



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

## **SRI LANKA**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 2<sup>nd</sup> session, 2008**

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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 Sri Lanka, despite repeated recommendations by the Committee on the Rights of the Child. It also notes the commitment made by the government in 2006 to prohibition in all settings.**

**We hope the Review will highlight with concern Sri Lanka’s delay in responding to treaty body recommendations and strongly recommend that the government enact and implement as a matter of urgency legislation prohibiting corporal punishment of children in all settings, including in the home.**

## **I: Legality of corporal punishment in Sri Lanka**

### **The home**

Corporal punishment is lawful in the **home**. Article 82 of the Penal Code states: “Nothing, which is done in good faith for the benefit of a person under twelve years of age, or, of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause/or be intended by the doer to cause, or be known by the doer be likely to cause, to that person ....” One of the illustrations of the offence of criminal force in the Penal Code (article 341) states: “(i) A, a schoolmaster, in the reasonable exercise of his discretion, flogs B, one of his scholars. A does not use criminal force to B, because, although A intends to cause fear and annoyance to B, he does not use force illegally.”

At a meeting of the South Asia Forum in July 2006, following on from the regional consultation in 2005 of the UN Secretary General’s Study on Violence against Children, the government made a commitment to prohibition in all settings, including the home.

### **Schools and other settings**

Corporal punishment in **schools** is prohibited by way of a ministerial circular (Circular No. 2001/11 of 30 March 2001) but there is no explicit prohibition in law. The Corporal Punishment (Repeal) Act No. 23 (2005) abolished the power of the court to order corporal punishment for persistent truancy, previously permitted under the Education Ordinance.

In the **penal system**, corporal punishment is prohibited as a sentence for crime by the Corporal Punishment (Repeal) Act No. 23. The Act also repeals corporal punishment in prisons under the Prisons Ordinance but we have yet to confirm that provisions for disciplinary corporal punishment in other penal institutions (remand homes, approved schools, Borstal) have been repealed.

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

## **II: Recommendations by human rights treaty monitoring bodies**

The **Committee on the Rights of the Child** first expressed concern about corporal punishment of children in Sri Lanka in 1995, on examining the state party’s initial report (CRC/C/15/Add.40, para. 15). In 2003, following examination of the second report, the Committee again expressed concern and recommended prohibition, particularly in the penal system and in schools (CRC/C/15/Add.207, paras. 28 and 29).

The **Human Rights Committee** has also expressed concern about corporal punishment in schools, in its concluding observations on the combined fourth and fifth report in 2003 (CCPR/CO/79/LKA, para. 11).