



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

BRUNEI DARUSSALAM
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Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General's Study on Violence against Children, as a highly significant issue, both for asserting children's status as rights holders and for the prevention of all forms of violence.

The Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies, and regional human rights mechanisms, have condemned all corporal punishment. In October 2006, the report of the UN Secretary General's Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment, setting a goal of 2009.

Summary

This briefing describes the legality of corporal punishment of children in Brunei Darussalam, despite the strong recommendations of the Committee on the Rights of the Child. We hope the Review will highlight the importance of prohibition of corporal punishment of children, including in the home and as a judicial sentence, and urge the government to introduce legislation as a matter of priority to prohibit corporal punishment of children in *all* settings.

1 Legality of corporal punishment in Brunei Darussalam

1.1 Corporal punishment is lawful in the **home**. Article 89 of the Penal Code states that, with certain exceptions, “nothing which is done in good faith for the benefit of a person under 12 years of age ... by or by consent, either express or implied, 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”. The Children and Young Persons Order (2006) would punish only child abuse which causes “substantial and observable” injury (article 2). As at April 2008 this was not in force.

1.2 Corporal punishment is lawful in **schools**.

1.3 In the **penal system**, corporal punishment is lawful as a sentence for crime. Males aged 7-17 may be sentenced to be whipped up to 18 strokes, inflicted in the manner of school discipline (Criminal Procedure Code, article 257), for a wide range of offences under the Penal Code and other laws. Article 44 of the Children and Young Persons Order would allow such a sentence to be passed only by the High Court.

1.4 Corporal punishment is lawful as a disciplinary measure in penal institutions. Under sections 51-55 of the Youthful Offenders (Places of Detention) Rules (2001), males under the age of 14 may be given up to 6 strokes with a light cane, older children up to 10 strokes. The medical officer must certify that the person is able to sustain the punishment. Section 76 of the Children and Young Persons Order would permit the use of “such force as is reasonable and necessary” in order to “ensure good order and discipline”.

1.5 There is no prohibition of corporal punishment in **alternative care settings**, where article 89 of the Penal Code provides a legal defence for its use.

2 Recommendations by human rights treaty monitoring bodies

2.1 In 2003, in its concluding observations on the state party’s initial report, the **Committee on the Rights of the Child** expressed concern at the legality of corporal punishment and recommended its explicit prohibition in the home, schools, institutions and as a sentence of the courts (CRC/C/15/Add.219, paras. 37, 38, 43, 44, 55 and 56).