

Corporal punishment of children in Thailand: Briefing for the Universal Periodic Review, 25th session, 2016

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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 Thailand, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and recommendations made during the 1st cycle UPR of Thailand (accepted by the Government).

We hope the Working Group will note with concern the legality of corporal punishment of children in Thailand. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Thailand clearly prohibit corporal punishment in all settings including the home and explicitly repeal the right of parents to punish children in the Civil and Commercial Code.

1 Review of Thailand in the 1st cycle UPR (2011) and progress since

1.1 Thailand was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 12). The issue of corporal punishment of children was raised in the compilation of UN information¹ and the summary of stakeholders' information.² The Government accepted recommendations to prohibit corporal punishment, making a strong commitment to law reform: "Corporal punishment is already prohibited in schools and other alternative care settings. We are determined to improve the laws in order to prohibit corporal punishment in communities and families.... As a State Party to the CRC, Thailand is committed to eradicating corporal punishment...."³ However, since the review there has been no change in the legality of corporal punishment in Thailand – it remains lawful in the home, alternative care settings and day care.

1.2 **We hope the Working Group will note with concern the legality of corporal punishment of children in Thailand. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Thailand clearly prohibit corporal punishment in all settings including the home and explicitly repeal the right of parents punish children in the Civil and Commercial Code.**

2 Legality of corporal punishment in Thailand

¹ 25 July 2011, A/HRC/WG.6/12/THA/2, Compilation of UN information, paras. 15 and 25

² 25 July 2011, A/HRC/WG.6/12/THA/3, Summary of stakeholders' information, para. 30

³ 6 March 2012, A/HRC/19/8/Add.1, Report of the working group: Addendum, para. 15

Summary of current law and reforms needed in order to achieve prohibition

Corporal punishment of children in Thailand is unlawful in schools and the penal system but it is lawful in the home, in alternative care settings and in day care.

Achieving prohibition requires the enactment of legislation clearly prohibiting corporal punishment in these settings and explicitly repealing the right of parents to punish children in the Civil and Commercial Code. The current review of the Child Protection Act 2003 provides an immediate opportunity to achieve the necessary law reform.

- 2.1 ***Home (lawful)***: Article 1567 of the Civil and Commercial Code states: “A person exercising parental power has the right ... (2) to punish the child in a reasonable manner for disciplinary purposes.” Provisions against violence and abuse in the Revised Penal Code 2003, the Child Protection Act 2003, the Criminal Procedure Code, the Domestic Violence Act 2007 and the Constitution 2007 are not interpreted as prohibiting all corporal punishment in childrearing. The Child Protection Act is under review.
- 2.2 ***Alternative care settings (lawful)***: The Government has stated that corporal punishment is prohibited in the Regulation of the Ministry of Social Development and Human Security on Child Punishment of 2005 which does not include corporal punishment among permitted disciplinary measures.⁴ However, the prohibition appears to apply only to corporal punishment of a certain severity: under article 61 of the Child Protection Act 2003 an owner, guardian of safety, and staff of a nursery, remand home, welfare centre, safety protection centre and development and rehabilitation centre must not mentally or physically assault or impose harsh punishment on any child under their care and guardianship, “except where such acts are reasonably applied for disciplinary purposes in accordance with the regulations specified by the Minister”. Article 65 of the Act provides for punishment of children, which must be “carried out reasonably for disciplinary purposes”.
- 2.3 ***Day care (lawful)***: Corporal punishment is lawful in early childhood centres and in day care for older children under articles 61 and 65 of the Child Protection Act and article 1567 of the Civil and Commercial Code.
- 2.4 ***Schools (unlawful)***: Corporal punishment was prohibited in 2000, when the Regulation on the Punishment of Students 2000 did not include caning among permitted disciplinary measures. The Regulation was subsequently revised and the Ministry of Education Regulation on Student Punishment 2005 similarly does not include corporal punishment among permitted disciplinary measures. Article 6 of the Regulation states (unofficial translation): “It is prohibited to punish pupils and students with violent methods or with harmful, angry or revengeful intention...” The Regulation on the Promotion and Protection of the Rights of Children and Juveniles in Educational Establishments 2000 states in article 8: “Punishment of children and youth must not be carried out with torture or harsh treatment to the body or mind, by cruel, humiliating, inhumane means, or in any inappropriate manner.”
- 2.5 ***Penal institutions (unlawful)***: The Ministry of Justice Regulation on Children and Youth Punishment and Provisional Permission for Children and Youth 2003 pursuant to the Child Protection Act, does not include corporal punishment among permitted disciplinary measures; it does, however, authorise the imposition of hard labour (art. 4). Corporal punishment is not among permitted disciplinary actions in the Military Prisons Act 2007: previously the Military Prisons Act 1936 had authorised caning. In February 2013, the Government reported to the Committee Against

⁴ 20 January 2012, CRC/C/THA/Q/3-4/Add.1, Written replies to the Committee on the Rights of the Child, para. 44

Torture that caning may no longer be carried out because provisions for it have been repealed by a Ministerial Regulation under the Corrections Act.⁵

- 2.6 However, there are a number of legal authorisations for flogging and whipping of children which have possibly not yet been repealed. The Establishment of Juvenile and Family Court and Procedure Act 1991 allows the Director of an observation and protection centre to order a child to be flogged for disciplinary breaches. The Training Arrangement for Certain Groups of Children Act 1936 provides for whipping up to 10 strokes of children in correctional schools, vocational training schools and penitentiaries (art. 11). The Ministry of Interior Regulation on Punishment of Certain Groups of Children 1937 specifies that the rod to be used must not exceed 75cm in length and 0.5cm in diameter (reg. 4). In reporting to the Committee Against Torture in 2013, the Government stated that regulations authorising caning as a disciplinary punishment on inmates have been repealed:⁶ we have yet to confirm the details of this law reform.
- 2.7 **Sentence for crime (unlawful):** Corporal punishment is unlawful as a sentence for crime under the Revised Penal Code 2003, but provisions in the Establishment of Juvenile and Family Court and Procedure Act 1991 allowing courts to order flogging of children and young people in observation and protection centres (art. 39) are possibly still to be repealed.

3 Recommendations by human rights treaty bodies

- 3.1 **CRC:** The Committee on the Rights of the Child has three times recommended to Thailand that all corporal punishment of children be prohibited, including in the home – following examination of the initial state party report in 1998, the second report in 2006 and the third/fourth report in 2012.⁷

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.

⁵ [26 February 2013], CAT/C/THA/1, Initial state party report, p. 74

⁶ 9 July 2013, CAT/C/THA/1, Initial state party report, para. 129

⁷ 26 October 1998, CRC/C/15/Add.97, Concluding observations on initial report, para. 21; 17 March 2006, CRC/C/THA/CO/2, Concluding observations on second report, paras. 39, 40, 41, 76 and 77; 17 February 2012, CRC/C/THA/CO/3-4, Concluding observations on third/fourth report, paras. 7, 8, 47 and 48