



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

PHILIPPINES

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 gaps in prohibition in the Philippines, despite recommendation by the Committee on the Rights of the Child. It also notes that a move towards law reform has been made in the form of draft legislation which has been filed in the House of Representatives.

We hope the Review will highlight the importance of the Philippines responding to treaty body recommendations and strongly recommend that the Philippines 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 the Philippines

The home

Corporal punishment is lawful in the **home**. The Family Code states (article 220) that the rights and duties of those exercising parental authority over children include “to impose discipline on them as may be required under the circumstances”. The Child and Youth Welfare Code states (article 45) that parents “have the right to discipline the child as may be necessary for the formation of his good character”. The Muslim Personal Law states (article 74) that in relation to their children parents have “the power to correct, discipline, and punish them moderately”. The Rules and Regulations on the Reporting and Investigation of Child Abuse Cases state in defining cruelty (section 2): “... Discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical or psychological injury as defined herein.”

Children have limited protection from violence under Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) (1992), the Revised Penal Code, the Family Code, the Domestic Adoption Act (1998), the Child and Youth Welfare Code, the Anti-Violence Against Women and their Children Act No. 9262 (2004) and the Constitution (1987).

As at October 2007, a bill was under discussion which would prohibit corporal punishment in all settings, including the home.

A number of research studies have revealed the nature and extent of corporal punishment of children in homes in the Philippines. In comparative research in 2005 children reported being physically punished by being hit, punched, spanked, whipped, hit with implements, having their hair pulled, having ears twisted and being pinched.¹ In 2001, child abuse research found that most abusive acts were those inflicted by parents in the name of discipline and included spanking, being beaten up or mauled (including when a parent uses a wooden stick, belt, bat or broom, incessant beatings, slaps on the face, and being burned with a flat iron), being scolded or punished when the child did nothing wrong, humiliating the child in public, and shouting and cursing at the child.² The World Studies of Abuse in the Family Environment (WorldSAFE) cross-national project examined incidence rates for corporal punishment as self-reported by mothers covering the period of the previous 6 months. In the Philippines, incidence rates included: spanking buttocks with a hand 75%, pinching 60%, hitting with object on buttocks 51%, and hitting with an implement not on the buttocks 21%.³

Schools and other settings

Corporal punishment is prohibited in public and private **schools**.

In the **penal system**, corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions, although cases have been documented of beatings and other painful treatment and degrading conditions.⁴

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 De la Cruz, T. et al., 2001, *Trust and power: Child abuse in the eyes of the child and the parent*, Manila: UP-CIDS Psychosocial Trauma and Human Rights Program, cited in International Save the Children Alliance, 2004, *How to research the physical and emotional punishment of children: Resource handbook*, Thailand: International Save the Children Alliance, Southeast, East Asia and Pacific Region

³ Reported in Krug, E. G. et al., eds, 2002, *World report on violence and health*, Geneva: World Health Organization

⁴ Puzon, M.P., 2003, *Painted gray faces, behind bars and in the streets: street children and the juvenile justice system in the Philippines*, Quezon City, Program on Psychosocial Trauma and Human Rights, University of the Philippines, and London, UK Consortium for Street Children. Cited in Nogami, N., 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*, Stockholm, Save the Children Sweden

In **alternative care settings**, corporal punishment is prohibited in residential institutions and in day care centres but not in foster care.

II: Recommendations by human rights treaty monitoring bodies

In 2005, following consideration of the state party's second report, the **Committee on the Rights of the Child** expressed serious concern at the prevalence of corporal punishment in society and the lack of prohibition by law of corporal punishment in the home, and recommended explicit prohibition, stating: (CRC/C/15/Add.259, paras. 41 and 42):

“While noting the State party's efforts to prohibit the use of corporal punishment in schools, prisons, institutions and forms of childcare by implementing various relevant provisions, the prevalence of corporal punishment in society gives cause for serious concern. The Committee is concerned that a provision for corporal punishment is not included in the Child and Youth Welfare Code and regrets that corporal punishment in the home is not explicitly prohibited by law.

“In the light of its general comment No.1 (2001) on the aims of education and the recommendations adopted by the Committee on its day of general discussion on violence against children within the family and in schools (see CRC/C/111), the Committee reiterates that corporal punishment is not compatible with the provisions of the Convention and it is inconsistent with the requirement of respect for the child's dignity, as specifically required by article 28, paragraph 2, of the Convention. Therefore, the Committee recommends that the State party prohibit by law all forms of corporal punishment in the home, in schools and in private and public institutions, in the juvenile justice system and the alternative care system.”