

PHILIPPINES

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 13th session, 2012

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

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.

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 as a matter of priority.

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. There is growing progress across all regions in challenging this common form of violence against children. But many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope the Working Group of the UPR will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies on this issue, as well as to the recommendations made during the first cycle of the UPR.

Corporal punishment of children is lawful in the Philippines, despite recommendations made by the Committee on the Rights of the Child and statements on the issue made during the initial UPR in 2008.

We hope the Human Rights Council will highlight with concern the delay in passing legislation to prohibit corporal punishment in all settings in the Philippines, while acknowledging recent positive efforts, and strongly recommend that such legislation be enacted as a matter of urgency.

1 The initial review of Philippines by the Human Rights Council (2008)

1.1 The Philippines was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 1). No recommendation on corporal punishment was made during the review, though the issue was included in the summary of stakeholders' information.¹ The national report of the Philippines drew attention to the recommendations of the Committee on the Rights of the Child on corporal punishment and stated that the Government intended to “pursue passage of legislation addressing ... corporal punishment and other forms of violence in the home, school and the community”². The following recommendation was made during the review and was accepted:

“To address legislative gaps in the field of children rights in order to fully comply with the 2005 recommendations of the Committee on the Rights of the Child (Italy)”³

1.2 There have been efforts in the Philippines to effect law reform to prohibit corporal punishment of children in all settings, including the home. In August 2011, the Positive and Nonviolent Discipline of Children Bill (House Bill 4455) was approved by the House of Representatives and passed to the Senate, where it was given its first reading and passed to the relevant Committees.⁴ Another Bill introduced in the first instance in the Senate in July 2010 – the Anti-Corporal Punishment Bill (Senate Bill 873) – appears to be still at committee stage.⁵

1.3 Prohibiting corporal punishment is a key obligation under the Convention on the Rights of the Child and other international human rights instruments. While acknowledging the above mentioned moves towards law reform, at the time of submitting this briefing it must be noted that the legality of corporal punishment in the Philippines has not changed since the initial UPR in 2008: corporal punishment is prohibited in schools, the penal system and some care settings but remains lawful in the home and in other forms of care.

2 Legality of corporal punishment in the Philippines

2.1 Corporal punishment is lawful in the **home**. There are a number of legal defences for its use in childrearing:

- the Family Code (1987) states that the rights and duties of those exercising parental authority over children include “to impose discipline on them as may be required under the circumstances” (article 220);
- the Child and Youth Welfare Code (1974) confirms the right of parents “to discipline the child as may be necessary for the formation of his good character” (article 45);
- the Code of Muslim Personal Laws confirms parents’ “power to correct, discipline, and punish [their children] moderately” (article 74);
- the Revised Penal Code states that the higher penalties for serious physical injuries “shall not be applicable to a parent who shall inflict physical injuries upon his child by excessive chastisement” (article 263);

¹ 11 March 2008, A/HRC/WG.6/1/PHL/3, Summary of stakeholders' information, para. 25

² 7 March 2008, A/HRC/WG.6/1/PHL/1, National report submitted to the Universal Periodic Review, paras. 142 and 160

³ 23 May 2008, A/HRC/8/28, Report of the Working Group on the Universal Periodic Review: The Philippines, para. 58(9)

⁴ See http://www.senate.gov.ph/lis/bill_res.aspx?congress=15&q=HBN-4455 (accessed 25 November 2011)

⁵ See http://www.senate.gov.ph/lis/bill_res.aspx?congress=15&q=SBN-873 (accessed 25 November 2011)

- the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases state that “discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical or psychological injury as defined herein” (section 2).

2.2 Corporal punishment is prohibited in public and private **schools** under article 233 of the Family Code, confirmed in the Public Schools Service Manual (1992) and the Manual of Regulations for Private Schools (section 75, article XIV) (1992).

2.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime under the Revised Penal Code, the Rule on Juveniles in Conflict with the Law (Administrative Matter No. 02-1-18-SC) (2002) and the Juvenile Justice and Welfare Act (2006). The latter also prohibits its use as a disciplinary measure in penal institutions.

2.4 With regard to **alternative care settings**, corporal punishment is prohibited in residential institutions under section 1.4 of the Standards in the Implementation of Residential Care Services (Administrative Order No. 141) (2002) and in day care centres by section 233 of Executive Order No. 209. In other forms of care it is lawful as for parents.

2.5 A number of research studies have revealed the nature and extent of corporal punishment in homes and schools. For example, comparative research published in 2010 found that in the Philippines 71% of girls and 77% of boys had experienced “mild” corporal punishment (spanking, hitting, or slapping with a bare hand; hitting or slapping on the hand, arm, or leg; shaking; or hitting with an object), and 9% of girls and 8% of boys had experienced severe corporal punishment (hitting or slapping on the face, head, or ears; beating repeatedly with an implement) by someone in their household in the past month.⁶ A more recent survey of 270 children with an average age of 12 found that 61.1% had experienced physical punishment at home (74.5% of these had been pinched, 49.7% beaten, 13.9% slapped, 3.6% kicked and 3% punched).⁷ A 2009 study involving 2,400 children found that violence against children by adults in school is usually inflicted in the guise of discipline and included pinching, experienced by 18% of children aged 6-13, and spanking with hands or an object, experienced by 16% of 6-10 year-olds and 13% of 9-13 year-olds.⁸

3 Recommendations by human rights treaty monitoring bodies

3.1 The **Committee on the Rights of the Child** has twice recommended that the Philippines explicitly prohibit corporal punishment of children in all settings including the home – in its concluding observations on the state party’s second report in 2005⁹ and on the third/fourth report in 2009.¹⁰

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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⁶ Lansford, J. et al. (2010), “Corporal Punishment of Children in Nine Countries as a Function of Child Gender and Parent Gender”, *International Journal of Pediatrics*, Volume 2010, Article ID 672780

⁷ Sanapo, M. & Nakamura, Y. (2011), “Gender and Physical Punishment: The Filipino Children’s Experience”, *Child Abuse Review*, 20, 39-56

⁸ Plan Philippines (2009), *Toward a Child-Friendly Education Environment - A Baseline Study on Violence Against Children in Public Schools*

⁹ 21 September 2005, CRC/C/15/Add.259, Concluding observations on second report, paras. 41, 42 and 43

¹⁰ 22 October 2009, CRC/C/PHL/CO/3-4, Concluding observations on third/fourth report, paras. 10, 11, 12, 42 and 43