

# **BRIEFING ON THE PHILIPPINES FOR THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, PRE-SESSIONAL WORKING GROUP, 7-11 March 2016**

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

**This briefing describes the legality of corporal punishment of children in the Philippines. 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 made to the Philippines by the Committee on the Rights of the Child and during the UPR of the Philippines in 2012 (accepted by the Government), we hope the Committee on Economic, Social and Cultural Rights will:**

- **in its List of Issues for the Philippines, raise the issue of corporal punishment of children, in particular asking what steps are being taken to ensure that the law clearly prohibits all forms of corporal punishment in all settings, including the home?**
- **in its concluding observations on the Philippines’ fifth/sixth report, recommend that legislation is enacted as a matter of priority to clearly prohibit all corporal punishment, including in the home, and to repeal/amend all legal provisions for a “right to discipline” children.**

## **1 The legality of corporal punishment of children in the Philippines**

1.1 **Summary:** In the Philippines, corporal punishment is unlawful in the penal system, schools, alternative care settings and day care but it is not prohibited in the home. Many bills which would achieve prohibition have been drafted and introduced but have to date failed to progress satisfactorily through parliament.

1.2 **Home (lawful):** There are a number of legal defences for the use of corporal punishment in childrearing in the laws of the Philippines. 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).

- 1.3 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;<sup>1</sup> 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.
- 1.4 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 and is awaiting its first hearing in the Senate. The Bill would prohibit corporal punishment in the home and all other setting.
- 1.5 ***Alternative care settings (unlawful)***: Corporal punishment is unlawful 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).
- 1.6 ***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 above).
- 1.7 ***Schools (unlawful)***: Corporal punishment is prohibited in public and private schools in article 233 of the Family Code 1987 (see above). Prohibition is confirmed in the Public Schools Service Manual 1992 and the Manual of Regulations for Private Schools 1992 (s75, art. XIV).
- 1.8 ***Penal institutions (unlawful)***: Article 61 of the Juvenile Justice and Welfare Act 2006 explicitly prohibits corporal punishment. 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.<sup>2</sup>
- 1.9 ***Sentence for crime (unlawful)***: Corporal punishment 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.

## **2 Recommendations by human rights treaty bodies and during the UPR**

- 2.1 ***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

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<sup>1</sup> 19 March 2012, A/HRC/WG.6/13/PHL/1, National report to the UPR, para. 82

<sup>2</sup> 28 January 2015, CAT/C/PHL/3, Third state party report, para. 4

2005 in concluding observations on the second state party report<sup>3</sup> and in 2009 on the third/fourth report.<sup>4</sup>

2.2 **UPR:** The Philippines was reviewed in the second cycle of the UPR in 2012 (session 13). A number of recommendations were made to prohibit all corporal punishment of children, all of which the Government accepted.<sup>5</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>3</sup> 21 September 2005, CRC/C/15/Add.259, Concluding observations on second report, paras. 41, 42 and 43

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

<sup>5</sup> 9 July 2012, A/HRC/21/12, Report of the working group, para. 129(24)