

BRIEFING FROM GLOBAL INITIATIVE **TO END ALL CORPORAL PUNISHMENT OF CHILDREN**

BRIEFING FOR THE COMMITTEE ON THE RIGHTS OF THE CHILD PRE-SESSIONAL WORKING GROUP – June 2011

*From Peter Newell, Coordinator, Global Initiative
info@endcorporalpunishment.org*

MYANMAR (third/fourth report – CRC/C/MMR/3-4)

Corporal punishment in the home

Corporal punishment is lawful in the **home**. Article 66 of the Child Law (1993) provides for “the type of admonition by a parent, teacher or a person having the right to control the child, which is for the benefit of the child”, and article 89 of the Penal Code states that, with certain provisos, “nothing which is done in good faith for the benefit of a person under twelve years of age ..., of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person”. In a comparative study of 10,073 children aged 9-17 years across East Asia and the Pacific by UNICEF and Research International Asia (Thailand) in 2001, 40% of those surveyed in Myanmar reported having been beaten by their parents.¹

In the Universal Periodic Review of Myanmar in January 2011, the Government rejected recommendations to prohibit corporal punishment of children in the family.²

Corporal punishment outside the home

Government directives state that corporal punishment should not be used in **schools** but there is no explicit prohibition in law and Government advice is undermined by article 66 of the Child Law and article 89 of the Penal Code (see above). In a 2002 study by UNICEF, 17% of children surveyed in four peri-urban townships said they were unhappy at school because teachers beat them.³

In the **penal system**, corporal punishment is unlawful as a sentence for crime under article 45 of the Child Law and Rule 100 of the Rules of the Child Law (2001), and there is no provision for judicial corporal punishment in the Penal Code. However, it appears that provisions for whipping have yet to be repealed from the Criminal Procedure Code and the Whipping Act and the Citizenship Act.

Corporal punishment is lawful as a disciplinary measure in prisons under the Prisons Act (articles 46, 47, 50, 51 and 53), including for children under 16. There is no provision for corporal punishment in training schools and prisons in the Rules of the Child Law, but article 66 of the Child Law and article 89 of the Penal Code (see above) potentially apply.

Corporal punishment is lawful in **alternative care settings** under article 66 of the Child Law and article 89 of the Penal Code (see above).

The Committee on the Rights of the Child has twice recommended explicit prohibition of corporal punishment of children in Myanmar, including repeal of the Citizenship Act, the Village

1 UNICEF (2001), *Speaking Out! Voices of Children and Adolescents in East Asia and the Pacific*

2 2 February 2011, A/HRC/WG.6/10/L.7, *Draft report of the Working Group on the Universal Periodic Review: Myanmar*, para. 107(12)

3 Reported by UNICEF, September 2003

and Towns Act and the Whipping Act – in 1997 in concluding observations on the initial report (CRC/C/15/Add.69, para. 28) and in 2004 on the second report (CRC/C/15/Add.237, paras. 7, 8, 38 and 39). In light of the Committee on the Rights of the Child’s General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” and the importance of eradicating this form of violence given by the UN Secretary General’s Study on Violence against Children, we hope the Committee will urge the Government of Myanmar to enact legislation to prohibit corporal punishment in all settings, including the home and in schools, and to repeal all legal defences for its use in childrearing and education as well as all laws allowing corporal punishment as a sentence of the courts.

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
April 2011