

**BRIEFING FROM GLOBAL INITIATIVE
TO END ALL CORPORAL PUNISHMENT OF CHILDREN**

**BRIEFING ON SRI LANKA FOR THE COMMITTEE AGAINST TORTURE
STATE EXAMINATION – October/November 2011**

*From Peter Newell, Coordinator, Global Initiative
info@endcorporalpunishment.org*

SRI LANKA (third/fourth report – CAT/C/LKA/3-4)

Corporal punishment of children in Sri Lanka

Corporal punishment is lawful in the **home**. The Penal Code (1883) was amended in 1995 to provide for the offence of cruelty to children (article 308A, amended further in 2006), but article 82 of the 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....”

Illustration (i) of the offence of “criminal force” (article 341) states that a schoolmaster who flogs a student is not using force illegally. Article 71(6) of the Children and Young Persons Ordinance (1939) confirms “the right of any parent, teacher or other person having lawful control or charge of a child ... to administer punishment to him”.

Corporal punishment is lawful in **schools**, as confirmed in the explanation of acceptable criminal force in the Penal Code (see above). A Ministerial Circular (No. 2005/17) states that corporal punishment should not be used in schools, but prohibition has not been confirmed in legislation. Provisions in the Education Ordinance (1939) allowing the court to order corporal punishment for persistent truancy (section 56) were repealed by the Corporal Punishment (Repeal) Act No. 23 (2005).

In the **penal system**, corporal punishment is unlawful as a sentence for crime under the Corporal Punishment (Repeal) Act No. 23, but it is lawful as a disciplinary measure in penal institutions. Act No. 23 repeals corporal punishment in prisons under the Prisons Ordinance, but there is no prohibition relating to other penal institutions for young persons in conflict with the law such as remand homes, approved homes and certified schools.

Corporal punishment is lawful in **alternative care settings** under articles 82 and 341 of the Penal Code and article 71(6) of the Children and Young Persons Ordinance (see above).

Opportunities for achieving prohibition

The Government stated its commitment to prohibiting corporal punishment in all settings 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. In September 2011 it was reported that the Ministry of Women Empowerment and Child Welfare was drafting legislation to prohibit corporal punishment in schools, penal institutions and children’s homes.¹

Sri Lanka’s examination by the Committee Against Torture

The third/fourth report to the Committee (23 September 2010, CAT/C/LKA/3-4) makes a brief reference to the Corporal Punishment (Repeal) Act No. 23 (para. 13) but otherwise does not mention legislative and other measures to prohibit and eliminate corporal punishment of children. The List of Issues adopted by the Committee asks the state party to “indicate the measures taken to ensure that corporal punishment of children is explicitly prohibited in all settings, including in the home, schools,

¹ *Sri Lanka Guardian*, 2 September 2011

alternative childcare and places of detention for juveniles” (CAT/C/LKA/Q/3-4, Question 36). As at 14 October 2011, the Sri Lanka’s written response is not available at <http://www2.ohchr.org/english/bodies/cat/cats47.htm>.

Recommendations by human rights treaty bodies

The **Committee on the Rights of the Child** has three times recommended that Sri Lanka prohibit all corporal punishment of children – in its concluding observations on the state party’s third/fourth report in 2010 (CRC/C/LKA/CO/3-4 Advance Unedited Version, para. 41), on the second report in 2003 (CRC/C/15/Add.207, para. 29) and on the initial report in 1995 (CRC/C/15/Add.40, para. 32). The **Human Rights Committee** has also recommended prohibition of all corporal punishment (CCPR/CO/79/LKA, 2003, Concluding observations on the combined fourth and fifth reports, para. 11).

In 2005, the Committee Against Torture welcomed the enactment of the Corporal Punishment (Repeal) Act in Sri Lanka (CAT/C/LKA/CO/1/CRP.2, Concluding observations on second report, para. 3). We hope the Committee will now encourage the Government of Sri Lanka in its current efforts to enact legislation prohibiting corporal punishment, and recommend that prohibition be enacted in relation to *all* settings, including the home, supported by appropriate public education and professional training on positive, non-violence forms of education and childrearing.

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