**BRIEFING ON THE PHILIPPINES FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 128th session (March 2020)**

*From the Global Initiative to End All Corporal Punishment of Children, January 2020*

**This briefing describes the legality of corporal punishment of children in the Philippines. In light of the obligation under international human rights treaties to prohibit all corporal punishment of children, the global commitment to ending violence against children – including corporal punishment – in the context of the 2030 Agenda for Sustainable Development, the recommendations of the UN Secretary General’s Study on Violence against Children, and those made to the Philippines by the Committee on the Rights of the Child, the Committee Against Torture, and during the Universal Periodic Review in 2012 (which were accepted), 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 steps are being taken to enact legislation prohibiting all corporal punishment of children in the home, and**
* **in its concluding observations on the Philippines’ fifth state party report, recommend that legislation is enacted as a matter of urgency to prohibit all corporal punishment of children, however light, in all settings including in the home.**

**1 The report of the Philippines to the Human Rights Committee**

* 1. The Philippines’ fifth periodic report to the Human Rights Committee (CCPR/C/PHL/5) does not address corporal punishment of children and its continued legality.

**1.2 In light of the state’s obligation to explicitly prohibit corporal punishment in all settings, we hope the Committee will raise this issue in its review of the Philippines and recommend that legislation is immediately enacted to clearly and explicitly prohibit all corporal punishment of children, in all settings including the home.**

**2 The legality of corporal punishment of children in the Philippines**

2.1 ***Summary:*** Corporal punishment of children in the Philippines is prohibited in all settings outside the home.

2.2 ***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).

2.3 Since 2007, a number of bills which would prohibit corporal punishment have been introduced to Parliament but have failed to progress through both houses. In reporting to the Universal Periodic Review in 2012, the Government included Bill No. HB 4455 “on the promotion of positive discipline in lieu of corporal punishment” in a list of “priority bills” in the House of Representatives;[[1]](#footnote-1) in 2013 its counterpart Bill No. SB 873 was pending in the Senate. Also pending in the Senate were Bill No. SB 1597 which would amend the Family Code to prohibit all corporal punishment and Bill No. 1107 which would amend the Special Protection of Children Against Abuse, Exploitation and Discrimination Act (Republic Act 7610 1992) to prohibit all corporal punishment. As at December 2014, the Anti-Corporal Punishment Bill (No. SB2182), which would prohibit all corporal punishment including in the home, was pending in the Senate, having been sent in May to the Committees on Youth and on Women, Family Relations and Gender Equality. The Bill was approved by the Committee on Children’s Welfare in the House of Representatives in September 2014. House Bill 155 was filed in the House of Representatives, has been approved at Committee stage and is awaiting second reading.

2.4 House Bill 4907 – An Act Promoting Positive and Nonviolent Discipline of Children and Appropriating Funds Therefor” – was passed on third reading at the House of Representatives in December 2014 but failed to progress through the Senate. The Bill prohibits corporal punishment in the home and all other setting (s5): “Corporal punishment of children, as defined in Section 3(b), is hereby prohibited in homes, schools, institutions, alternative care systems, workplaces, the juvenile welfare system, places of religious worship, and in all other settings. Parents, yayas, househelpers and caregivers, foster parents, guardians, relatives who have custody of the child, or other persons legally responsible for the child, including those exercising special or substitute parental authority, school teachers, personnel, and officers of both public and private academic and vocational institutions, employers and supervisors, service providers, priests, nuns, pastors and other members of religious congregations or churches, or any other person under whose care the child has been entrusted to and who inflicts corporal punishment on the child shall be liable in accordance with existing penal laws.” Section 3(b) defines corporal punishment as “an act or acts which involve physical force and humiliating or degrading acts imposed upon a child as punishment for an alleged or actual offense inflicted by an adult or another child, who has been given or has assumed authority or responsibility for punishment or discipline. It includes physical, humiliating or degrading forms of punishment such as: (1) Blows including beating, kicking, slapping, lashing on any part of a child’s body, with or without the use of an instrument such as cane, broom, stick, whip or belt; (2) Pulling hair, shaking, twisting joints, cutting or piercing skin, ragging or throwing a child; (3) Forcing a child, through the use of power, authority or threats, to perform physically painful or damaging acts, such as holding a weight or weights for an extended period or kneeling on stones, salt or pebbles; (4) Refusal to provide the child’s physical needs; (5) Use of or exposure to substances that can cause discomfort or threaten the child’s health, including fire, ice, water, smoke, pepper, alcohol, or dangerous chemicals such as bleach or insecticides, excrement, or urine; (6) Tying up a child; (7) Imprisoning a child; (8) Verbal abuse, or assaults including intimidation or threat of bodily harm, swearing or cursing, ridiculing or denigrating the child; (9) Making a child look or feel foolish in front of one’s peers or the public such as shaving hair; and (10) Other analogous acts.” Section 21 would repeal all laws or parts of laws inconsistent with the prohibition.

2.5 In 2016, House Representative Herrera-Dy reintroduced the text of House Bill No. 4907 as House Bill No. 516. In parallel in 2017, senators who had filed separate bills to prohibit corporal punishment and promote positive discipline (Senate Bills No. 1136, 1170, 1189 and 1348) joined forces and introduced Senate Bill No. 1477, which closely mirrors the text of House Bill No. 4907, as a consolidated Bill. As of December 2018, both Bills had passed final reading in their respective Houses and have been reconciled into a single version during a bicameral committee conference. But in February 2019, the President of the Philippines vetoed the Bill.

2.6 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 Discussion Paper entitled “An historic opportunity to end violence against children” published in May 2016 suggested the enactment of the Positive Discipline Bill. This was reiterated in the Philippines Plan of Action to End Violence Against Children 2017-2022. The Constitution is under review.

2.7 ***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).

2.8 ***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.

2.9 ***Schools (unlawful):***Corporal punishment is prohibited in public and private schools in article 233 of the Family Code 1987, 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.

2.10 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,[[2]](#footnote-2) but this is not confirmed by the House of Representatives’ website.[[3]](#footnote-3)

2.11 ***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….”

2.12 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.[[4]](#footnote-4)

2.13 ***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.

**3 Recommendations by human rights treaty bodies and during the UPR**

3.1 ***CRC***: The Committee on the Rights of the Child has twice made recommendations to the Philippines to prohibit and eliminate corporal punishment in all settings including the home – in 2005 in concluding observations on the second state party report[[5]](#footnote-5) and in 2009 on the third/fourth report.[[6]](#footnote-6)

3.2 ***CAT***: In 2016, the Committee Against Torture expressed concern that corporal punishment of children was still lawful in the home and recommended the expedited adoption of legislation prohibiting corporal punishment in all settings.[[7]](#footnote-7)

3.3 ***UPR***: The Philippines was reviewed in the second cycle of the Universal Periodic Review in 2012 (session 13). A number of recommendations were made to prohibit all corporal punishment of children, all of which the Government accepted.[[8]](#footnote-8)

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

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1. 19 March 2012, A/HRC/WG.6/13/PHL/1, National report to the UPR, para. 82 [↑](#footnote-ref-1)
2. See <http://politics.com.ph/house-committe-approves-bill-protecting-teachers-from-bad-students/>, accessed 25 June 2018 [↑](#footnote-ref-2)
3. See <http://www.congress.gov.ph/legisdocs/?v=bills>, last accessed 25 June 2018 [↑](#footnote-ref-3)
4. 28 January 2015, CAT/C/PHL/3, Third state party report, para. 4 [↑](#footnote-ref-4)
5. 21 September 2005, CRC/C/15/Add.259, Concluding observations on second report, paras. 41, 42 and 43 [↑](#footnote-ref-5)
6. 22 October 2009, CRC/C/PHL/CO/3-4, Concluding observations on third/fourth report, paras. 10, 11, 12, 42 and 43 [↑](#footnote-ref-6)
7. (2 June 2016, CAT/C/PHL/CO/3, Concluding observations on third report, paras. 41 and 42) [↑](#footnote-ref-7)
8. 9 July 2012, A/HRC/21/12, Report of the working group, para. 129(24) [↑](#footnote-ref-8)