

Corporal punishment of children in Thailand: Briefing for the Universal Periodic Review, 39th session, 2021

From the Global Partnership to End Violence Against Children, March 2021



This submission provides an update on the legality of corporal punishment of children in Thailand since its review in the second cycle UPR in 2016. Corporal punishment prohibition is still to be fully achieved in the home, alternative care settings and day care.

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 during the 2nd cycle UPR of Thailand in 2016.

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 2021 and make a specific recommendation that Thailand enact a legislation to clearly prohibit all corporal punishment of children in every setting of their lives and repeal Article 1567(2) of the Civil and Commercial Code, as a matter of priority.

1 Review of Thailand in the 2nd cycle UPR (2016) and progress since

1.1 Thailand was reviewed in the second cycle of the Universal Periodic Review in 2016 (session 25).

The issue of corporal punishment of children was raised in the compilation of UN information and the summary of stakeholders' information. Recommendations to prohibit corporal punishment were made and accepted by the Government:¹

1.2 Since the review, the Child Protection Act has been under review and reportedly proposed revisions include strengthened protection for children from all forms of violence, including corporal punishment. The Constitution of Thailand was signed by the King on 6 April 2017. It requires the State to protect children from violence and unfair treatment (art. 71).

1.3 **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 2021 and make a specific recommendation that Thailand enact a legislation to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, and repeal article 1567(2) of the Civil and Commercial Code, as a matter of urgency.**

¹ 15 July 2016, A/HRC/33/16, Report of the working group, paras. 158(103), 158(104), 158(105), 158(106)

2 Legality of corporal punishment in Thailand

Summary of current law and opportunities for achieving prohibition

Corporal punishment of children in Thailand is lawful in the home, alternative care settings and day care. Article 1567(2) of the Civil and Commercial Code states that parents have the right to impose “reasonable” punishment for the purpose of discipline. The near universal social acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment is acceptable. This provision should be repealed, and prohibition enacted of all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults have authority over children.

- 2.1 **Home (*lawful*):** Corporal punishment is lawful in the home. 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.” Article 26 of the Child Protection Act 2003 states that no person shall act in a way which tortures the physical or mental condition of a child but it does not clearly prohibit all corporal punishment. Provisions against violence and abuse in the Revised Penal Code 2003, the Criminal Procedure Code, the Domestic Violence Act 2007 and the Constitution 2007 are not interpreted as prohibiting all corporal punishment in childrearing.
- 2.2 In June 2016, the Child Protection Act was still under review and reportedly proposed revisions include strengthened protection for children from all forms of violence, including corporal punishment. The Constitution of Thailand was signed by the King on 6 April 2017. It requires the State to protect children from violence and unfair treatment (art. 71).
- 2.3 End Corporal Punishment no longer considers Thailand committed to prohibiting all corporal punishment of children without delay, as corporal punishment continues to remain lawful in the home and in alternative care and day care settings.
- 2.4 **Alternative care settings (*lawful*):** Corporal punishment appears to be lawful in alternative care settings. The Government has stated that it 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.² 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”.
- 2.5 **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 2003 (see under “Alternative care”) and article 1567 of the Civil and Commercial Code (see under “Home”).

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

2.6 **Schools (unlawful)**: Corporal punishment was prohibited in schools in 2000, when the Regulation on the Punishment of Students 2000 did not include caning among permitted disciplinary measures. This 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.”

2.7 **Penal institutions (unlawful)**: Corporal punishment is unlawful as a disciplinary measure in penal institutions under the Department of Corrections Regulation 2005 on Abolition of the Department of Corrections Regulations No. 3 on Punishment by Means of Physical Chastisement (1937). Previously, corporal punishment had been lawful under the Training Arrangement for Certain Groups of Children Act 1936, which provided 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 specified that the rod to be used must not exceed 75cm in length and 0.5cm in diameter (reg. 4).

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.

2.8 **Sentence for crime (unlawful)**: Corporal punishment is unlawful as a sentence for crime under the Revised Penal Code 2003 and the Juvenile and Family Court and Juvenile and Family Case Procedure Act 2010: the latter repealed the Establishment of Juvenile and Family Court and Procedure Act 1991, which had authorised courts to order flogging of children and young people in observation and protection centres (art. 39). The Constitution 2007 states that “torture, brutal acts or punishment by cruel or inhumane means shall not be inflicted” but also that “a punishment imposed pursuant to a Court judgment or by virtue of law shall not be deemed as punishment by cruel or inhumane means under this paragraph”.

3 Recommendations by human rights treaty bodies

3.1 **CRC**: The Committee on the Rights of the Child has three times expressed concern at corporal punishment of children in Thailand and recommended it be explicitly prohibited in the home— in its concluding observations on the state party’s initial report in 1998,³ on the state party’s second report on 2006⁴ and on the state party’s third and fourth report.⁵

Briefing prepared by End Corporal Punishment on behalf of the Global Partnership to End Violence Against Children

www.endcorporalpunishment.org; secretariat@end-violence.org

³ 26 October 1998, CRC/C/15/Add.97, Concluding observations on initial report, para. 21

⁴ 17 March 2006, CRC/C/THA/CO/2, Concluding observations on second report, paras. 39, 40, 41, 76 and 77

⁵ 17 February 2012, CRC/C/THA/CO/3-4, Concluding observations on third/fourth report, paras. 7, 8, 47 and 48