



Global Initiative to
**End All Corporal Punishment
of Children**

INDONESIA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 1st session, 2007

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Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General’s Study on Violence against Children, as a highly significant issue, both for asserting children’s status as rights holders and for the prevention of all forms of violence.

The Global Initiative to End All Corporal Punishment of Children has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies and also regional human rights mechanisms have condemned all corporal punishment. In October 2006, the report of the UN Secretary General’s Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment, setting a goal of 2009.

This briefing describes the lack of prohibition in Indonesia, despite recommendations by the Committee on the Rights of the Child.

We hope the Review will highlight with concern the failure of Indonesia to respond to treaty body recommendations and strongly recommend that Indonesia introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.

I: Legality of corporal punishment in Indonesia

The home

Corporal punishment is lawful in the **home**.

Children have limited protection from violence and ill-treatment under the Penal Code, the Law on Child Protection (2002), the Law on Human Rights (1999), the Law on Elimination of Domestic Violence (2004) and the Constitution (1945, amended 2000).

In comparative research across Southeast Asia and the Pacific in 2005, physical punishments mentioned by children in Indonesia included being hit with implements, kicking, slapping, ear twisting, hair pulling, pinching, and throwing objects; of those who were hit, 32% were hit with an implement, 24% slapped with the hand, 24% punched with the fist, and 20% kicked.¹

Schools and other settings

There is no explicit prohibition of corporal punishment in **schools**. Article 54 of the Law on Child Protection states: “Children attending school must be protected against violence and abuse from teachers, school managers, and school mates both in the school and other educational institutions.” Corporal punishment in schools has been opposed by the government-backed Indonesian Commission for the Protection of Children (KPAI) (February 2007).

Research has documented widespread use of corporal punishment in schools. In a comparative study of 10,073 children aged 9-17 years across East Asia and the Pacific in 2001, 50% of those surveyed in Indonesia said that they found it less easy to talk to their teachers because teachers scream at them or beat them.² In another research survey of 541 children in schools in North Maluku, nearly one quarter of the children reported having been hit by the teacher on their legs, hands, ears, cheeks and buttocks, once or more than once, the teachers using their hands, or a stick, ruler or bamboo swathe.³

In the **penal system**, corporal punishment is unlawful as a sentence for crime under article 66 of the Law on Human Rights, concerning protection during the legal process, which states: “Every child has the right not to be subjected to acts of oppression, ill treatment or inhuman penalty....” But Shari’a law has been implemented in the province of Aceh, including flogging and stoning as a punishment for crimes ranging from fraud, adultery and use of alcohol to gambling, and “intimacy” between unmarried couples. Public canings in front of mosques are carried out often, and have been televised. Other areas of Indonesia have introduced regional regulations based on Islamic Law, including flogging, e.g. in villages in Jakarta.

There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions. The Directorate General of Corrections has stated in policy the right of juvenile offenders to humane treatment and as at January 2005, the Penal Code and the juvenile justice system were under review.

There is no explicit prohibition of corporal punishment in **alternative care settings**.

¹ Beazley, H., S. Bessell, et al., 2006, *What Children Say: Results of comparative research on the physical and emotional punishment of children in Southeast Asia and Pacific, 2005*, Stockholm, Save the Children Sweden

² UNICEF, 2001, *Speaking Out! Voices of Children and Adolescents in East Asia and the Pacific*

³ Save the Children UK, Indonesia, 2004, “Violence in schools: report on a survey conducted by the Save the Children Education Programme in North Maluku”, unpublished, cited in Save the Children, 2005, *Discipline and punishment of children: a rights-based review of laws, attitudes and practices in East Asia and the Pacific – Save the Children Sweden Southeast Asia and the Pacific, regional submission to the UN Secretary General’s Global Study on Violence against Children*, Save the Children Sweden

II: Recommendations by human rights treaty monitoring bodies

In its concluding observations on the state party's second report in 2004, the **Committee on the Rights of the Child** recommended explicit prohibition of corporal punishment of children in all settings, stating (CRC/C/15/Add.223, paras. 43 and 44):

“The Committee is deeply concerned that corporal punishment in the family and in schools is widespread, culturally accepted and still lawful.

“The Committee recommends that the State party:

- a) amend its current legislation to prohibit corporal punishment everywhere, including in the family, schools and childcare settings;
- b) carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment.”