

Corporal punishment of children in the Philippines: Briefing for the Universal Periodic Review, 41st session, Oct./Nov. 2022



From the Global Partnership to End Violence Against Children, March 2022

This submission provides an update on the legality of corporal punishment of children in the Philippines since its review in the third cycle UPR in 2017. Corporal punishment prohibition is still to be fully achieved in the home.

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In the Philippines, corporal punishment of children is lawful in the home, despite recommendations to prohibit it by the Committee on the Rights of the Child and during the 2nd and 3rd cycle UPR of the Philippines, respectively in 2012 and 2017.

We hope the Working Group will note with concern the legality of corporal punishment of children in the Philippines. We hope states will raise the issue during the review this year and make a specific recommendation that the Philippines accelerate its effort to clearly prohibit all corporal punishment of children in the home and repeal any legal defence allowing its use, as a matter of priority.

1 Review of the Philippines in the 3rd cycle UPR (2017) and progress since

1.1 The Philippines was reviewed in the third cycle of the Universal Periodic Review in 2017 (session 27). No recommendations were made specifically on corporal punishment, but the Government accepted general recommendations to eradicate all forms of violence against children.¹

¹ 18 May 2017, A/HRC/WG.6/27/L.10, Draft report of the Working Group, paras. 6(20), 6(235), 6(161) and 6(162)

1.2 Since the review, in late 2018, a Bill to prohibit corporal punishment and promote positive discipline and supported by the House of Representative and the Senate was introduced. However, in February 2019, the President of the Philippines vetoed the Bill.

1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in the Philippines. We hope states will raise the issue during the review this year and make a specific recommendation that the Philippines intensify its efforts to enact a legislation to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, as a matter of urgency.**

2 Legality of corporal punishment in the Philippines

Summary of current law and opportunities for achieving 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.

2.1 **Home (lawful):** 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).

- 2.2 Since 2007, several Bills which would prohibit corporal punishment were introduced to the Parliament. In late 2018, a consolidated Bill to prohibit corporal punishment- from the House of Representative and the Senate – was adopted during a bicameral committee conference. However, in February 2019, the President of the Philippines vetoed the Bill.
- 2.3 The Philippines is a Pathfinder country with the Global Partnership to End Violence Against Children, which was established in 2016. This commits the Government to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals. A Magna Carta for Children’s Rights is being developed in the House of Representatives.² A similar Magna Carta of Children is also being drafted in the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM). Prohibition of corporal punishments is one of the provisions under the child rights to protection.³
- 2.4 **Alternative care settings (unlawful):** 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).
- 2.5 **Day care (unlawful):** 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”).
- 2.6 **Schools (unlawful):** 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), as well as in the 2012 Department of Education Child Protection Policy (Departmental Order No. 40 of 2012, s15). 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. House Bill No. 58 was introduced in 2016 to clarify rules of discipline in public schools through the mandatory publication of a “code of discipline or student manuals” and teachers’ training in classroom management and positive discipline. It was reported to have passed the Committee stage in April 2018,⁴ but this is not confirmed by

² Communications with Save the Children Philippines, January 2020; see also <https://news.mb.com.ph/2019/11/18/swift-passage-of-magna-carta-for-children-pushed/>, last accessed 13 February 2020

³ Information provided by Save the Children Philippines in October 2021

⁴ See <http://politics.com.ph/house-committe-approves-bill-protecting-teachers-from-bad-students/>, accessed 25 June 2018

the House of Representatives' website.⁵

2.7 **Penal institutions (unlawful):** 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...."

Further protection is given under Republic Act No. 9745 – "An Act Penalising Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and Prescribing Penalties Therefor" 2009. To support its implementation, the Bureau of Jail Management and Penology (BJMP) promotes non-violent discipline and in 2013 issued a Memorandum ordering the confiscation of instruments used for corporal punishment, including sticks, paddles and belts.⁶

2.8 **Sentence for crime (unlawful):** 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").

3 Recommendations by human rights treaty bodies

3.1 **CAT:** In its 2016 concluding observations on the state party's third report, the Committee Against Torture expressed concern at the legality of corporal punishment of children in the home and recommended the Government expedite the adoption of a legislation to prohibit corporal punishment in all settings, including in the home.⁷

3.2 **CRC:** The Committee on the Rights of the Child has expressed concern at corporal punishment of children in the Philippines and recommended it be explicitly prohibited in all settings – in its concluding observations on the state party's second report in 2005,⁸ and on the state party's third-fourth report in 2009.⁹

⁵ See <http://www.congress.gov.ph/legisdocs/?v=bills>, last accessed 25 June 2018

⁶ 28 January 2015, CAT/C/PHL/3, Third state party report, para. 4

⁷ 2 June 2016, CAT/C/PHL/CO/3, Concluding observations on third report, paras. 41 and 42

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

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

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