



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

## **BRIEFING ON CAMBODIA FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 111<sup>st</sup> session (Jul 2014)**

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### **1 The human rights obligation to prohibit corporal punishment**

- 1.1 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 Cambodia. In light of the obligation under international human rights law to prohibit all corporal punishment of children, the recommendations of the UN Secretary General’s Study on Violence against Children, the recommendations to Cambodia by the Human Rights Committee and the Committee on the Rights of the Child and the relevant recommendations during the Universal Periodic Review (which the Government accepted), we hope the Human Rights Committee will:**

- **raise the issue of corporal punishment of girls in its List of Issues for Cambodia, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home and all forms of alternative care, and**
- **recommend to Cambodia, in the concluding observations on the second state party report, that the new child protection legislation being drafted includes explicit prohibition of corporal punishment in all settings together with repeal of the Civil Code provision authorising discipline “within the necessary scope” (art. 1044).**

### **2 The legality and practice of corporal punishment of children in Cambodia**

- 2.1 **Summary:** Corporal punishment of children in Cambodia is unlawful in schools and the penal system but it is lawful in the home, in alternative care settings and in day care. Research has

shown that very many girls are beaten by their parents – especially their mothers – and by their teachers.

- 2.2 **Home (lawful):** The Civil Code states that “a person who has parental authority may discipline his/her child by himself/herself within necessary scope” (art. 1044, provisional translation). Article 8 of the Law on the Prevention of Domestic Violence and the Protection of Victims 2005 states that discipline of children is not considered as violence or domestic violence. Article 48 of the Constitution 1999 states that “the State shall protect the rights of children as stipulated in the Convention on Children”, but legal provisions against violence and abuse in the Constitution and in the Marriage and Family Law 1989 and the Criminal Code 2010 are not interpreted as prohibiting all corporal punishment in childrearing.
- 2.3 **Alternative care settings (lawful):** Corporal punishment is lawful under the provision in the Civil Code for a person with parental authority to discipline the child “within necessary scope” (art. 1044) (see para. 2.2).
- 2.4 **Day care (lawful):** Corporal punishment is lawful in early childhood care and in day care for older children under the provision in the Civil Code for a person with parental authority to discipline the child “within necessary scope” (art. 1044) (see para. 2.2).
- 2.5 **Schools (unlawful):** Corporal punishment is prohibited in public and private schools in the Education Law 2007 (art. 35): “The learner’s rights concerning education are: ... the right to be respected and paid attention on human rights, especially the right to dignity, the right to be free from any form of torture or from physical and mental punishment...” A directive from the Ministry of Education, Youth and Sport, No. 922 MoEYS to the Director of Provincial Education, Youth and Sport on the subject of “Punishment for students” confirms that “physical punishments such as hitting, kneeling down, standing under the sun”, as well as mental punishments such as imposing copying of lessons that is impossible to achieve and making students feel bad and humiliated and punishments such as forcing students to do inappropriate tasks, are banned in all educational institutions throughout the country.
- 2.6 **Penal institutions (unlawful):** Corporal punishment is unlawful under the Constitution 1999 (art. 38): “Coercion, physical ill-treatment or any other mistreatment that imposes additional punishment on a detainee or prisoner shall be prohibited.” However, there appears to be no explicit prohibition of corporal punishment.
- 2.7 Numerous research studies reveal the nature and extent of corporal punishment of children in Cambodia. A survey of 1,314 12-15 year olds found that 43.2% had been physically punished by a parent, 29.2% by a teacher.<sup>1</sup> In another study, 84% of 12-18 year olds said they had seen or heard of a teacher beating a boy, 67% a girl; 56% of boys and 19% of girls said they themselves had been beaten by a teacher. In the same study, 92% had seen or heard of a boy being beaten by a parent, 71% a girl; 67% of boys and 38% of girls had been beaten by their father, 76% of boys and 60% of girls by their mother.<sup>2</sup> In a Government-supported study, 50.5% of boys and 36.4% of girls reported having been beaten by their parents; the figures for being beaten by a school teacher were 34.7% and 24.1% respectively.<sup>3</sup> In a large scale survey by the Children and Young People Movement for Child Rights, 90% of respondents said their teachers would punish them if they did something wrong, and for 20% of these the punishment would be beating.<sup>4</sup>

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<sup>1</sup> Miles, G. & Thomas, N. (2007), “Don’t grind an egg against a stone’ – Children’s rights and violence in Cambodian history and culture”, *Child Abuse Review* 16(6), 383-400, cited in UNICEF East Asia and Pacific Regional Office (2012), *Child Maltreatment: Prevalence, Incidence and Consequences: A Systematic Review of Research*, Bangkok: UNICEF

<sup>2</sup> Fordham, G. (2005), “Wise” Before their Time: young people, gender-based violence and pornography in Kandal Stung district, Phnom Penh: World Vision Cambodia

<sup>3</sup> Miles, G. & Varin, S. (2005), “Stop Violence Against Us!” *A preliminary national research study into the prevalence and perceptions of Cambodian children to violence against children in Cambodia, Summary report*, Tearfund

<sup>4</sup> Children and Young People Movement for Child Rights/Child Rights Foundation (2004), *Children’s Report: Children’s Views on Implementation of the UN Convention on the Rights of the Child in Cambodia 2000-2004*

### **3 Immediate opportunities for enacting prohibition of corporal punishment**

3.1 The Government reported to the Universal Periodic Review in 2014 that the Ministry of Social Affairs, Veterans and Rehabilitation and the National Council for Children have set up a working group to “initiate a Law on Child Protection”.<sup>5</sup> **This provides a key opportunity for enacting prohibition of corporal punishment in all settings, including the home: we hope the Human Rights Committee will urge the state party to ensure that the new law includes explicit prohibition of corporal punishment together with repeal of the Civil Code provision authorising discipline “within the necessary scope” (art. 1044).**

### **4 Recommendations by human right treaty monitoring bodies and during the UPR**

4.1 **CRC:** In its concluding observations on the state party’s second/third report in 2011, the Committee on the Rights of the Child recommended that Cambodia repeal article 1045 of the Civil Code and provisions of the Prevention of Domestic Violence and Protection of the Victims authorising corporal punishment and explicitly prohibit corporal punishment in all settings, including the family.<sup>6</sup>

4.2 **HCR:** In 1999, the Human Rights Committee expressed concern at beatings and ill-treatment of children in juvenile detention facilities and recommended that the state party take necessary protection measures.<sup>7</sup>

4.3 **UPR:** In the UPR of Cambodia in 2009, no specific recommendations were made concerning corporal punishment of children. However, the Government accepted the recommendations to “continue legal and judicial reforms and harmonization of the laws with international human rights instruments” and to “continue the development of specific legislation to promote and protect the rights of the child”.<sup>8</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>5</sup> 21 November 2013, A/HRC/WG.6/18/KHM/1, National report to the UPR, para. 91

<sup>6</sup> 20 June 2011, CRC/C/KHM/CO/2 Advance Unedited Version, Concluding observations on second/third report, para. 41

<sup>7</sup> 27 July 1999, CCPR/C/79/Add.108, Concluding observations on initial report, para. 15

<sup>8</sup> 4 January 2010, A/HRC/13/4, Report of the Working Group, paras. 82(5) and 82(80)