



Global Initiative to
End All Corporal Punishment
of Children

**BRIEFING ON CAMBODIA FOR THE COMMITTEE ON THE
ELIMINATION OF DISCRIMINATION AGAINST WOMEN
PRESESSIONAL WORKING GROUP – Feb/Mar 2013**

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The human rights obligation to prohibit corporal punishment – a key strategy in eliminating all forms of violence

The legality and practice of corporal punishment of girls breaches their fundamental rights to respect for their human dignity and physical integrity, to equality under the law and to protection from all forms of violence – rights guaranteed in the Convention on the Elimination of All Forms of Discrimination Against Women and other international human rights instruments. There are strong links between corporal punishment of children – girls and boys – and all other forms of violence, including gender-based violence. As the Committee on the Rights of the Child emphasised in its General Comment No. 8 (2006),¹ addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.

This briefing describes the legality of corporal punishment of children in Cambodia. In light of General Recommendation No. 19 on Violence against women (1992), the links between corporal punishment of children and all other forms of violence including gender-based violence and the recommendations of treaty monitoring bodies, we hope the Committee on the Elimination of Discrimination Against Women 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 fourth/fifth state party report, that corporal punishment is explicitly prohibited in all settings, including the home and all forms of alternative care, as a matter of priority.**

¹ General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” is available at www2.ohchr.org/english/bodies/crc/comments.htm.

1 Cambodia's fourth/fifth report to CEDAW

1.1 The fourth/fifth report of Colombia to CEDAW (24 September 2011, CEDAW/C/KHM/4-5) provides information concerning violence against women and girls but makes no reference to the violence that may lawfully be inflicted on girls and boys within the family and other settings in the guise of “discipline”.

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 and in alternative care settings. Research has shown that very many girls are beaten by their parents – especially their mothers – and by their teachers.

2.2 *Home:* The Civil Code states that “a person who has parental authority may discipline his/her child by himself/herself within necessary scope” (article 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 *Schools:* Corporal punishment is prohibited under article 35 of the Education Law 2007.

2.4 *Penal system:* There is no provision for corporal punishment as a sentence for crime in criminal law. It is considered unlawful as a disciplinary measure in penal institutions under article 38 of the Constitution, but there appears to be no explicit prohibition.

2.5 *Alternative care settings:* Corporal punishment is lawful under article 1044 of the Civil Code (see above).

2.6 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.² 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.³ 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.⁴ In a large scale survey by the Children and Young People Movement

² 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

³ Fordham, G. (2005), “Wise” *Before their Time: young people, gender-based violence and pornography in Kandal Stung district*, Phnom Penh: World Vision Cambodia

⁴ 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

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.⁵

3 Recommendations by human right treaty monitoring bodies and during the UPR

- 3.1 *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.⁶
- 3.2 *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.⁷
- 3.3 *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”.⁸

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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⁵ 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*

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

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

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