the influence of the church in promoting abstinence before marriage.

Finally, children are also punished for demonstrating a lack of respect, either by not greeting properly or by acting out of place towards their elders. Such offences seem rarely to elicit a serious punishment unless children have purposefully overstepped their boundaries.

#### PAIN, STRUGGLE AND POWER: THE MULTIPLE FUNCTIONS OF CORPORAL PUNISHMENT

Although there are numerous other ways in which adults could correct children, physical punishment (mainly through the use of a cane) is the method that is believed by many Maasai to be the most effective. The reasons and justifications for using corporal punishment, according to Maasai parents, teachers and students, are threefold. First, pain is seen to play a fundamental role in learning. Second, there is a symbolic connection between pain and adulthood. And finally, it embodies the social status and relationship between the practitioner and the receiver of corporal punishment.

Children are believed to learn what is wrong most effectively through the experience of pain. As one informant succinctly stated: 'The body that does not feel pain will not understand.' Similar statements are often evoked not only in the context of corporal punishment but also with regard to other painful practices such as circumcision or scarring. In exploring the widespread use of pain in adolescent initiations, Morinis (1985: 157) argues that pain has a function in its own right 'separate from the various symbolic meanings different societies might attach to it'. The experience of pain, he suggests, makes individuals feel that they are sacrificing part of themselves to join the group. The experience of pain is used to 'discover for himself' this new status.

Intense pain can produce a 'peak experience' in the individual, which has the potential to make a fundamental mark on the consciousness. All extremes of experience have this potential: they 'dishabituate' (Neher 1980: 33ff.), that is, they directly assault the established patterns of cognition of self and other. The boundaries of ordinary experience are pierced by this new sensation and the result is a change in which one 'perceives anew' . . . (Morinis 1985: 166)

The use of pain in producing a heightened perception and clarity has also been a justification for self-inflicted suffering and sacrifice

(Asad 1996; Le Breton 2006). Pain is perceived as piercing a higher plane of knowledge and understanding.

There are boundaries to the intensity of permissible pain in acts of corporal punishment toward children in Enkop. Children are beaten with a small switch or a thin leather strap. They should not be beaten with any other object, especially not the hand, and the switch must be flexible and of a particular size and thickness. Switches that are any larger, referred to as 'snake' (*nyoka* in Kiswahili), are unacceptable since they may cause injury to children. The number of times that a child is hit depends on both the severity of the offence and the nature of the child being punished. In general, girls are beaten with less force than boys, as they are thought to be much more sensitive to pain.

Parents should never beat their children to the point of injury or of drawing blood. 'You shouldn't harm, you should just feel pain.' Children will be repeatedly hit on their hands, legs, thighs, or backs. Certain parts of the body are avoided, for example the head, neck, and stomach. These parts are avoided either because they are considered 'soft', and therefore could cause excessive pain and damage, or because of their symbolic attributes. The head, for example, is avoided because it is the site of blessings. If parents beat children inappropriately or with too much force, some believe this will have repercussions on the child's character, making them more aggressive and more undisciplined. Yet, harsh beatings can sometimes be justified as preferable to an even more pernicious form of punishment: the curse. Some see physical punishment as an effective way for parents, especially fathers, to vent anger, which if not released risks taking the form of a curse (Spencer 1988). In extreme cases, however, improper beatings can evoke curses on those who perform them.

Maasai also seem to justify the use of pain in teaching discipline as it relates to its symbolic dimensions. Pain represents future struggle. One's ability to sustain pain foreshadows the ability to overcome the struggles encountered throughout adult life. Maasai view pain inflicted on children as preparing them to become adults. Pain and personhood are thus intimately interconnected. Acts of corporal punishment can be understood as small rites of passage.<sup>7</sup> Descriptions of the ordeal of Maasai circumcision have elaborated on the interconnections between pain, struggle and growth (Ole Saitoti 1986; Spencer 1988; Talle 1988; von Mitzlaff 1988). A female primary school teacher similarly shares this connection:

Through circumcision you instil a lot of pain and then you are taught you are an adult. If you feel pain you have struggled a lot to learn many things. Experiencing more things you become more mature. . . . You cannot gain without lots of struggle. Struggle is power. If you want to be powerful, you need to struggle. . . .

<sup>7</sup>In the context of adolescent scarification, Le Breton (2006) makes similar connections both with regard to corporal pain acting as a rite of passage and the possibility that pain is used positively to help relieve more profound forms of suffering.

Boys are circumcised publicly and should not flinch during their operation as this would bring shame to them and their family. Girls, on the other hand, are circumcised privately among female relatives and friends and less importance is placed on hiding their pain. Physical punishment also embodies these gender expectations, as parents anticipate different reactions from boys and girls. When beaten, boys should display their bravery and stamina by remaining emotionless while girls should cry, reflecting their humbleness and obedience. These different expectations may reflect, at a symbolic level, a more traditional projection of gendered roles and struggles in adulthood. As young 'warriors' (*murran*) men would face public battles for which the containment of fear would be important strategically. Women would face more private battles, childbirth being among the toughest, in which the expression of pain would be advantageous. The cultural interconnection of pain, power and growth may be losing significance as gender roles change and as certain practices such as circumcision or childbirth are performed with the help of anaesthetics.

The practice of physical corrective punishment can be justified by a third dimension. The mere act of performing it is an embodiment of status. Physical punishment is associated with groups or communities that place importance on defining social hierarchies (Last 2000). Those who can legitimately 'beat' others are reaffirming their social position within a hierarchy of authority, reasserting and protecting boundaries of social difference. The body, the skin in particular, can be viewed symbolically as the boundary between self and society (van Wolputte 2004; Le Breton 2006). Therefore, an attack on the skin (that is, the boundary) can be viewed as a symbolic affirmation that individuals belong to society and must take their place in it, rather than belonging solely to themselves. In Enkop, the rules of who is allowed to hit whom closely correspond to people's place within the age-set system. Within the family, both fathers and mothers and older siblings can punish young children. At the same stage at which the relationship between boys and their fathers turns from affection to mild avoidance, mothers will no longer physically punish their sons. Fathers will be the ones to punish them corporally.

Likewise, when a girl starts to enter puberty, a father will no longer punish her physically and the responsibility passes on to the mother. Outside of the family unit, community elders have the authority to punish children as they would their own. All elders regardless of sex can punish young children but they must abide by these same restrictions of gender and age. Once circumcised, men are no longer beaten but women remain 'children' (*inkera*) in this respect and are thus susceptible to physical punishment by husbands and men that are of the same age or older than their husbands, but not by men of the same age as their fathers.<sup>8</sup> Thus, corporal punishment is inextricably linked to the

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<sup>8</sup> While corporal punishment by husbands of their wives can be understood as an extension of the practices of punishing children, it is considerably more contested and, thus, discussed in very different ways. The practice merits a separate detailed examination.

defining of social relationships (Cowan 2006). Today in Enkop, parents will concede that they must now proceed with caution when disciplining other people's children. This tends to be discussed less as an affirmation that children's rights have been embraced by the community, than as a complaint about the changing nature of community relationships towards greater nuclearization and individualism.

'ON THE FINGERS FOR GIRLS AND THE BUTTOCKS FOR BOYS':  
INSTITUTIONALIZATION OF CORPORAL PUNISHMENT IN MAASAI SCHOOLS

Most parents in Enkop agree with the practice of corporal punishment in schools provided it is done properly.<sup>9</sup> 'Yes [teachers have the right to discipline children] but not to beat badly. Just to cane like his or hers.' Very specific prescriptions are followed as to how to cane school children properly: 'On the buttocks for boys and the fingers for girls' and 'nicely'. The near consensus around issues of caning in the classroom is linked to the role that the school plays within the community and in the minds of parents, teachers and students. Most teachers in Enkop schools are local Maasai, which closely connects the school to community norms and expectations. Even though the primary purpose of schooling is to provide children with opportunities for employment, a major responsibility of school teachers, as perceived by parents, teachers and students alike, is to instil discipline in their pupils. 'When the child is at school the teacher is now his and her father,' one parent explains. In the written words of a student: 'My teachers are very kind to us. They love us as much as their own children. They are our parents at school.' Teachers take their position in the social structure as parents and elders and believe in corporal punishment's pedagogical, developmental and social functions.<sup>10</sup>

Consequently, teachers do not occupy the kind of intermediary role that is outlined by Englund (2006) and Merry (2006) as typical of the human rights process. As 'knowledge brokers between culturally distinct social worlds' (Merry 2006: 38), intermediaries are presumed to be situated at a distance from both the sources and the targets of human rights discourse. In this middle ground they may find themselves conflicted, trying to translate global messages into local terms, or they may use their privileged position of translation to further their own interests. The case of corporal punishment in Enkop schools provides an interesting contrast to this model. Two attributes diminish the distance, and thus ambiguity, of the role of teachers as rights brokers. The first is that teachers are targets themselves, with no possibility

<sup>9</sup>In a small open-ended questionnaire about school-related issues, 35 parents from the community were asked whether or not teachers had the right to discipline the students. All but two believed they had. All the others answered that caning should be the method used. Many stressed, however, that the caning should be proper.

<sup>10</sup>Of the 22 teachers interviewed from the four primary schools in Enkop group ranch, all but one claimed to use caning to discipline their children at home.

of dissociating what they practise from what they preach. Unlike issues such as domestic violence, in which intermediaries may or may not be part of the target population, teachers are necessarily parents (at least of school children) and therefore are personally and immediately accountable to the parenting positions they take. On the other end, the discourses that teachers receive from above, mainly through the national primary school curriculum and through civil society networks, are not foreign or global at all. They are, in fact, already considerably reshaped in a way that conforms to, rather than contradicts, local expectations.

Apart from excluding corporal punishment as a human rights violation, the school curriculum also marginalizes a biological model of children's growth over a kind of social model of development, akin to the Maasai model. Certain biological attributes do appear in textbooks. For example, in various contexts students are presented with age-defined stages of development, such as the age at which one is ready to go to school, or the age at which one is ready to be married (Jomo Kenyatta Foundation 2004c: 67). However, these references are far outweighed by references to a social model of maturation. Lessons abound about how children only grow by learning to be obedient, respectful and helpful towards their parents and elders. Students are expected to carry over their responsibilities from home to the school, performing activities that will contribute to their proper growth (Figure 3 and 4).

As at home, school chores in Enkop are gendered. In the youngest grades, as at home, there is little differentiation. But as children get older they begin to specialize in their respective tasks. Boys deliver messages and are responsible for some of the heavier labour-intensive tasks around the school compound, while girls are mainly responsible for the cooking of lunchtime meals and the care of younger students.

As at home, children may be caned for a variety of offences, often in relation to their duties and obligations. While major offences were certainly punished in Enkop, most often the cane was used as a threat. Children were caned mildly if they were not paying attention in class or if they were ignoring orders. Actions that merited more serious caning, usually performed by the headmaster in his office, were incidences of theft, damage to school property, and injury to fellow students.

Teachers, like parents, recognized the efficacy of pain in getting their lesson across. 'They aren't old enough to understand anything else. You cannot lecture them. And if you tell them to sit in a corner you will not find them there. They will not do what you tell them to do. . . . It is the only way to get them to learn.' Within the school setting the boundaries of what was considered painful seem to be more conservatively drawn. For mild offences a teacher should strike one to three times but by no means should cause any detectable injury, blood or bruising. Under no circumstances should preschool children be hit. Even among lower primary children (grades one to four) the tendency is to use the cane only as a threat. Teachers know that children will report caning abuses to their parents. Stories of children elsewhere in Kenya being beaten



FIGURE 3 Textbook illustration of children helping at home (Jomo Kenyatta Foundation 2003b: 45)



FIGURE 4 Textbook illustration of children helping at school (Jomo Kenyatta Foundation 2004b: 7)

to death by schoolteachers have reached Maasailand, making parents attentive to the possibility of disciplinary abuse. Furthermore, as at home, teachers' disciplinary measures are susceptible to supernatural controls. This was illustrated by an incident in which the fertility of a harsh teacher was believed to be compromised by a student curse. Teachers insist that today children are caned far less frequently and rigorously than when they were young. 'We were beaten like donkeys,' a teacher asserts. Without comparable data, it is difficult to conclude if this is indeed the case. However, given the level of national attention to cases of abuse and the degree of institutionalization of the practice within the school setting, it is quite likely that caning has been reduced and softened in Enkop schools.

The rules of the cane in the school context have been highly institutionalized at the national level. Unlike at home, very specific rules regulate how and where children can be hit in school. Boys can only be hit on the buttocks or back of the legs and girls on the finger or the palms of the hand. Caning the chest or the buttocks of female students is believed by some teachers to interfere with menstruation, childbirth, and breast feeding.

As in the larger context of home and community life, corporal punishment in the school setting is also used to mark and maintain boundaries of status and power, in this case between teacher and student. For the first few weeks of working in Enkop schools, I was overwhelmed by the discipline of school children, astounded by their choreographed movements and polite interactions. But it was not long before stickers began vanishing from my car, children began fighting and shouting, climbing classroom walls, and tearing down classroom dividers. These adolescent misdemeanours are just as much the stuff of school as ritual performances of discipline and obedience. Students spend considerable time outside of direct supervision by teachers, either playing in the fields or working unsupervised in the classroom. Teachers in Enkop have a high tolerance for children's antics in their absence. But once they have reached the threshold, a teacher will grab a switch, move within the vicinity of the children, flail it about, and restore immediate, but only temporary, order. This form of maintaining discipline is punctuated and is monitored within and around the peripheries of student and teacher interactions.

Rules of who can punish whom in the school setting largely conform to community expectations. The age, 'size', and sex of a student offender matters considerably. In general, female teachers are very reluctant to cane male students unless the student is young. Likewise, male teachers are more reluctant to cane female students. However, unlike in the home setting, where it is strongly forbidden for men to physically punish girls past a certain stage, it is considered acceptable for male teachers to punish female students, if need be. The character of the child also matters, for example if the child was a repeat offender or has special needs. In addition, the severity of the teacher is always a factor. Certain teachers are known to be strict disciplinarians, others to be 'soft.'

As much as students resent being the recipient of corporal punishment, there is much to suggest that they accept what it stands for. For a start, corporal punishment has an effect on students. They fear being beaten and talk about it as an effective disincentive for bad behaviour. They do not hesitate to describe situations which, in their opinions, merit a good beating, suggesting that they perceive it as an effective pedagogical tool. Essays that the students wrote on children's rights provided an interesting window for viewing their perspectives on the practice.<sup>11</sup> In none of the essays was corporal punishment asserted as a violation of rights. In fact, in line with the social model of development, it became apparent that many students perceived the cultivation of discipline and respect as constituting one of their 'rights'. 'Children have the right to be taken care of by their parents in their homes and to be taught how to show respect for other people, good manners, discipline and cooperation,' writes one student. Fostering discipline in children, in ways unspecified, was perceived as an expression of love. For example, another student wrote: 'Parental love is to discuss and correct your children in some ways here and there. And some parents don't love their children because they don't correct them for doing bad things.' While it is difficult to discern the extent to which student declarations reflect their actual subjectivities, a persuasive observation is that students often employ corporal punishment on their younger siblings. What is unique to an age-set system like that of the Maasai is that children are guaranteed that status and power will be bestowed upon them unconditionally with age. Over time, the group of people on whom they can exercise their authority with corporal punishment grows. It is, therefore, not always in their interest to relinquish a practice that embodies one's status. Anthropologists have come to question an implicit assumption in much of the human rights theory and discourse, which is that people can and should exist freely outside of their social relations. Anthropologists point to the fact that in many contexts it is these very social relationships which make people into persons (Cowan 2006). Here, one could argue that corporal punishment is used by children to solidify their social relationships, exercise power over others, and turn themselves, along with those whom they are punishing, into people.

#### NEW BOUNDARIES OF PUNISHMENT

There is no doubt that childhoods are changing among the Maasai. They are increasingly being removed from herding and domestic responsibilities as they are introduced to formal schooling. Ages of circumcision are shifting, and full 'warriorhood' is practised by very few. Consequently, conceptions of childhood are changing to

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<sup>11</sup> Free writing by students on various topics assigned was a research method I employed, and continue to employ, during my fieldwork.



correspond to this new reality, and so, perhaps, are views on the appropriateness of corporal punishment.

For some families, particularly those with highly educated parents who have long been exposed to international discourses on parenthood and children's rights, the meanings of corporal punishment have already shifted in new directions. Some families are less inclined to use corporal punishment as a way of maintaining strict social boundaries between themselves and their children. Nevertheless, many still use corporal punishment as a way to establish new boundaries between themselves—as Maasai, as Christians, and as Africans—and those from the international community who attempt to impose rules and regulations on how they should raise their children.

In western Kenya, I attended a school management committee training workshop organized by the Kenyan Ministry of Education. During the morning session, a parent raised the issue of corporal punishment. The representative insisted that, in accordance with international law, under no circumstances could teachers hit pupils. The parents tried numerous times to elicit some sympathy from the representative but to no avail. He recessed the session and we proceeded to the staff office where I ate lunch in the company of the ministry representatives and school teachers. I broached the topic of corporal punishment. 'Of course we use it, we are African!' exclaimed one. I reminded them that they had just publicly denounced corporal punishment to a room full of parents. 'We say all kinds of things to please the IMF!' one woman explained laughingly. Through lunch they continued to reflect amusingly and passionately on what situations warranted a 'good beating', and defending their rights to raise their children in their way. While to some extent they were prodding me, seeing how I would react to what they assumed I would find radical, more importantly they were hotly asserting their identities as Africans. Corporal punishment had become a symbol of identity and a boundary against the encroachment of Western influence on how to raise children properly. It would ensure that Africa's disciplined youth would not join the ranks of their undisciplined Western counterparts.

Though not yet obviously detectable in Enkop, there may be a growing new tendency for people to see corporal punishment as no longer reaffirming boundaries that are applied *to* children, as part of an age-set system, but as boundaries reaffirmed *through* children, using corporal punishment as a marker of identity against the West.<sup>12</sup> The continued practice of corporal punishment in Maasai schools amidst international disapproval must be understood as an important rights-claiming process and one that is productive, even if not in the ways the

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<sup>12</sup> Similarly, Kavapalu (1993) finds that the physical punishment of Tongan children is intricately tied to notions of identity; as Tongan children abroad fall out of a traditional structure, strict and harsh punitive measures are increasingly applied, reasserting the 'Tongan way'. Last (2000) also claims that the resistance against corporal punishment by the Maguzawa is a reassertion of traditionalism and accordingly is used as a political stance to differentiate them from their Muslim neighbours.

rights discourse intended. The negotiations over the continued use of corporal punishment have created new identities, social relationships and subjectivities (Cowan 2006).

Returning to the opening vignette of this article, what was the significance of the school girls' bitter complaints against corporal punishment? Why did they choose to air their grievances to me and why the repeated contrast with Canada? One possibility is that their response marks a significant change in perceptions of human nature and personhood among a new generation of young Maasai. Perhaps it is a marked rejection, conscious or not, of the role of pain in children's growth, or of a model of development that privileges social capabilities over biological maturation, or the place of children within an age-set system. Yet such a change may be contingent on one's particular context both in terms of space (across different situations) and time (over the course of the life cycle). As young boarding school students, isolated from younger siblings and consequently always on the receiving end of physical punishments, they may see it as in their interest to embrace a new model. However, in other contexts, among younger siblings, or later in their lives and careers when they become parents and possibly teachers, they may realign themselves in favour of corporal punishment. Another interpretation could be that corporal punishment discussions were being used to define and create relationships with me. While my teacher friend may have been upholding corporal punishment as a subtle way to signal her status and authority, the students may have been protesting it as a way to further identify with me, creating an alliance and cementing a social relationship. Such varied interpretations illustrate the complexity in understanding the role of rights processes in the production and shifts in individual and collective subjectivities. What becomes clear, however, is that corporal punishment debates are not merely the manifestation of longstanding debates over cultural relativism and universalism. Corporal punishment continues to be practised among the Maasai not only as a result of traditional perceptions of children's development and childhood, but further, as a 'modern' expression of personhood, in new settings and incorporating new relationships.

#### CONCLUSION

Parents and teachers in Enkop are wary of certain aspects of the children's rights discourse. Providing young people, who are still not mature members of society, with entitlements is seen as challenging adults' perceptions of childhood and notions of children's growth as well as their authority over their children. For Maasai, children need to earn their right to adulthood. They must struggle to develop their capabilities in preparation for the labours they will face in their adult lives. In order to do so, they must be corrected and moulded; they should experience pain and struggle; and they need to identify their places and roles in society. Since corporal punishment is believed

to fulfil these functions, the practice is carried over into the new setting of the school, a central institution within which children are now growing up. The school, as a site for rights negotiations, is greatly under-investigated. Perhaps this is due to the tendency to identify African schools as modern, Western institutions, somehow detached from the social worlds of their students, and thus to perceive schools as institutions that naturally propagate the global human rights discourse. In the case of Enkop, the school is intimately connected to the community it serves and many principles behind the practices of corporal punishment are appropriated from domestic and community life and then introduced into this new social setting. In turn, the school setting brings about new variations, new emphasis on biological models of growth and on rights-based discourses, and new rules as to how to punish. The meanings of corporal punishment, along with those of childhood, thus get reworked in this nexus, producing the kinds of hybridities characteristic of a globalizing world. Through the school, we begin to better understand how corporal punishment debates are used to solidify new relationships and to mark new kinds of identities. Such an ethnographic account clarifies what issues are at stake when human rights enter into new spaces, and contributes to an understanding of how human rights function in particular locales and how they are perceived by various local actors, a central mandate of a renewed anthropology of rights.

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#### ABSTRACT

Children's rights activists contend that corporal punishment in schools is a form of child abuse which hinders children's learning. Yet most parents and teachers in Maasailand, Kenya consider corporal punishment, if properly employed, to be one of the most effective ways to instil the discipline necessary for children to learn and grow well. Responding to calls for a more empirical anthropology of rights, this article provides an ethnographic analysis of the practice of corporal punishment in domestic and primary school settings, exploring its pedagogical, developmental and social significance, and illuminating its role in the production and negotiation of identities and personhood.

#### RÉSUMÉ

Les militants des droits de l'enfant affirment que la pratique du châtime corporel dans les écoles est une forme de maltraitance des enfants qui entrave leur apprentissage. Pourtant, la plupart des parents et des enseignants du Maasailand au Kenya considèrent les châtime corporels, à condition de bien les utiliser, comme l'un des moyens les plus efficaces pour inculquer la discipline nécessaire à l'apprentissage et au développement des enfants. Répondant aux appels pour une anthropologie plus empirique des droits, cet article présente une analyse ethnographique de la pratique du châtime corporel dans le cadre domestique et dans les écoles primaires, en explorant sa dimension pédagogique, développementale et sociale, et en apportant un éclairage sur son rôle dans la production et la négociation d'identité et de personnalité.