The human rights obligation to prohibit corporal punishment

The legality and practice of corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity and to equal protection under the law, and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment – rights guaranteed in the International Covenant on Civil and Political Rights and other international human rights instruments. This briefing describes the legality of corporal punishment of children in the Philippines and urges the Human Rights Committee to include the issue in its examination of the implementation of the Covenant.

The fourth periodic report of the Philippines to the Human Rights Committee

The fourth periodic state party report to the Human Rights Committee (CCPR/C/PHL/4) refers to the prohibition of physical punishment against prisoners/detainees (paras. 167, 181, 185, 186 and 187) but does not refer to physical/corporal punishment in relation to other settings, such as schools. The report provides extensive information on legislative and other measures to address violence against children (e.g. paras. 141ff) but does not discuss legalised violence against children in the form of corporal punishment as a disciplinary measure in childrearing.

Corporal punishment of children in Philippines

In the Philippines, corporal punishment of children is prohibited in schools, in the penal system and in residential care institutions but it is lawful in the home and in other care settings.

There are a number of laws which provide a legal defence 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” (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);
- 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).
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).

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.

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.

A number of research studies have revealed the nature and extent of corporal punishment in homes and schools. 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); 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. In a 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).

Opportunities for achieving law reform to prohibit corporal punishment

Since 2007, a number of bills which would prohibit corporal punishment have been introduced to Parliament but have failed to progress through both houses. As at December 2012, bills which would achieve prohibition are pending in the Senate.

Recommendations by human rights treaty monitoring bodies

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 2005 (CRC/C/15/Add.259, paras. 41, 42 and 43) and on the third/fourth report in 2009 (CRC/C/PHL/CO/3-4, paras. 10, 11, 12, 42 and 43).

We hope the Human Rights Committee will raise the issue of corporal punishment of children in its List of Issues for the Philippines, in particular asking:

- What measures have been taken to ensure that corporal punishment of children is explicitly prohibited, by law, in all settings including the home?

---

We hope the Committee will subsequently recommend that the state party adopts legislation to explicitly prohibit all corporal punishment of children in all settings, including the home and all forms of care, as a matter of priority.

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
December 2011