



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

TIMOR LESTE

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 12th session, 2011

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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 (www.endcorporalpunishment.org) 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 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 as a matter of priority.

Summary

This briefing describes the legality of corporal punishment of children in Timor Leste despite the repeated recommendations of the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination Against Women. We hope the Review will highlight the importance of prohibiting all corporal punishment of children in all settings including in the home and urge the Government to enact legislation to achieve this as a matter of priority.

1 Legality of corporal punishment in Timor Leste

1.1 Corporal punishment is lawful in the **home**. Article 18 of the Constitution states that children should be protected from all forms of violence and that they “shall enjoy all rights that are universally recognised, as well as all those that are enshrined in international conventions normally ratified or approved by the State”. But legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing. The Law Against Domestic Violence (2010) confirms the right of every person “to live without violence and the right to preserve his or her physical and mental integrity” (article 4), and defines domestic violence as “any act or a result of an act or acts committed in a family context ... which results in or may result in harm or physical, sexual or psychological suffering, economic abuse, including threats such as acts of intimidation, insults, bodily assault, coercion, harassment, or deprivation of liberty” (article 1) and physical violence as “any conduct which offends bodily integrity or physical health” (article 2), but it does not explicitly prohibit all forms of “disciplinary” corporal punishment in childrearing. A Draft Civil Code is under discussion, but its most recent version would not prohibit corporal punishment in the home. A Children’s Code is being drafted – we do not know if there are plans to include prohibition of corporal punishment in the home and other settings.

1.2 There is no explicit prohibition of corporal punishment in **schools**.

1.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime. It is considered unlawful as a disciplinary measure in penal institutions, though there appears to be no explicit prohibition. A Draft Juvenile Justice Law is under discussion, but in its current form it would not explicitly prohibit corporal punishment in institutions accommodating children in conflict with the law.

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

1.5 In research carried out in 2004/5 by the Ministry of Education and Culture, the Ministry of Labour and Community Reinsertion, UNICEF and Plan International, 67% of children reported being beaten with a stick by teachers, 39% being slapped on the face by teachers; 60% reported being beaten with a stick by their parents. Almost two thirds of parents (63%) felt it acceptable to yell violently at a child; almost two in five (39%) said it was acceptable to beat a child with a stick, and just over a third considered other physical punishments such as ear twisting and face slapping acceptable.¹

2 Recommendations by human rights treaty monitoring bodies

2.1 Following examination of the state party’s initial report in 2008, the **Committee on the Rights of the Child** recommended prohibition of corporal punishment in all settings (CRC/C/TLS/CO/1, para. 43).

2.2 In 2009, in its concluding observations on the state party’s initial report, the **Committee on the Elimination of Discrimination Against Women** recommended explicit prohibition of corporal punishment in all settings (CEDAW/C/TLS/CO/1, para. 36).

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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¹ UNICEF (2006), *Speak Nicely to Me – A Study on Practices and Attitudes about Discipline of Children in Timor-Leste*