

To Spank or not to Spank



A Primer on the Proposed Positive and Non-Violent Discipline of Children Act

*Promoting positive and non-violent discipline of children
and prohibiting corporal punishment and all other forms of humiliating
or degrading punishment of children*

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A publication developed by the Philippine Legislators' Committee on
Population and Development Foundation, Inc. (PLCPD), with support from
Save the Children, for the Child Rights Network (CRN).

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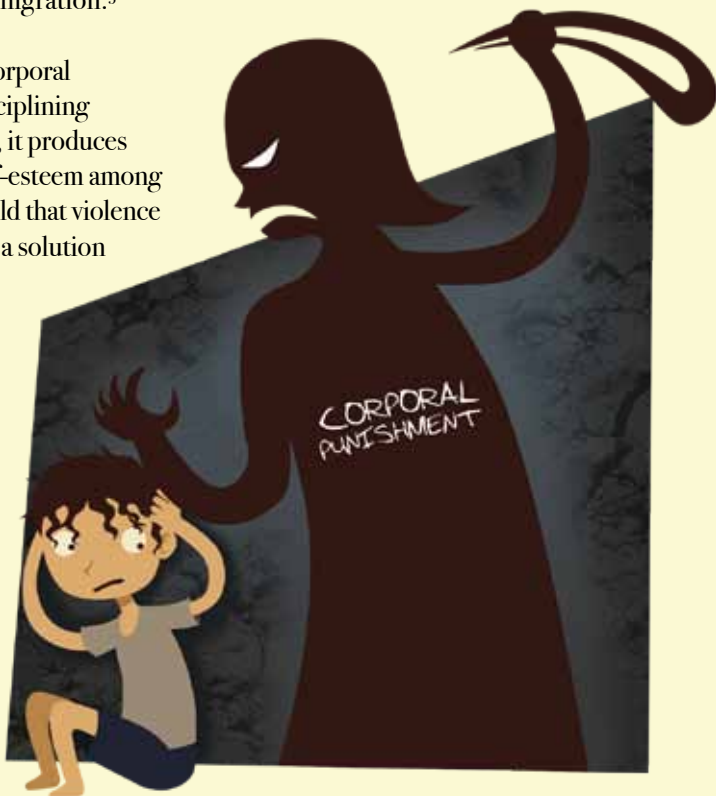
Layout: Dodie Lucas

Introduction

The United Nations Committee on the Rights of the Child defines “corporal” or “physical” punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light.¹ The Committee also considers as corporal punishment other non-physical but equally cruel and degrading forms of punishment, which includes “punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.”

Studies and surveys show that parents in the Philippines discipline and punish their children through the use of corporal or physical punishment such as spanking with hand, pinching, hitting with an object, twisting the child’s ear, pulling the hair, slapping the face or head, confinement in a sack, or shaking.² Filipino children also experience threats of physical punishment and humiliating treatments such as being shouted at in front of others, labeling and denigration.³

Various researches show that corporal punishment is ineffective in disciplining children of all ages. Most often, it produces anger, resentment, and low-self-esteem among children.⁴ It also teaches the child that violence is an acceptable behavior and is a solution to problems; thus, corporal punishment perpetuates itself as children imitate the actions of adults.⁵ Parents admit that they feel guilty and sorry about punishing their children but they are not aware of any other way of disciplining children except for what they have learned from their own parents and grandparents. Parents have expressed the need for alternative positive and non-violent methods for disciplining children.⁶



This primer explains the extent and impact of corporal punishment, gaps and limitations of laws and policies related to discipline and punishment, and policy alternatives in addressing the issue of corporal punishment of Filipino children.⁷

1. How prevalent is corporal punishment in the Philippines?

Corporal punishment is very common in the Philippines. Research into Filipino children's experiences of child abuse found that the most abusive acts were those inflicted by parents in the name of discipline. This included spanking, being beaten up or mauled (including when a parent uses a wooden stick, belt, bat or broom, incessant beatings, slaps on the face, and being burned with a flat iron), being scolded or punished even when the child did nothing wrong, humiliating the child in public, shouting and cursing the child.⁷

In a survey conducted by Save the Children in the Philippines, 85% of children surveyed said that they were punished in the home, and 82% said that they were hit in different parts of the body.⁸ In the areas covered by the UNICEF Philippines country programme, 60 percent of women (3.6 million) report that they use at least one form of psychological or physical punishment to punish or discipline their children. In particular, 13 percent reported that they used some severe physical punishment on their children.⁹



2. What are the effects of corporal punishment on children?

There is a large body of international research suggesting negative effects from corporal punishment. These are some of the negative effects:¹⁰

- * **Escalation:** Mild punishments in infancy are so ineffective that they tend to escalate as the child grows older. The little smack thus becomes a spanking and then a beating.
- * **Encouraging violence:** Any corporal punishment carries the message that violence is an appropriate response to conflict or unwanted behavior.
- * **Psychological damage:** Corporal punishment can be emotionally harmful to children. A survey conducted among Filipino students generated evidence that Filipino children, especially adolescents, also experience verbal abuse,

degradation and other forms of psychological punishment, and that even these non-physical forms of punishment have negative effects on children, such as low self-worth, depression, displaced anger and aggression.¹¹

- * **Violation of children's rights.** Corporal punishment violates children's right to human dignity and physical integrity as enshrined in the United Nations Convention on the Rights of the Child. By ratifying the Convention in 1990, the Philippine Government commits to respect, protect and fulfill children's rights through policy and legislation, appropriate programs and services, and judicial measures.



3. What acts are considered corporal punishment?

Corporal punishment includes physical and humiliating or degrading punishment, such as, but not limited to:

- * Blows to any part of a child's body, such as: beating; kicking; hitting; slapping; lashing with or without the use of an instrument such as a cane, shoes, broom, stick, whip or belt;
- * Pinching; pulling ears or hair; shaking; twisting joints; cutting and shaving hair; cutting or piercing skin; carrying, dragging or throwing a child;
- * 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; kneeling on stones, salt or pebbles; squatting; standing or sitting in a contorted position;
- * Deliberate neglect of a child's physical needs, where this is intended as punishment;
 - * Use of external substances, such as burning or freezing materials, water, smoke, pepper, alcohol, excrement or urine;
 - * Use of hazardous tasks as punishment or for the purpose of discipline, including those that are beyond a child's strength or bring him or her into contact with dangerous or unhygienic substances. Such tasks include sweeping or digging in the hot sun or rain, using bleach or insecticides, unprotected cleaning of toilets;
 - * Confinement, including being shut in a confined space or material, tied up, or forced to remain in one place for an extended period of time;
 - * Any threat of physical punishment;
 - * Any other physical act perpetrated on a child's body, for the purpose of punishment or discipline, intended to cause some degree of pain or discomfort, however light;
 - * Verbal assaults, threats, or intimidation;
 - * Verbal abuse, scolding, yelling, swearing, ridiculing or denigrating;
 - * Child made to look or feel foolish in front of one's peers or the public; and
 - * Other acts or words which belittle, humiliate, scapegoat, blame, ignore, or isolate the child.

4. Are there other ways of disciplining children that do not use corporal punishment?

Yes. Positive and non-violent discipline is a more effective approach in disciplining children. As a signatory to the UN Convention on the Rights of the Child, the government shall promote the positive and non-violent discipline of children in the home, in the school, in institutions, in alternative care systems, in employment and in all other settings. It shall establish the necessary structures and mechanisms and mobilize resources to make this possible.



5. What is positive discipline?

“Positive discipline” refers to an approach to parenting that teaches children and guides their behaviour, while respecting their rights to healthy development, protection from violence and participation in their learning. Positive discipline is not permissive parenting and is not about punishment. It is about long-term solutions that develop children’s own self-discipline and their life-long skills. Positive discipline is about teaching non-violence, empathy, self-respect, human rights and respect for others.

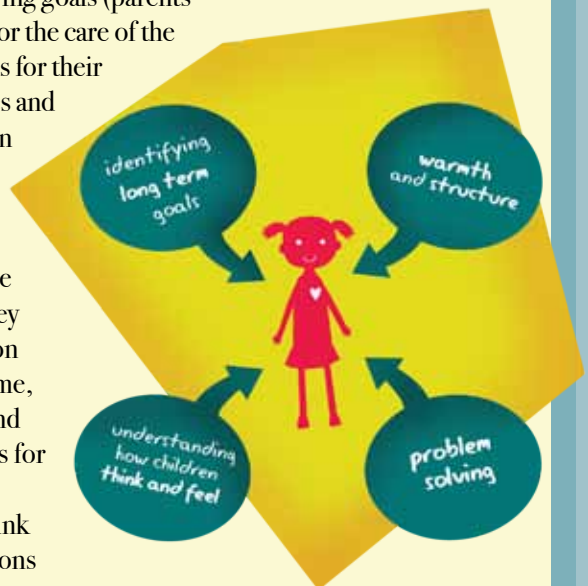


6. How can parents or teachers practice positive discipline?

Positive discipline has four components that can be practiced by parents, guardians, teachers, or other persons responsible for the care of a child.

These are:

- a) Identifying long-term child-rearing goals (parents and other persons responsible for the care of the child think about their own goals for their child’s development, what values and life skills they want their children to learn and adopt);
- b) Providing warmth and structure (parents and other persons responsible for the care of the child think about how they can show children love, affection and support but, at the same time, provide relevant information and clear guidelines and parameters for their behaviour);
- c) Understanding how children think and feel (parents and other persons



- responsible for the care of the child understand the stages of child development, how children think and feel at different ages and why they behave as they do); and
- d) Problem-solving (parents and other persons responsible for the care of the child understand typical child behavior at different ages; parents identify and apply effective approaches to solve problems, at the same time focusing on how children can better learn from the situation).¹²

Other strategies that can help children learn positive behaviors include:

- * providing regular positive attention, sometimes called “quality time” or “special bonding moments” (opportunities to communicate positively are important for children of all ages);
- * listening carefully to children and helping them learn to use words to express their feelings;
- * providing children with opportunities to make choices whenever appropriate options exist and then helping them learn to evaluate the potential consequences of their choice;
- * reinforcing emerging desirable behaviors with frequent praise and ignoring trivial misdeeds; and
- * modeling orderly, predictable behavior, respectful communication, and collaborative conflict resolution strategies.¹³

7. What are the Philippine laws related to the discipline and punishment of children?



The Philippines has enacted many laws that protect children against different forms of abuse and violence, and dealing as well with child discipline, such as Republic Act 7610, or the “Special Protection of Children against Child Abuse, Exploitation and Discrimination Act,” the Revised Penal Code (RA 3815), the Child and Youth Welfare Code (PD 603) and the Family Code of the Philippines (Executive Order 209).

8. Are these laws sufficient to protect children from corporal and humiliating or degrading punishment?

No. The present laws lack the explicit prohibition on the use of corporal punishment especially in the home and family setting, in schools and other institutional settings, except for children in conflict with the law and children in detention who are now adequately given protection and more humane treatment under the Juvenile Justice and Welfare Act enacted in 2006.



Although there are laws - such as R.A. 7610 or the Special Protection Act for Filipino Children, which was enacted to implement the UN Convention on the Rights of the Child, and the Family Courts Law – these are unclear about the use of corporal punishment. In fact, these laws allow punishment as long as these are “just and reasonable”¹⁴ and “moderate in degree. Our current laws also address only those forms of punishment that are excessive and which result in severe physical or psychological harm.

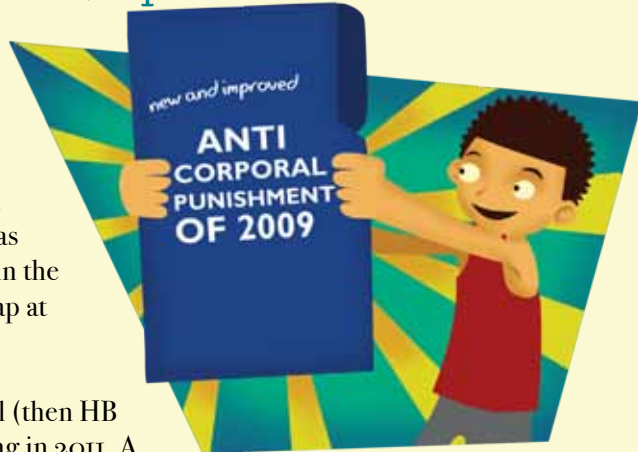
Without a law explicitly banning the corporal punishment of children, children cannot enjoy the same protection in the law that adults have against assault.

RA 7610 prohibits “the infliction of physical or psychological injury, cruelty to, or neglect, sexual abuse or exploitation of a child.” Cruelty is defined as “any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.” However, the Implementing Rules and Regulations of RA 7610 define some terms within the context of the Philippine law. Physical abuse is included in the definition of cruelty and physical injury. It states 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.” Based on the definition, what is “reasonable” and “moderate” cruelty is based on an assessment influenced by one’s values, beliefs and own experiences.

9. Is there a pending bill in Congress that prohibits corporal punishment and promotes positive discipline?

Yes. There are bills that prohibit corporal punishment and institutionalize the promotion of positive and non-violent discipline. In the 16th Congress, the bills titled “Anti-Corporal Punishment Act” was sponsored by Senator Nancy Binay in the Senate and Representative Susan Yap at the House of Representatives.

In the 15th Congress, the House Bill (then HB 4455) was approved on Final Reading in 2011. A public hearing was held for its Senate counter part bill in 2012.



10. What is the proposed Positive Discipline and Anti-Corporal Punishment Bill?

The proposed Positive and Non-Violent Discipline bill aims to prohibit corporal punishment and all other forms of humiliating or degrading punishment of children in all settings and promote positive and non-violent discipline of children.

The bill seeks to strengthen the country’s laws, policies and programs in respecting child’s rights, human dignity, physical integrity and equal protection of law in compliance with the Philippine government’s obligation to the UN Convention on the Rights of the Child. The bill specifically outlines all prohibited forms of physical and degrading or humiliating punishment of children at home, in schools, in institutions, in alternative care systems and in all other settings.



11. How will children be protected from corporal punishment?



Protective measures shall include effective procedures for the establishment of social programs to provide necessary support for the child and for those who care for the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment, and, as appropriate, for legal or judicial action.

12. Who are liable under the Positive and Non-Violent Discipline of Children Act?



The following persons shall be prohibited under the Anti-Corporal Punishment Law from using any form of corporal punishment or humiliating and degrading punishment on children: parents, *yayas*, housemaids 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, teachers, instructors and school officials and administrators 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 who has the care of the child.

13. What action shall be taken against those who commit corporal punishment?

Offenders shall be liable in accordance with existing penal laws, provided that the penalty shall be imposed in the maximum period, except where a higher penalty is provided under Act No. 3815, as amended, otherwise known as the “Revised Penal



Code,” Republic Act No. 7610, otherwise known as the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act,” or Republic Act No. 9262, otherwise known as the “Anti-Violence Against Women and their Children Act.”

If the act is not penalized under the above-mentioned laws the accused will be referred to the local social welfare and development office for assessment and intervention; provided that the offender has not been previously charged under the same law (Positive and Non-Violent Discipline of Children Law) and is not a repeat offender.

The interventions shall include seminars on children’s rights and positive and non-violent discipline of children, counseling, anger management and referrals to other rehabilitative services.

14. Who may file a complaint?

Complaints on cases of corporal punishment or humiliating or degrading treatment of children may be filed by the: offended party (the child); parents or guardians; ascendant or collateral relative within the third degree of consanguinity or affinity; officer, social worker or representative of a licensed child-caring institution; officer or social worker of the DSWD or the local social welfare and development office; police officers, preferably those in charge of the Women and Children’s Desk; barangay chairman or kagawad; teacher; NGO worker; health provider; day care worker; or at least two (2) concerned persons from the place where the act occurred who have personal knowledge of the act.



15. How can a person who intervenes for or on behalf of a child be protected against legal or administrative action?

In every case of corporal punishment or humiliating or degrading punishment, any person who, acting in good faith, responds or intervenes without using violence or restraint greater than necessary to ensure the safety of the victim, shall not be criminally, civilly or administratively liable.



16. Where to report cases of corporal punishment?

All cases of corporal punishment or humiliating or degrading punishment of children brought to the barangay or the police, or a healthcare provider, shall be reported to the local social welfare and development office within the specified number of hours from the time of the complaint, without prejudice to the continuation of the investigation or the filing of the appropriate criminal case. Failure to report within the prescribed period shall be a ground for administrative action against the barangay official or police officer, or healthcare provider.



17. Who shall be responsible in promoting positive and non-violent discipline of children and the prevention of the use of corporal punishment?

- a. Department of Social Welfare and Development (DSWD)
- b. Department of Education (DepEd) and the Commission on Higher Education (CHED)
- c. All local social welfare and development offices (SWDOs)



- d. Local Councils for the Protection of Children (LCPCs)
- e. The Council for the Welfare of Children (CWC)
- f. Local Government Units (LGUs)
- g. *Sangguniang Kabataan* (SK)

18. Why do we need to craft a new law banning all forms of physical and humiliating punishment of children when it is possible to amend the existing ones?

Currently, there is no law that explicitly bans corporal punishment of children especially in the home and family setting. In fact, laws such as RA 7610 and the Family Code of the Philippines allow the use of corporal punishment by parents and other parental authorities provided that disciplinary acts are “required under the circumstances” or “reasonable in manner and moderate in degree.”

Existing laws do not legally protect children against corporal punishment. Enacting a new law outlining various acts of physical and humiliating punishment and removing all provisions in the current laws that justify and rationalize its use are necessary in eliminating the corporal punishment of children.

Corporal punishment of children violates children’s right to dignity and physical integrity. It violates their right to protection against all forms of abuse, maltreatment and violence. Children also have the right to equal protection under the law against assault. In the same way that our current laws protect men and women against violence, so should we have a law that will protect children against violence in the form of corporal punishment in all settings, including the home.



Endnotes:

- ¹ Committee on the Rights of the Child, CRC General Comment No. 8 (2006): *The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment (Arts. 19; 28, Para. 2; and 37, inter alia)*, 2 March 2007. CRC/C/GC/8. Online. UNHCR Refworld, p. 4, (<http://www.unhcr.org/refworld/docid/460bc7772.html>)
- ² World Health Organization, (2002) *World report on violence and health 63; Save the Children-Sweden (2006), What Children Say: Results of the comparative research on the physical and emotional punishment of children in Southeast Asia and the Pacific*, 2005, 12-19.
- ³ Save the Children-Sweden (2006), *ibid.*
- ⁴ Paintal, Sureshrani (2007), *Banning Corporal Punishment of Children: A Position Paper*, available at <http://www.stophitting.com/pdf/sureshrani.pdf>
- ⁵ Harper, Kate et al.(2005), *Ending Physical and Humiliating Punishment of Children, A Manual for Action*, Save the Children, pp. 8-11.
- ⁶ Save the Children-Sweden (Unpublished; 2005), *Research on corporal punishment in Bagong Silang, Caloocan City and Cebu City, Philippines*; NORFIL (2005), *Documentation of a consultation with the Active Youth movement and the Children and Youth Organization on physical and emotional punishment of children*, NORFIL, Quezon City, p. 12.
- ⁷ De la Cruz, T. et al. (2001), *Trust and power: Child abuse in the eyes of the child and the parent*, UP-CIDS Psychosocial Trauma and Human Rights Program, Manila (2001).
- ⁸ Save the Children-Sweden (Unpublished; 2005), *Research on corporal punishment in Bagong Silang, Caloocan City and Cebu City*,
- ⁹ United Nations Children's Fund (2007), *Philippines Sub-Regional Multiple Indicator Cluster Survey 2007*.
- ¹⁰ Global Initiative to End All corporal Punishment of Children and Save the Children Sweden (2003), *Hitting people is wrong – and children are people too: A practical handbook for organizations and institutions challenging corporal punishment of children*, p.21-22, available at <http://www.endcorporalpunishment.org/pages/pdfs/hittingwrong.pdf>.
- ¹¹ Esteban, E.(2006), *Parental Verbal Abuse: Culture-Specific Coping Behavior of College Students in the Philippines*, *Child Psychiatry and Human Development*, Vol. 36, No. 3.
- ¹² Durrant, J. E. (2007), *Positive Discipline: What it is and how to do it*, Bangkok, Save the Children Sweden Southeast Asia and the Pacific, p. 1.
- ¹³ Kohlberg L. (1964), *Development of moral character and moral ideology*. In: Hoffman ML, Hoffman LW, eds. *Review of Child Development Research*, New York, NY: Russell-Sage Foundation; pp. 383–431.
- ¹⁴ Child and Youth Welfare Code, Art. 45



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