



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

THAILAND – COUNTRY REPORT

Child population: 17,902,000 (UNICEF, 2009)

Summary of necessary legal reform to achieve full prohibition

Settings where explicit prohibition is necessary

home, penal system, alternative care settings

Is there a legal defence for corporal punishment which must be repealed?

Yes – Article 1567(2) of the Civil and Commercial Code states that parents have the right to impose “reasonable” punishment for the purpose of discipline. The near universal social acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment is acceptable. This provision should be repealed, and explicit prohibition enacted of all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults have authority over children.

Other legislative measures necessary

Penal system – Corporal punishment is unlawful in the penal system, but provisions for flogging/whipping in the Establishment of Juvenile and Family Court and Procedure Act (1991, amended 2005), the Training Arrangement for Certain Groups of Children Act (1936) and the Ministry of Interior Regulation on Punishment of Certain Groups of Children Regulation (1937) have yet to be repealed. These provisions should be repealed and explicit prohibition enacted in relation to the disciplinary measures permitted in all institutions accommodating children in conflict with the law.

Alternative care settings – The provisions against violence and abuse in the Child Protection Act are inadequate to protect children from corporal punishment and are undermined by provisions for punishing children in articles 61 and 65 of the Act. These provisions should be repealed/amended and explicit prohibition enacted in legislation applicable to *all* alternative care settings, including public and private day care, residential institutions, foster care, etc, in addition to repeal of article 1567(2) of the Civil and Commercial Code (see above).

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment is lawful in the home. Article 1567(2) of the Civil and Commercial Code states that those with parental authority over children have the right to impose “reasonable” punishment for the purpose of discipline. Provisions against violence and abuse in the Penal Code, the Child Protection Act (2003), the Criminal Procedure Code, the Domestic Violence Act (2007) and the Constitution (1997) are not interpreted as prohibiting all corporal punishment in childrearing.

Schools

Corporal punishment is prohibited in schools under the Regulation on the Punishment of Students (2000). The Ministry of Education Regulation on Student Punishment (2005) does not include corporal punishment among permitted disciplinary measures. Also applicable is the National Committee on Child Protection Regulation on Working Procedures of Child Protection Officers Involved in Promoting Behaviour of Students (2005), pursuant to article 65 of the Child Protection Act.

Penal system

Corporal punishment is prohibited as a **sentence for crime** under the Revised Penal Code (2003), but as at 2010, provisions in the Establishment of Juvenile and Family Court and Procedure Act (1991) allowing courts to order flogging of children and young people in observation and protection centres (article 39) had not been repealed.

Corporal punishment is prohibited as a **disciplinary measure** in penal institutions by the Ministry of Justice Regulation on Children and Youth Punishment and Provisional Permission for Children and Youth (2003) pursuant to the Child Protection Act. However, the Establishment of Juvenile and Family Court and Procedure Act allows the Director of an observation and protection centre to order a child to be flogged for disciplinary breaches. The Training Arrangement for Certain Groups of Children Act (1936) provides for whipping up to 10 strokes of children in correctional schools, vocational training schools and penitentiaries (article 11). The Ministry of Interior Regulation on Punishment of Certain Groups of Children Regulation (1937) specifies that the rod to be used must not exceed 75cm in length and 0.5cm in diameter (regulation 4). As at 2010, these provisions had not been repealed.

Alternative care

Corporal punishment appears to be lawful in alternative care settings. The Government has stated that it is prohibited in the Regulation of the Ministry of Social Development and Human Security on Child Punishment of 2005 which does not include corporal punishment among permitted disciplinary measures (20 January 2012, CRC/C/THA/Q/3-4/Add.1, Written replies to the Committee on the Rights of the Child, para. 44). However, the prohibition appears to apply only to corporal punishment of a certain severity: under article 61 of the Child Protection Act an owner, guardian of safety, and staff of a nursery, remand home, welfare centre, safety protection centre and development and rehabilitation centre must not mentally or physically assault or impose harsh punishment on any child under their care and guardianship, “except where such acts are reasonably applied for disciplinary purposes in accordance with the regulations specified by the Minister”. Article 65 of the Act provides for punishment of children which must be “carried out reasonably for disciplinary purposes”.

Prevalence research

A study of the relationship between gender and physical punishment in China, Colombia, Italy, Jordan, Kenya, Philippines, Sweden, Thailand and the US, which used interviews with around 4,000 mothers, fathers and children aged 7-10, found that in Thailand 58% of girls and 72% of boys involved in the study had experienced “mild” corporal punishment (spanking, hitting, or slapping with a bare hand; hitting or slapping on the hand, arm, or leg; shaking; or hitting with an object), and 5% of girls and 3% of boys had experienced severe corporal punishment (hitting or slapping the child on the face, head, or ears; beating the child repeatedly with an implement) by someone in their household in the past month. Smaller percentages of parents believed it was necessary to use corporal punishment to bring up their child: for girls, 16% of mothers and 22% of fathers believed it was necessary; for boys, 11% of mothers and 10% of fathers believed it was necessary. (Lansford, J. et al. (2010), “Corporal Punishment of Children in Nine Countries as a Function of Child Gender and Parent Gender”, *International Journal of Pediatrics*)

A UNICEF study involving more than 2,300 children in the southern border area of Thailand found that violence, and the anxiety it causes, is an everyday occurrence in their lives, including corporal punishment in homes and schools. Of the 475 children who answered a question about corporal punishment in the home, 38% said they had direct experience of violent punishment like beating with a stick or belt; 8% said this kind of punishment happens often. Half of the 1,010 children who answered a question on their opinion on corporal punishment at home disagreed that they deserved violent punishment when they did wrong. (UNICEF (2008), *Everyday Fears: A study of children’s perceptions of living in the southern border area of Thailand*, Bangkok: UNICEF)

In November 2006, the findings of a study funded by the National Health Foundation were released which showed that corporal punishment continues to be used in schools, despite its prohibition. The research constituted a questionnaire sent to 1,300 teachers in primary and high schools across the country. Punishments reported included hitting students with open palms, fists, clothes and blunt objects, kicking, applying heated materials and slapping the face. Up to 60% of the teachers strongly believed that corporal punishment was the right method to use with students. (Reported in *The Nation*, 17 November 2006)

The Government’s written reply to the list of issues raised by the Committee on the Rights of the Child in 2005 gives the following figures for the percentages of children aged 6-12 and 13-17 experiencing domestic violence in 2003: being yelled at/scolded 45.9% and 51.5% respectively; being cursed with bad words 31.1% and 32.1%; being condemned 6.0% and 8.2%; being compared to an animal 8.3% and 11.8%; being whipped/caned 27.9% and 7.8%; being thrown at with an object 6.6% and 7.2%; having hair pulled 5.0% and 2.2%; being slapped 3.7% and 3.0%; being kicked and punched 2.9% and 2.5%; being trampled on 1.4% and 0.9%; having head knocked against the wall 0.7% and 0.2%; and being burned with a cigarette 0.3% and 0.1%. (Associate Prof. L. Mohsuwan et al. (2003), reported in Ministry of Social Development and Human Security, Replies to the List of Issues Sent by The United Nations Committee on the Rights of the Child, CRC/C/THA/Q/2/Add.1, 2005)

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(3 February 2012, CRC/C/THA/CO/3-4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 7, 8, 47 and 48)

“The Committee, while welcoming the State party’s efforts to implement the concluding observations on the State party’s second periodic report (CRC/C/THA/CO/2 of 2006), notes with regret that a number of the recommendations contained therein have not been given sufficient follow-up.

“The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations on the State party’s second periodic report that have not yet been, or not sufficiently, implemented, including on such issues as ... corporal punishment in the home. ... The Committee also urges the State party to provide adequate follow up to the recommendations contained in the present concluding observations.

“The Committee is concerned that corporal punishment remains lawful in the home. Moreover, Article 1567 of the Civil and Commercial Code states that those with parental authority over children have a right to impose ‘reasonable’ punishment for the purpose of discipline.

“The Committee reiterates its previous concerns and concluding observations (CRC/C/THA/CO/2, paras. 40 and 41) and encourages the State Party to take into account its General Comment No. 13 (2011) on the right of the child to freedom from all forms of violence and its General Comment No. 8 (2006), on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment in adopting measures to combat all forms of violence against children.

The Committee recommends that the State party:

a) prohibit explicitly by law corporal punishment of children in the home and alternative care settings, including for disciplinary purposes;

b) introduce sustained public education and awareness raising and social mobilization programmes involving children, families and communities on the harmful effects of corporal punishment with a view to changing attitudes and promoting alternative, positive and non-violent forms of child-rearing and discipline;

c) prioritize the elimination of all forms of violence against children, and ensure the effective implementation of the recommendations of the United Nations study on violence against children (A/61/299);

d) provide information concerning the implementation by the State party of the recommendations of the above-mentioned study in its next periodic report, particularly those highlighted by the Special Representative of the Secretary-General on violence against children, in particular:

(i) the development in each State of a national comprehensive strategy to prevent and address all forms of violence and ill-treatment against children, paying particular attention to gender;

(ii) the introduction of an explicit national legal ban on all forms of violence against children in all settings; and

(iii) the consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence and ill-treatment against children.”

Committee on the Rights of the Child

(17 March 2006, CRC/C/THA/CO/2, Concluding observations on second report, paras. 39, 40, 41, 76 and 77)

“The Committee notes the State party’s efforts to prohibit the use of corporal punishment in schools and takes note of the recent Ministerial regulation prohibiting the use of corporal punishment in penal institutions. The Committee nevertheless regrets that corporal punishment in the home and in alternative care settings is not explicitly prohibited by law. Further, it notes the State party’s acknowledgement that child victims are often afraid to complain and that assistance is rarely available to them.

“The Committee reiterates that corporal punishment is not compatible with the provisions of the Convention and is not consistent with the requirement of respect for the child’s dignity, as specifically required by article 28, paragraph 2 of the Convention. Therefore, the Committee urges the State party, taking into account the recommendations adopted by the Committee on its day of general discussion

on violence against children within the family and in schools (see CRC/C/111), to prohibit by law all forms of corporal punishment in the home and in all alternative care settings.

“The Committee recommends that the State party sensitize and educate parents and other caregivers, law enforcement officials and professionals working with and for children by carrying out public awareness-raising campaigns about the harmful impact of corporal punishment. It encourages the State party to promote positive, non-violent forms of discipline as an alternative to corporal punishment. The Committee also recommends that the State party establish specific child-sensitive complaint mechanisms and services, and ensure access of all children to these mechanisms.

“The Committee welcomes the recent amendment to the Act Instituting the Juvenile and Family Courts and the Juvenile and Family Procedures of 1991 that entered into force in February 2005.... It notes the recent Ministerial regulation prohibiting corporal punishment in penal institutions....

“The Committee reiterates its previous recommendations and urges the State party to ensure that its legislation and practice concerning juvenile justice is in full compliance with the provisions of the Convention, in particular articles 37, 39 and 40, as well as other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (General Assembly resolution 40/33), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (General Assembly resolution 45/112), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113), and the Guidelines for Action on Children in the Criminal Justice System (annexed to Economic and Social Council resolution 1997/30 of 21 July 1997). In this regard, the Committee recommends that the State party: ...

b) amend its national legislation to reinforce the prohibition against the use of corporal punishment in penal institutions; ...”

Committee on the Rights of the Child

(26 October 1998, CRC/C/15/Add.97, Concluding observations on initial report, para. 21)

“The Committee notes the State party’s efforts to prohibit the use of corporal punishment in schools. It is concerned, however, that corporal punishment is still practised and that domestic legislation does not prohibit its use within the family, the juvenile justice and alternative care systems and generally within the society. In this regard, the Committee recommends that the State party take all appropriate measures, including of a legislative nature, to prohibit corporal punishment within the family, the juvenile justice and alternative care systems and generally within the society. It further suggests that awareness-raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28.2.”

Universal Periodic Review

Thailand was examined in the first cycle of the Universal Periodic Review in 2011. Recommendations were made to prohibit corporal punishment of children in all settings, to which the Government’s response is due no later than March 2012 (A/HRC/19/8, Report of the Working Group, paras. 89(36) and 89(37)). Examination in the second cycle is scheduled for 2016.

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

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February 2012