

CAMBODIA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 18th session, 2014

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

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In Cambodia, corporal punishment of children is lawful, despite the Government’s acceptance of recommendations to harmonise legislation with international human rights instruments made during the UPR in 2009 and the recommendations of the Committee on the Rights of the Child.

We hope the Working Group will note with concern the legality of corporal punishment in Cambodia. We hope states will raise the issue during the review in 2014 and make a specific recommendation that legislation is enacted in Cambodia to explicitly prohibit corporal punishment of children in the home and all alternative care settings as a matter of priority.

1 The initial review of Cambodia by the Human Rights Council (2009)

- 1.1 Cambodia was examined in the first cycle of the Universal Periodic Review in 2009 (session 6). No recommendations were made specifically concerning corporal punishment of children, though the issue was included in the summary of stakeholders’ information.¹ General recommendations were made to harmonise legislation with international human rights instruments and to promote the rights of the child: these were accepted by the Government.²
- 1.2 Prohibiting and eliminating corporal punishment of children is a key obligation under the Convention on the Rights of the Child and other international human rights instruments. In 2011, the Committee on the Rights of the Child recommended that legislation authorising corporal punishment in Cambodia be repealed and explicit prohibition of corporal punishment enacted in all settings, including the family.³ But there has been no change in the legality of corporal punishment of children in Cambodia since the UPR in

¹ 9 September 2009, A/HRC/WG.6/6/KHM/3, Summary of stakeholders’ information, para. 20

² 4 January 2010, A/HRC/13/4, Report of the working group, paras. 82(5), 82(80) and 82(82)

³ 20 June 2011, CRC/C/KHM/CO/2 Advance Unedited Version, Concluding observations on second/third report, paras. 38, 39, 40 and 41

2009: it is unlawful in schools and in the penal system but it is lawful in the home and in alternative care settings.

- 1.3 The obligation to reform the law to prohibit corporal punishment, including in the home, is one frequently ignored or evaded by governments. The near universal acceptance of a degree of violent punishment in childhood and deeply held views that parents and other adults have a “right” to physically punish children can challenge efforts to achieve prohibition. This situation also means that corporal punishment – at least to some degree – is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence: prohibiting laws, as well as recommendations to enact them, are effective only when they explicitly refer to corporal punishment. **For these reasons we respectfully urge members of the Working Group to specifically recommend prohibition of corporal punishment in the review of Cambodia.**

2 Legality of corporal punishment in Cambodia

- 2.1 **Home (lawful):** The Civil Code states that “a person who has parental authority may discipline his/her child by himself/herself within necessary scope” (article 1044, provisional translation). Article 8 of the Law on the Prevention of Domestic Violence and the Protection of Victims 2005 states that discipline of children is not considered as violence or domestic violence. Article 48 of the Constitution 1999 states that “the State shall protect the rights of children as stipulated in the Convention on Children”, but legal provisions against violence and abuse in the Constitution and in the Marriage and Family Law 1989 and the Criminal Code 2010 are not interpreted as prohibiting all corporal punishment in childrearing.
- 2.2 **Schools (unlawful):** Corporal punishment is prohibited in public and private schools under article 35 of the Education Law 2007.
- 2.3 **Penal system – sentence for crime (unlawful):** There is no provision for judicial corporal punishment in criminal law.
- 2.4 **Penal system – disciplinary measure in penal institutions (unlawful):** Corporal punishment is unlawful under article 38 of the Constitution 1999 but there appears to be no explicit prohibition. A draft new Juvenile Justice Law was expected to come into force in 2013.
- 2.5 **Alternative care settings (lawful):** Corporal punishment is lawful in alternative care settings under the provision in article 1044 of the Civil Code for a person with parental authority to discipline the child “within necessary scope” (see under “Home”).

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities.