

# Ending family violence in Thailand – challenging physical punishment of girls and boys



Information for the Committee on the Elimination of Discrimination Against Women's 67<sup>th</sup> session, from the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)), June 2017

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## Introduction: violence against children in their homes in Thailand and CEDAW's examination of the sixth/seventh state party report

Violent punishment of boys and girls is lawful in Thailand. Article 1567 of the Civil and Commercial Code confers a "right to punish" to parents over their children, in direct contradiction with its international obligation to prohibit all violent punishment of children in legislation.

**We hope the Committee on the Elimination of Discrimination Against Women will raise the issue of violent punishment of girls and boys in its examination of Thailand. In particular, we hope the Committee will, in its concluding observations on the sixth/seventh state party report, recommend that Thailand to ensure that *no* form of violence within the domestic sphere is condoned, including by parents against their children, and that legislation is enacted to prohibit domestic violence against all family members.**

The remainder of this briefing provides the following further details:

1. The current law relating to family violence and corporal punishment of children in Thailand.
  2. Treaty body and UPR recommendations on the issue made to Thailand to date.
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## 1 Laws on the use of force in “correcting” children in Thailand

### *Summary*

1.1 In Thailand, the Civil and Commercial Code explicitly provides for a parent’s “right to punish” the child – this means that children can legally be subjected to family violence under the guise of “discipline”. The current review of the Child Protection Act provides an opportunity to enact a ban on all violent punishment of girls and boys.

### *Detail*

1.2 Article 1567 of the Civil and Commercial Code states: “A person exercising parental power has the right ... (2) to punish the child in a reasonable manner for disciplinary purposes.” Article 26 of the Child Protection Act 2003 states that no person shall act in a way which tortures the physical or mental condition of a child but it does not clearly prohibit all corporal punishment. Provisions against violence and abuse in the Revised Penal Code 2003, the Criminal Procedure Code, the Domestic Violence Act 2007 and the Constitution 2016 are not interpreted as prohibiting all corporal punishment in childrearing.

1.3 In response to recommendations to prohibit corporal punishment made during the Universal Periodic Review of Thailand in 2011, the Government made a commitment to prohibition: “Corporal punishment is already prohibited in schools and other alternative care settings. We are determined to improve the laws in order to prohibit corporal punishment in communities and families.... As a State Party to the CRC, Thailand is committed to eradicating corporal punishment as well as the abuse and sexual exploitation of children....”<sup>1</sup> In its report to the Universal Periodic Review in 2016, the Government asserted that corporal punishment is prohibited in article 26 of the Child Protection Act 2003 and in article 1567 of the Civil and Commercial Code, “which allows guardian to punish the child only in a reasonable manner for disciplinary purposes”.<sup>2</sup> Nevertheless, the Government went on to accept the recommendations to prohibit corporal punishment in all settings, including the home.<sup>3</sup> As at June 2016, the Child Protection Act is under review and proposed revisions include strengthened protection for children from all forms of violence, including corporal punishment.

1.4 The draft Constitution 2016 also strengthens protection from violence, stating in article 71 that the State should protect children from violence and unjust treatment (art. 71). It appears this article was kept in the final version of the Constitution which was signed by the King on 6 April 2017. Thailand is now in a grey constitutional area: with the new Constitution needing several supporting laws to be enacted before it enters into force, it seems the 2007 Constitution is still being used for the time being. The Government is aiming to enact the supporting laws by early 2018 and then to hold general elections in September 2018, after which the new Constitution would be able to enter into force.<sup>4</sup>

**1.5 We hope the Committee will remind the state party of its international obligations and recommend that prohibition of violent punishment of girls and boys in the home be immediately enacted and implemented.**

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<sup>1</sup> 6 March 2012, A/HRC/19/8/Add.1, Report of the working group: Addendum, para. 15

<sup>2</sup> 12 February 2016, A/HRC/WG.6/25/THA/1, National report to the UPR, para. 72

<sup>3</sup> 15 July 2016, A/HRC/33/16, Report of the working group, paras. 158(103), 158(104), 158(105), 158(106)

<sup>4</sup> Information provided to the Global Initiative, May 2017

## **2 Recommendations by human right treaty monitoring bodies and during the Universal Periodic Review**

- 2.1 **CRC:** The Committee on the Rights of the Child has three times recommended to Thailand that all corporal punishment of children be prohibited, including in the home – following examination of the initial state party report in 1998, the second report in 2006 and the third/fourth report in 2012.<sup>5</sup>
- 2.2 **UPR:** At its first cycle review in 2011, Thailand accepted recommendations to prohibit corporal punishment of children stating, “Corporal punishment is already prohibited in schools and other alternative care settings. We are determined to improve the laws in order to prohibit corporal punishment in communities and families.... As a State Party to the CRC, Thailand is committed to eradicating corporal punishment as well as the abuse and sexual exploitation of children....”<sup>6</sup> Again at its second cycle examination, despite asserting in its national report that corporal punishment was banned already, the Government accepted further recommendations to prohibit all corporal punishment.<sup>7</sup>

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<sup>5</sup> 26 October 1998, CRC/C/15/Add.97, Concluding observations on initial report, para. 21; 17 March 2006, CRC/C/THA/CO/2, Concluding observations on second report, paras. 39, 40, 41, 76 and 77; 17 February 2012, CRC/C/THA/CO/3-4, Concluding observations on third/fourth report, paras. 7, 8, 47 and 48

<sup>6</sup> 6 March 2012, A/HRC/19/8/Add.1, Report of the working group: Addendum, para. 15

<sup>7</sup> 12 February 2016, A/HRC/WG.6/25/THA/1, National report to the UPR, para. 72; 15 July 2016, A/HRC/33/16, Report of the working group, paras. 158(103), 158(104), 158(105), 158(106)