

Corporal punishment of children in the Philippines

Report prepared by the Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org), last updated August 2015



Global Initiative to
End All Corporal Punishment
of Children

Child population

39,758,040 (UNICEF, 2013)

The Philippines is committed to reforming its laws to prohibit corporal punishment in all settings.

The Philippines' commitment to prohibiting corporal punishment

The Philippines expressed its commitment to prohibiting corporal punishment in the home and other settings in accepting clearly the recommendation to do so made during the Universal Periodic Review of the Philippines in 2012. A Bill which would achieve prohibition is under discussion.

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home.

The Family Code 1987 recognises the right and duty of those with parental authority over children “to impose discipline on them as may be required under the circumstances” (art. 20); the Child and Youth Welfare Code 1974 recognises the right of parents “to discipline the child as may be necessary for the formation of his good character” (art. 45); the Code of Muslim Personal Laws states that in relation to their children parents have “the power to correct, discipline, and punish them moderately” (art. 74); 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” (s2). The near universal acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment is acceptable. These provisions should be repealed and the law should explicitly prohibit all corporal punishment and other cruel or degrading forms of punishment, in the home, schools and all settings where adults have parental authority over children.

Detailed country report

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. There are a number of legal defences for the use of corporal punishment 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” (art. 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” (art. 45).

The Code of Muslim Personal Laws confirms parents' "power to correct, discipline, and punish [their children] moderately" (art. 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" (art. 263); 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" (art. 2).

Since 2007, a number of bills which would prohibit corporal punishment have been introduced to Parliament but have failed to progress through both houses. In reporting to the Universal Periodic Review in 2012, the Government included Bill No. HB 4455 "on the promotion of positive discipline in lieu of corporal punishment" in a list of "priority bills" in the House of Representatives;¹ in 2013 its counterpart Bill No. SB 873 was pending in the Senate. Also pending in the Senate were Bill No. SB 1597 which would amend the Family Code to prohibit all corporal punishment and Bill No. 1107 which would amend the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Republic Act 7610 1992) to prohibit all corporal punishment. As at December 2014, the Anti-Corporal Punishment Bill (No. SB2182), which would prohibit all corporal punishment including in the home, was pending in the Senate, having been sent in May to the Committees on Youth and on Women, Family Relations and Gender Equality. The Bill was approved by the Committee on Children's Welfare in the House of Representatives in September 2014. House Bill 155 was filed in the House of Representatives, has been approved at Committee stage and is awaiting second reading.

House Bill 4907 – An Act Promoting Positive and Nonviolent Discipline of Children and Appropriating Funds Therefor" – was passed on third reading at the House of Representatives in December 2014 and is awaiting its first hearing in the Senate. The Bill prohibits corporal punishment in the home and all other setting (s5): "Corporal punishment of children, as defined in Section 3(b), is hereby prohibited in homes, schools, institutions, alternative care systems, workplaces, the juvenile welfare system, places of religious worship, and in all other settings. Parents, yayas, househelpers and caregivers, foster parents, guardians, relatives who have custody of the child, or other persons legally responsible for the child, including those exercising special or substitute parental authority, school teachers, personnel, and officers of both public and private academic and vocational institutions, employers and supervisors, service providers, priests, nuns, pastors and other members of religious congregations or churches, or any other person under whose care the child has been entrusted to and who inflicts corporal punishment on the child shall be liable in accordance with existing penal laws." Section 3(b) defines corporal punishment as "an act or acts which involve physical force and humiliating or degrading acts imposed upon a child as punishment for an alleged or actual offense inflicted by an adult or another child, who has been given or has assumed authority or responsibility for punishment or discipline. It includes physical, humiliating or degrading forms of punishment such as: (1) Blows including beating, kicking, slapping, lashing on any part of a child's body, with or without the use of an instrument such as cane, broom, stick, whip or belt; (2) Pulling hair, shaking, twisting joints, cutting or piercing skin, ragging or throwing a child; (3) Forcing a child, through the use of power, authority or threats, to perform physically painful or damaging acts, such as holding a weight or weights for an extended period or kneeling on stones, salt or pebbles; (4) Refusal to provide the child's physical needs; (5) Use of or exposure to substances that can cause discomfort or threaten the child's health, including fire, ice, water, smoke, pepper, alcohol, or dangerous chemicals such as bleach or insecticides, excrement, or urine; (6) Tying up a child; (7) Imprisoning a child; (8) Verbal abuse, or assaults including intimidation or threat of bodily harm, swearing or cursing, ridiculing or denigrating the child; (9) Making a child look or feel foolish in front of one's peers or the public such as shaving hair; and (10) Other analogous acts." Section 21 would repeal all laws or parts of laws inconsistent with the prohibition. As at August 2015, the Bill is pending in the Senate.

¹ 19 March 2012, A/HRC/WG.6/13/PHL/1, National report to the UPR, para. 82

Alternative care settings

Corporal punishment is unlawful in alternative care settings under article 233 of the Family Code 1987: “The person exercising substitute parental authority shall have the same authority over the person of the child as the parents. In no case shall the school administrator, teacher or individual engaged in child care exercising special parental authority inflict corporal punishment upon the child.” It is prohibited in residential institutions under article 1.4 of the Standards in the Implementation of Residential Care Services 2002 (Administrative Order No. 141).

Day care

Corporal punishment is prohibited in early childhood care and in day care for older children in article 233 of the Family Code 1987 (see under “Alternative care”).

Schools

Corporal punishment is prohibited in public and private schools in article 233 of the Family Code 1987 (see under “Alternative care settings”), confirmed in the Public Schools Service Manual 1992 and the Manual of Regulations for Private Schools 1992 (s75, art. XIV). In 2013, a Bill which aims to strengthen implementation of the prohibition (SB 3073, the Ending Corporal Punishment in Schools Bill) was pending in the Senate.

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 61 of the Juvenile Justice and Welfare Act 2006: “The following and any other similar acts shall be considered prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the child in conflict with the law and therefore, prohibited: ... (b) employment of abusive, coercive and punitive measures such as cursing, beating, stripping and solitary confinement; (c) employment of degrading, inhuman and cruel forms of punishment such as shaving the heads, pouring irritating, corrosive or harmful substances over the body of the child in conflict with the law, or forcing him/her to walk around the community wearing signs which embarrass, humiliate, and degrade his/her personality and dignity....”

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not a permitted sanction under the Revised Penal Code and is explicitly prohibited in the Rule on Juveniles in Conflict with the Law 2002 (Administrative Matter No. 02-1-18-SC) and the Juvenile Justice and Welfare Act 2006 (see under “Penal institutions”).

Universal Periodic Review of the Philippines’ human rights record

The Philippines was examined in the first cycle of the Universal Periodic Review in 2008 (session 1). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendation was made and was accepted by the Government:²

“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)”

² 23 May 2008, A/HRC/8/28, Report of the working group, para. 58(9)

Examination in the second cycle took place in 2012 (session 13). In its national report, the Government included “HB4455 on the promotion of positive discipline in lieu of corporal punishment” in a list of “priority bills” in the House of Representatives.³ The following recommendations were made during the review and were accepted by the Government:⁴

“Extend the prohibition of corporal punishment to the home and the family (Portugal); Ensure compliance with the rights of children and women, in prohibiting in particular corporal punishment and in implementing a plan of action against domestic violence (France); Explicitly prohibit all corporal punishment when raising children, at home, at school, institutions, the penal system and in all other areas, in accordance with Article 19 of the Convention on the Rights of the Child (Uruguay); Carry out education and awareness raising campaigns to inform parents and other actors of non-violent methods of disciplining and educating children (and the right of children to protection) (Uruguay); Intensify its awareness-raising campaign on the harmful effect of corporal punishment and on the use of alternative and non-violent forms of discipline in a manner consistent with the child’s dignity (Liechtenstein)”

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

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

“The Committee urges the State party to make every effort to address the previous recommendations that have been partly, insufficiently or not implemented at all, including those relating to the minimum age of sexual consent, discrimination against children born out of wedlock, child pornography, the prohibition of torture and the prohibition of corporal punishment and other forms of violence in the home, schools, in public and private institutions and in the alternative care system....

“While noting a number of legislative initiatives in the State party, the Committee remains concerned at the lack of legislation with regard to the prohibition of corporal punishment....

“The Committee recommends that the State party take all necessary measures to ensure the full and effective implementation of its domestic laws in order to better protect the rights of the child and to harmonize its legislation fully with the provisions and principles of the Convention, including through the expeditious adoption of the Anti-Corporal Punishment Act (Bill No. 682)...

“While noting that the Anti-Corporal Punishment Bill which prohibits corporal punishment in all settings is currently under discussion, the Committee reiterates its concern that corporal punishment in the home is not explicitly prohibited by law and that a provision on corporal punishment is not included in the Child and Youth Welfare Code. The Committee also expresses its concern at the prevalence of corporal punishment against children in society, in particular in the home and regrets that no comprehensive study on this issue has been undertaken, as recommended by the Committee in its previous concluding observations (CRC/C/15/Add.25, para. 42).

“The Committee urges the State party to:

- a) enact the Anti-Corporal Punishment Bill to explicitly prohibit by law corporal punishment in all settings, including in the home, schools, alternative childcare, places of work and places of detention;
- b) intensify its awareness-raising campaign to sensitize and educate parents and families, guardians and professionals working with and for children on the harmful effect of such practices, promote the use of alternative and non-violent forms of discipline in a manner consistent with the child’s dignity and in accordance with the Convention, especially article 28, paragraph 2;

³ 19 March 2012, A/HRC/WG.6/13/PHL/1, National report to the UPR, para. 82

⁴ 9 July 2012, A/HRC/21/12, Report of the working group, para. 129(24)

c) undertake a comprehensive study on the nature and extent of corporal punishment in different settings; and

d) take due account of the Committee's General Comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.”

Committee on the Rights of the Child

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

“While noting the State party's efforts to prohibit the use of corporal punishment in schools, prisons, institutions and forms of childcare by implementing various relevant provisions, the prevalence of corporal punishment in society gives cause for serious concern. The Committee is concerned that a provision for corporal punishment is not included in the Child and Youth Welfare Code and regrets that corporal punishment in the home is not explicitly prohibited by law.

“In the light of its general comment No.1 (2001) on the aims of education and the recommendations adopted by the Committee on its day of general discussion on violence against children within the family and in schools (see CRC/C/111), the Committee reiterates that corporal punishment is not compatible with the provisions of the Convention and it is inconsistent with the requirement of respect for the child's dignity, as specifically required by article 28, paragraph 2, of the Convention. Therefore, the Committee recommends that the State party prohibit by law all forms of corporal punishment in the home, in schools and in private and public institutions, in the juvenile justice system and the alternative care system.

“The Committee recommends to the State party that it conduct a comprehensive study to assess the nature and extent of corporal punishment in different settings, including the home environment. Furthermore, the Committee recommends that the State party sensitize and educate parents, guardians and professionals working with and for children by carrying out public education campaigns about the harmful impact of violent forms of ‘discipline’ and promote positive, non-violent forms of discipline as an alternative to corporal punishment.”

Prevalence/attitudinal research in the last ten years

In a study on the wellbeing and vulnerability of child domestic workers, 22% of the child domestic workers involved in the Philippines said their employers physically punished them. The study was conducted in 2009 in Peru, Costa Rica, Togo, Tanzania, India and Philippines with around 3,000 children, mostly aged 10-17, half of whom worked as paid or unpaid domestic workers.

(Anti-Slavery International (2013), *Home Truths: Wellbeing and vulnerabilities of child domestic workers*, London: Anti-Slavery International)

A study of the relationship between gender and physical punishment in China, Colombia, Italy, Jordan, Kenya, Philippines, Sweden, Thailand and the US, which used interviews with around 4,000 mothers, fathers and children aged 7-10, 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 the child on the face, head, or ears; beating the child repeatedly with an implement) by someone in their household in the past month. Smaller percentages of parents believed it was necessary to use corporal punishment to bring up their child: for girls, 13% of mothers and 16% of fathers believed it was necessary; for boys, 20% of mothers and 15% of fathers.

(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*)

A 2010 survey of 270 grade-six students with an average age of 12 found that 61.1% had experienced physical punishment at home; 74.5% of those who experienced physical punishment had been pinched, 49.7% beaten, 13.9% slapped, 3.6% kicked and 3% punched. Boys were more likely to be physically punished than girls, with 64.8% of boys experiencing beating compared to 40.9% of girls. The rate of pinching was similar for boys and girls. Mothers were reported to inflict more physical punishment than fathers, with mothers solely responsible for pinching, while both mothers and fathers beat children. The most common reasons for being physically punished were disobedience, cited by 35.6% of children who had been punished, and “pasaway” (35.3%) or being naughty, which included causing younger siblings to cry, interrupting adult conversations by what was perceived to be meaningless or disrespectful chatter, play-fighting with other children or siblings, making noises and disrupting order in the house. A third (32.9%) of the children said they “felt nothing” after being physically punished, 25% were angry, 14.5% lonely or sad and 7.2% felt hatred.

(Sanapo, M. & Nakamura, Y. (2010), “Gender and Physical Punishment: The Filipino Children’s Experience”, *Child Abuse Review*, published online in Wiley Online Library DOI: 10.1002/car.1148)

A 2009 study involving 2,400 children through questionnaires, interviews and group discussions found that violence against children by adults in school is usually inflicted in the guise of “discipline”. The most common form of violence by adults was pinching, experienced by 18% of 6-13 year olds. This was closely followed by verbal violence such as shouting, and spanking with hands or an object, experienced by 16% of 6-10 year olds and 13% of 9-13 year olds.

(Plan Philippines (2009), *Toward a Child-Friendly Education Environment - A Baseline Study on Violence Against Children in Public Schools*, plan-international.org/learnwithoutfear/files/philippines-toward-a-child-friendly-education-environment-english)

A UNICEF study found that 49.7% of 2-14 year olds experienced “minor” physical punishment and 12.9% severe physical punishment.

(ECPAT International, UNESCAP & UNICEF EAPRO (2008), *East Asia and the Pacific regional preparatory meeting for the World Congress III against sexual exploitation of children and adolescents: Regional report*, Bangkok, Thailand, cited in UNICEF East Asia and Pacific Regional Office (2012), *Child Maltreatment: Prevalence, Incidence and Consequences: A Systematic Review of Research*, Bangkok: UNICEF)

Large scale comparative research into the views and experiences of 3,322 children and 1,000 adults in 8 countries in Southeast Asia and the Pacific (Cambodia, Fiji, Hong Kong, Indonesia, Mongolia, Philippines, Republic of Korea and Viet Nam) was carried out by Save the Children in 2005. The research in the Philippines involved 139 children (69 boys, 70 girls) from urban areas and 78 adults (34 men and 44 women). Methods included research diaries, body maps, attitude survey, sentence completion, and discussions. Physical punishments mentioned by children in the Philippines included hitting, punishing, spanking, whipping, use of implements, hair pulling, ear twisting, and pinching.

(Beazley, H. et al (2006), *What Children Say: Results of comparative research on the physical and emotional punishment of children in Southeast Asia and Pacific (2005)*, Stockholm: Save the Children Sweden)

A large scale comparative study (World Studies of Abuse in the Family Environment (WorldSAFE)) which involved surveys with over 14,000 mothers of children aged under 18, carried out between 1998 and 2003, examined parental discipline in Brazil, Chile, Egypt, India, Philippines and the United States. In the Philippines, 83% of children experienced “moderate” physical discipline (including being “spanked” on the buttocks, hit with an object, slapped on the face and having hot pepper put in their mouth). Nearly one child in ten (9.9%) experienced harsh physical discipline (including being burnt, beaten up, kicked and smothered). More than seven in ten (71%) experienced harsh psychological discipline such as being called names, being cursed and being threatened with abandonment. “Moderate” psychological discipline, including being yelled or screamed at or being refused food was experienced by 87% of children. Non-violent discipline, including explaining why a behaviour was wrong and telling a child to stop, was also widely used (experienced by 98% of children). The study found that rates of harsh physical discipline were dramatically higher in all

communities than published rates of official physical abuse in any country, and that rates of physical punishment can vary widely among communities within the same country.

(Runyan, D. et al (2010), “International Variations in Harsh Child Discipline”, *Pediatrics*, published online 2 August 2010, www.pediatrics.org)

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August 2015