

# **Eliminating physical and humiliating punishment of children in Cambodia: A review of existing legislation and policy**



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15 January 2015

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Cover photo: Consultation with boys in Prey Veng, December 2014

“There can be no compromise in challenging violence against children. Children’s uniqueness – their potential and vulnerability, their dependence on adults – makes it imperative that they have more, not less, protection from violence.”

UNICEF. *Implementation Handbook for the Convention on the Rights of the Child*, 2007, p 253.

## Acknowledgements

Thanks to Mr Var Monika for his research assistance including during national level interviews and especially in facilitating engaging and insightful consultations in the field. Thanks also to Ms Hoon Ballin for facilitating three consultations with children and young people. The support provided by Save the Children particularly Mr Man Phally and Ms Lorn Borrney in Phnom Penh, and Mr Meth Lorn and Mr Poch Poun in Prey Veng, is also warmly acknowledged. Finally, thanks to all the research participants for their willingness to share their experiences and views.

## Acronyms

CCWC	Commune/ <i>Sangkat</i> Committee for Women and Children
CNCC	Cambodian National Council for Children
CRC	<i>Convention on the Rights of the Child</i>
DOSVY	Department of Social Affairs, Veterans and Youth Rehabilitation (Provincial-Municipal)
MOEYS	Ministry of Education, Youth and Sports
MOI	Ministry of Interior
MOJ	Ministry of Justice
MOSVY	Ministry of Social Affairs, Veterans and Youth Rehabilitation
MOWA	Ministry of Women's Affairs
NGO	Non-Government Organisation
NOVCTF	National Multi-Sectoral Orphan and Vulnerable Children Task Force
OSVY	Office of Social Affairs, Veterans and Youth Rehabilitation (District-Khan)
WCCC	Women's and Children's Consultative Committees

# Executive Summary

## *Background*

This review is part of Save the Children's Eliminating Physical and Humiliating Punishment Project funded by Save the Children Norway in 2014 that is currently being implemented in Cambodia. The review aims to understand the legislation and policy in Cambodia related to physical and humiliating punishment of children and to contribute to the development of Save the Children's Child Protection Strategy 2016-2018. The review comprised of:

- An analysis of the gaps in legislation, guidelines and practice
- An assessment of the current accessibility and functionality of the legislation, guidelines and practices in home and school settings in Prey Veng, one of Save the Children's target locations
- An analysis of the duty bearers and their responsibilities
- A list of recommendations.

## *Methodology and research participants*

The review utilised various methodologies and techniques including a desk-based review of laws, policies, guidelines and secondary research as well as primary data gathering. Primary data was collected through interviews and consultations with key informants. A purposive sampling strategy was employed in consultation with Save the Children staff. In total, 11 participants (3 female, 8 male) were interviewed at national level and 126 participants (81 female, 45 male) were interviewed/consulted in Prey Veng. The participants in Prey Veng comprised of children and young people (41%) including children and young people living in residential care, parents and carers (14%), NGOs and volunteers/community social workers working with children and families (18%), primary and secondary school teachers (15%) and officials at commune, district and provincial levels (12%). Although the findings are not intended to be generalised or applied to other populations in Cambodia given the small sample size, the 126 participants revealed a rich source of data.

## *International standards*

The *Convention on the Rights of the Child (CRC)* sets out children's right to protection from all forms of violence.<sup>1</sup> This includes violence within the family home and other caring institutions such as foster care and day care, schools, and other institutional settings, including penal institutions.<sup>2</sup> Physical and humiliating punishment of children is one form of violence against children that the Committee on the Rights of the Child has paid attention to, since it began examining State Party reports. The Committee has defined 'physical punishment' (often used interchangeably with the term 'corporal punishment') as "*any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light.*"<sup>3</sup> 'Humiliating punishment' includes verbal assaults, threats, ridicule and/or denigration intended to reduce a child's confidence, self esteem or dignity.<sup>4</sup> The Committee has requested States Parties to review their national legislation to

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<sup>1</sup> Article 19

<sup>2</sup> UNICEF, *Implementation Handbook for the Convention on the Rights of the Child*, 2007, p 258.

<sup>3</sup> Committee on the Rights of the Child, *General Comment No. 8, the Right of the Child to Protection From Corporal Punishment and Other Cruel or Degrading Forms of Punishment*, CRC/C/GC/8, 2006, [11].

<sup>4</sup> Save the Children Sweden, *Discipline and Punishment of Children: A Rights-Based Review of Laws, Attitudes and Practices in East Asia and the Pacific*, Save the Children Sweden Southeast Asia and the Pacific, *Regional Submission to the UN Secretary General's Global Study on Violence Against Children*, 2005, pp 3-4.

ensure an absolute prohibition of any form of violence to children, however light, including as a form of discipline.<sup>5</sup> The CRC also sets out a number of other measures that States should take to ensure children are protected, and violence is avoided, including establishing reporting mechanisms for cases of violence against children.

### *Legislation and policy gaps*

As Cambodia follows the French civil law system, international treaties are considered automatically integrated into domestic law when they are ratified.<sup>6</sup> Accordingly, the CRC is implicitly incorporated into the *Constitution* (1993). It is also expressly incorporated through articles 31 and 48 of the *Constitution*. It follows therefore that there is a binding legal obligation for Cambodia to ensure that its laws are interpreted so as not to conflict with these international treaty obligations.<sup>7</sup>

The provisions relating to the physical and humiliating punishment of children are set out in a number of laws and policies. Review and analysis of these instruments reveals a number of gaps and weaknesses that likely reflects and encourages physical and humiliating punishment of children in Cambodia. The review identified the following key gaps:

- Physical and humiliating punishment of children in home/ family settings is allowed by law (i.e. there are provisions in the law that appear to condone physical and humiliating punishment)
- Physical and humiliating punishment of children in home/ family settings is not prohibited by law (i.e. there is no express prohibition of physical and humiliating punishment in the law)
- It is unclear who should respond to cases of physical and humiliating punishment of children in home/ family settings and the process for response
- The process for reporting and responding to cases of physical and humiliating punishment in school settings is unclear
- The process for responding to cases of physical and humiliating punishment in residential and alternative care settings is unclear
- There are no child-friendly complaints mechanisms for reporting physical and humiliating punishment in penal settings
- Children working as domestic helpers are not protected by labour laws, heightening their vulnerability to physical and humiliating punishment.

### *Accessibility and functionality of legislation and policy*

The physical and humiliating punishment of children in Cambodia is reportedly widespread and documented in a number of researches and reports. Although not distinguishing between violence inflicted as a form of discipline or otherwise, *Cambodia's Violence against Children Survey* found that over half of children in Cambodia experienced at least one form of violence before they turned 18 years of age.<sup>8</sup> The most likely person to cause childhood physical or emotional violence was a parent, especially mothers. Evidence from developed countries suggests that disciplinary or 'corrective' action on the part of parents is often at the core of child

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<sup>5</sup> Committee on the Rights of the Child, *General Comment No. 8*, [34].

<sup>6</sup> Cambodia National Council for Children, *Gap Analysis of Child Protection Legislation in the Kingdom of Cambodia*, 2014, p 29.

<sup>7</sup> This approach was confirmed by the Constitutional Council of Cambodia in its decision No. 092/003.

<sup>8</sup> Kingdom of Cambodia, Ministry of Women's Affairs, UNICEF Cambodia, US Centers for Disease Control and Prevention, *Findings From Cambodia's Violence Against Children Survey 2013*, October 2014.

abuse cases and this fact can be obscured by aggregate data.<sup>9</sup> Existing research showing the prevalence of violence against children in Cambodia suggests that laws and policies, as well as commitments to international standards, are largely theoretical and not translated into practice. To complement existing research on prevalence, the field work sought to understand how, if at all, children, parents, teachers and officials' perspectives on physical and humiliating punishment of children were shaped by existing laws and policies. It also sought to investigate the functionality of reporting and response mechanisms. The field work revealed that:

- There is widespread use and acceptance of physical and humiliating punishment of children
- Children, parents and community members want physical and humiliating punishment of children to be prohibited by law
- Children fear the repercussions of reporting physical and humiliating punishment that they and others may experience
- Teachers are largely unaware of the laws, guidelines and instructions regarding physical and humiliating punishment of children in schools
- The process for reporting cases of violence against children within schools is unclear
- Local authorities do not have clear instruction about the processes for responding to cases of violence against children in the community.

#### *Responsibility/ stakeholder analysis*

Responsibilities relating to physical and humiliating punishment of children cut across various ministries and departments. Key stakeholders with responsibilities relating to addressing physical and humiliating punishment of children in Cambodia include:

- Ministry of Social Affairs, Veterans and Youth Rehabilitation (**MOSVY**): Primary responsibility to protect children from any form of violence with offices at provincial and district levels
- National Multi-Sectoral Orphan and Vulnerable Children Task Force (**NOVCTF**): Facilitates key government and non-government stakeholders that work with orphans and vulnerable children including by arranging quarterly meetings between stakeholders. NOVCTF also leads research and development of guidelines related to orphans and vulnerable children
- Cambodian National Council for Children (**CNCC**): Coordinates and reports on activities relating to the survival, development, protection, welfare and participation of children including through overseeing and providing recommendations on any legal instruments relating to children to ensure compliance with the CRC and other international legal standards, and developing policies, plans and activities to realise children's rights under the CRC, among other things
- Ministry of Women's Affairs (**MOWA**): Protects the rights of women and their families. Leads on ending violence against women and girls and the implementation of the *Domestic Violence Law*
- Sub-group on Gender-Based Violence under the management of the Technical Working Group on Gender, which was established in 2004 and is chaired by MOWA with UNDP and JICA as co-facilitators: Initiated the development of the 2nd *National Action Plan to Prevent Violence Against Women (NAPVAW II)* (2014-2018) and will guide its implementation

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<sup>9</sup> T C Landau, "Policing the Punishment: Charging Practices Under Canada's Corporal Punishment Laws," *International Review of Victimology* 12, no. 2 (May 1, 2005): 121–38, doi:10.1177/026975800501200202. citing Trocme et al., 2001.

- Ministry of Interior (**MOI**): Responsible for police and the authority for the Provincial Governors and sub-national governance including capacity building of Commune Councils and Commune Committees for Women and Children through the deconcentration and decentralisation process
- Ministry of Education, Youth and Sports (**MOEYS**): Overarching national institution for education, including preventing violence in schools
- Women's and Children's Consultative Committee (**WCCC**) at capital, provincial, municipal and district levels: Responsible to monitor and provide recommendations to councils, board of governors, governors and other committees regarding issues on gender equality, women, youth and children, as well as to promote understanding of relevant laws and policies and promote information collection by communities to take necessary response measures, among other things
- Commune/*Sangkat* Committee for Women and Children (**CCWC**): Provides advice and assistance to their respective commune/*sangkat* on work related to women and children. Responsible to identify and assess children and families at risk and take necessary action. The Commune/*Sangkat* Focal Point for Women and Children is a permanent member of the CCWC and is in charge of all matters related to women and children in the commune
- Development partners and non-government organisations (**NGOs**): Provide technical and financial support to key ministries and institutions. Implementers of programmes at sub-national levels
- Families and communities: First duty-bearers with responsibility to ensure children's rights are protected

Following *Cambodia's Violence against Children Survey*, the Ministries of Women's Affairs, Social Affairs, Education, Health, Interior, Justice, Labour, Information, Cults and Religion, and Statistics, as well as the CNCC, committed to actions to reduce violence, many of which directly relate to physical and humiliating punishment of children in home and school settings. These commitments provide entry points for Save the Children's future partnerships and interventions.

### *Recommendations*

The current momentum on child protection in Cambodia presents Save the Children with a number of strategic opportunities to enhance legislation, policy and practice to reduce the physical and humiliating punishment of children. The following key recommendations arise from this review:

1. **Advocate for law reform:** Coordinate with other child focused agencies to advocate at national level for law reform to address the gaps in law and policy that relate directly to physical and humiliating punishment, as well as numerous systemic gaps on child protection.
2. **Build the evidence base for advocacy and programming:** Invest in research to build the evidence base to support advocacy and programming including to showcase the positive outcomes of eliminating physical and humiliating punishment and applying positive discipline, as well as the harmful impacts of physical and humiliating punishment on children's physical and mental well-being and development. Presenting compelling evidence, including from countries that have already prohibited physical and humiliating punishment, can assist in shifting attitudes that currently stand as obstacles to the reduction of physical and humiliating punishment of children.



3. **Develop a behaviour change campaign:** Develop and implement a behaviour change campaign to inform, educate and motivate parents and carers to stop physical and humiliating punishment of children.
4. **Expand positive parenting education:** Continue and expand programming on positive parenting and discipline taking into account any results from monitoring and evaluation of the pilot project in Prey Veng.
5. **Support awareness-raising and skills-building for teachers:** Support MOEYS to disseminate further information on relevant policies and strategies to promote positive discipline in school settings and stronger prohibition of the use of physical and humiliating punishment.
6. **Develop/strengthen child-friendly reporting mechanisms:** Coordinate with other child focused agencies to support the development of child-friendly reporting mechanisms.

**Table 1: Summary of key findings and recommendations arising from the review**

Area	Key findings	Recommendations
<b>Legislation and policy</b>	Physical and humiliating punishment of children in home/ family settings is allowed by law	<ul style="list-style-type: none"> <li>• Advocate for amending/ removing article 1045 of the <i>Civil Code</i> and article 8 of the <i>Domestic Violence Law</i></li> </ul>
	Physical and humiliating punishment of children in home/ family settings is not prohibited by law	<ul style="list-style-type: none"> <li>• Advocate for the insertion of a statement in legislation which makes it clear that physical or emotional violence of children can no longer be justified as punishment or 'discipline' in all settings, including home/ family settings</li> </ul>
	It is unclear who should respond to cases of physical and humiliating punishment of children in home/ family settings and the process for response	<ul style="list-style-type: none"> <li>• Advocate for the enactment of implementing regulations for the <i>Domestic Violence Law</i>, which among other things, should define "authorities in charge" and detail the process for reporting and response</li> <li>• Advocate for limitation of the term 'any person' in article 22(2) of the <i>Domestic Violence Law</i></li> </ul>
	The process for reporting and responding to cases of physical and humiliating punishment in school settings is unclear	<ul style="list-style-type: none"> <li>• Advocate for the enactment of implementing regulations for <i>Law on Education</i>, or another instrument, to provide guidance on how children can report cases or on procedures that should be followed when teachers identify cases</li> <li>• Advocate for mandatory reporting legislation that includes education professionals</li> </ul>
	The process for responding to cases of physical and humiliating punishment in residential and alternative care settings is unclear	<ul style="list-style-type: none"> <li>• Advocate for the express prohibition of physical and humiliating punishment in residential and alternative care settings in legislation</li> <li>• Advocate for a standardisation of processes for responding to cases of violence in residential and alternative care settings</li> <li>• Advocate for legislation that</li> </ul>

Area	Key findings	Recommendations
	<p>reinforces MOSVY's mandate to regulate, monitor, inspect and shut down facilities that do not comply with standards</p> <hr/> <p>There are no child-friendly complaints mechanisms for reporting physical and humiliating punishment in penal settings</p> <hr/> <p>Children working as domestic helpers are not protected by labour laws and vulnerable to physical and humiliating punishment</p>	<ul style="list-style-type: none"> <li>Develop/ strengthen child-friendly reporting mechanisms, including in penal settings</li> <li>Advocate for the inclusion of domestic workers under the <i>Labour Law</i></li> </ul>
<b>Accessibility and functionality of legislation and policy</b>	<p>There is widespread use and acceptance of physical and humiliating punishment</p> <hr/> <p>Children, parents and communities want physical and humiliating punishment of children to be prohibited by law</p> <hr/> <p>Children fear the repercussions of reporting physical and humiliating punishment against them and others</p> <hr/> <p>Teachers are largely unaware of the instructions regarding physical and humiliating punishment against children</p> <hr/> <p>The process for reporting cases of violence against children within schools is unclear</p> <hr/> <p>Local authorities do not have clear instruction about the processes for responding to cases of violence against children in the community</p>	<ul style="list-style-type: none"> <li>Build evidence base for advocacy and programming</li> <li>Advocate for law reform as set out above</li> <li>Develop a behaviour change campaign to educate and motivate parents and carers to stop physical and humiliating punishment of children</li> <li>Expand positive parenting education</li> <li>Advocate for law reform as set out above</li> <li>Develop/ strengthen child-friendly reporting mechanisms including by advocating for the establishment of an independent body for children's rights complaints</li> <li>Advocate for law reform as set out above</li> <li>Support awareness-raising and skills-building for teachers on existing standards including in pre-service training</li> <li>Advocate for law reform as set out above</li> <li>Advocate for law reform as set out above</li> </ul>
<b>Responsibility/ stakeholder analysis</b>	<p>There is a lack of coordination and direction by one government ministry on child protection</p> <hr/> <p>National government are reluctant to advance law reform on physical and humiliating punishment</p> <hr/> <p>Multiple ministries committed to specific actions following <i>Cambodia's Violence against Children Survey</i></p>	<ul style="list-style-type: none"> <li>Support advocacy to advance the CNCC <i>Child Protection Legislative Agenda</i></li> <li>Advocate for law reform as set out above</li> <li>Build evidence base for advocacy and programming</li> <li>Identify strategic partners</li> <li>Advocate for law reform as set out above</li> <li>Build evidence base for advocacy and programming</li> <li>Identify strategic partners</li> </ul>

# 1. Background

## 1.1 Review objectives and scope

As set out in the Terms of Reference,<sup>10</sup> this review is part of Save the Children's Eliminating Physical and Humiliating Punishment Project funded by Save the Children Norway in 2014 that is currently being implemented in Cambodia. The review aimed to understand the legislation and policy in Cambodia related to physical and humiliating punishment and to contribute to the development of Save the Children's Child Protection Strategy 2016-2018.

The review comprised of:

- An analysis of the gaps in legislation, guidelines and practice
- An assessment of the current accessibility and functionality of the legislation, guidelines and practices in home and school settings in Prey Veng, one of Save the Children's target locations
- An analysis of the duty bearers and their responsibilities
- A list of recommendations to strengthen the existing laws, guidelines, or practices, and/or introduce new laws, guidelines and practices, to contribute to the elimination of physical and humiliating punishment of children in Cambodia.

## 1.2 Methodology

### *Desk review*

The first step was to identify relevant legislation and policies that exist in Cambodia. An analysis of the relevant laws and policies was then undertaken to identify gaps with reference to the CRC and other relevant international standards, using guidance from the Committee on the Rights of the Child and as summarised in the *Implementation Handbook for the Convention on the Rights of the Child*.<sup>11</sup> Secondary literature examining Cambodia's laws relating to children were also reviewed, with significant assistance provided by the recently finalised CNCC *Gap analysis of child protection legislation in the Kingdom of Cambodia*. As part of the assessment of the accessibility and functionality of legislation and policy, a literature review of research and reports concerning the situation of physical and humiliating punishment of children in all settings was also undertaken. Websites of local English newspapers (such as *Phnom Penh Post* and *The Cambodia Daily*) were also searched and a few articles that reported on cases reviewed. A search on the archives of Khmer newspapers (including *Koh Santepheap Daily* and *Reak Smeykampungchea*) did not reveal any relevant articles. A full list of documents reviewed is included in the References section.

### *Primary research participants*

Primary data was collected through interviews and consultations with key informants. A purposive sampling strategy was employed in consultation with Save the Children staff. **Annex 2** provides a list of participants at national level and in the selected field location of Prey Veng. In total, 11 participants (3 female, 8 male) were interviewed at national level and 126 participants (81 female, 45 male) were interviewed/consulted

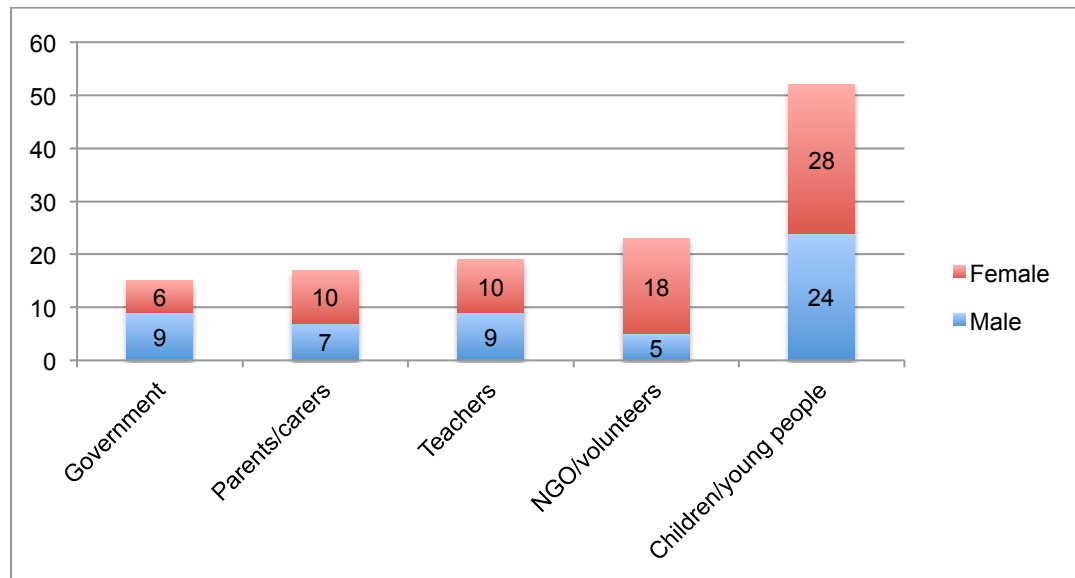
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<sup>10</sup> Annex 1

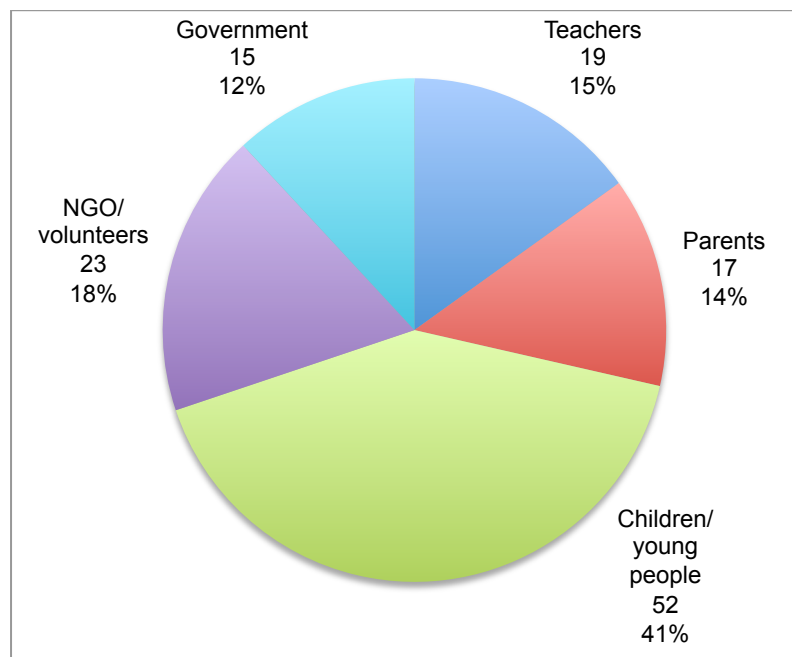
<sup>11</sup> UNICEF, *Implementation Handbook for the Convention on the Rights of the Child*.

in Prey Veng. The categories of participants are illustrated in Table 2 and Diagram 1 below.

**Table 2: Research participants in Prey Veng by category and gender**



**Diagram 1: Proportion of research participants in Prey Veng by category**



*Primary research process*

Three methods of interviewing were used: interviews, focus group discussions, and child-friendly discussions. For focus group discussions, the facilitator followed a semi-structured question guide and provided elaboration and explanations as needed. As the discussion evolved, the facilitator clarified responses and asked further probing questions as required. Child-friendly discussions were similar but also included active games for participant introductions at the start of the discussion, throughout the discussion if and when participants' energy waned, and at the

conclusion to end on a positive note. Where time and literacy levels allowed, to further encourage participation, children were invited to write their responses on small cards which were then used for further discussion. An outline of field research tools is included at Annex 3, although it is noted that not all questions/activities could be undertaken in all groups due to time restraints and the considerable time required to ask probing questions to obtain the information sought.

Interviews at national level were conducted by an international consultant with translation and contextually relevant explanations provided by a national research assistant. In Prey Veng, 10 focus group discussions and child-friendly discussions were facilitated by the research assistant, who had been orientated on the tools by the consultant. Three child-friendly discussions, including two with children and young people living in residential care, were facilitated by a Program Officer from Save the Children's local partner, WOMEN, who received a brief orientation from the consultant and research assistant.

During all consultations, notes were taken by a staff member of Save the Children in Prey Veng and then verified by the research assistant and consultant to the extent possible. The consultant and research assistant had received prior basic training on child protection, agreed to Save the Children's child protection policy, and had prior experience undertaking similar research. The interview and research process was explained to all research participants in a way that they could understand and their voluntary verbal consent was sought. Daily debriefs were undertaken between the consultant and research assistant to translate research findings, reflect on findings, and adjust tools as necessary for the following day.

### *Limitations*

English translations of the relevant laws were utilised. It is important to note that the Khmer version of the laws are the official versions. Some draft policies and guidelines were not yet available in English.

Not all key informants at national level were available for interview during the time of the research, including representatives from the MOI and Ministry of Justice (**MOJ**). As these are particularly important stakeholders, it is suggested that Save the Children meet these representatives in the near future.

Ideally, field work could have been undertaken for a longer period in more than one location utilising a team of researchers to survey a larger sample. However, time and resource constraints meant this was not possible. The timeframe in the last month of 2014 made it especially challenging. To enable a range of participants to be consulted, a maximum of one hour was allocated to each discussion. Particularly for children, this was a short amount of time to build rapport and enable exploration of their responses. Nonetheless the 126 participants involved in the field work revealed a rich source of data, though the findings are not intended to be generalisable or applied to other populations in Cambodia. A further limitation was the nature of the data, which was largely self-reported and opinion-based. Particularly in Cambodia with an absence of reliable and/or institutional information systems etc., the data could not necessarily be independently verified. To mitigate this, the same or similar questions were put to different categories of key informants to enable triangulation of data.

### 1.3 Key terms and concepts

'Physical and humiliating punishment' are two categories of punishment of children that can occur separately or together. 'Physical punishment' is often used interchangeably with the term 'corporal punishment' and has been defined by the Committee on the Rights of the Child as "*any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light.*" The Committee on the Rights of the Child has mentioned the following examples of physical punishment:

- Hitting ('smacking', 'slapping', 'spanking') children, with the hand or with an implement – a whip, stick, belt, shoe, wooden spoon, etc.
- Kicking, shaking or throwing children
- Scratching, pinching, biting, pulling hair or boxing ears
- Forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children's mouths out with soap or forcing them to swallow hot spices).<sup>12</sup>

'Humiliating punishment' can be used interchangeably with 'emotional' or 'psychological' punishment and includes verbal assaults, threats, ridicule and/or denigration intended to reduce a child's confidence, self esteem or dignity.<sup>13</sup> The Committee on the Rights of the Child states physical punishment is invariably humiliating. The Committee on the Rights of the Child also points to examples of other non-physical forms of punishment that are incompatible with the CRC, such as punishment that "*belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.*"<sup>14</sup>

The intention (explicit or implicit) of the person inflicting physical or humiliating punishment is irrelevant, even if the intention is to improve a child's morals or behaviour or otherwise. It is the acts themselves that define physical and humiliating punishment and that are inconsistent with the CRC.<sup>15</sup>

The Committee on the Rights of the Child differentiates 'punishment' from the positive concept of discipline. The Committee states discipline is "*necessary guidance and direction, in line with children's evolving capacities, to assist their growth towards responsible life in society.*"<sup>16</sup> The Committee also distinguishes punitive physical actions against children from physical interventions aimed at protecting children from harm.<sup>17</sup>

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<sup>12</sup> Committee on the Rights of the Child, *General Comment No. 8*, [11].

<sup>13</sup> Save the Children Sweden, *Discipline and Punishment of Children*. pp 3-4.

<sup>14</sup> Committee on the Rights of the Child, *General Comment No. 8*, [11].

<sup>15</sup> Save the Children Sweden, *Discipline and Punishment of Children*.

<sup>16</sup> Committee on the Rights of the Child, *General Comment No. 8*, [13].

<sup>17</sup> *ibid.* [14], [15].

## 2. Legislative and policy analysis

### 2.1 Overview of Cambodia's legal system

At the outset, it is useful to provide an overview of Cambodia's legal system. Like many democracies, State power in Cambodia is divided into the following three entities, which should operate independently:<sup>18</sup>

- **The Executive** which is composed of the Prime Minister, the Council of Ministers and various line ministries and is responsible for drafting and implementing laws and policies.
- **The Legislature** which is divided into the National Assembly and the Senate and has the authority to amend and pass laws drafted or proposed by the Executive or members of Parliament.
- **The Judiciary** applies and interprets the law passed by the Legislature and consists of 24 provincial courts, one municipal court, a military court and an Appeals and Supreme Court. In addition, the Constitution of Cambodia also mandates a Constitutional Council, which can review the constitutionality of laws and a Supreme Council of Magistracy, which appoints, oversees and disciplines judges.<sup>19</sup>

The Cambodian legal system is largely based on, and adheres to the principles, of the French civil system. However, due to significant legal assistance by countries that have common law systems as well as the fact that Cambodia is a party to numerous international treaties, the laws in Cambodia have incorporated elements from common law systems. In practice, therefore, Cambodia has a mixed or 'pluralist' legal system (i.e. the system involves combinations of more than one legal tradition).<sup>20</sup>

Before identifying all the relevant legislation and policies, it is also important to understand the hierarchy between different instruments. In the case of any ambiguity between instruments, the higher one should prevail. The hierarchy is as follows:<sup>21</sup>

- **The Constitution of Cambodia 1993**, and its amendments, is the highest or supreme law. Any other laws are subject to the Constitution, and cannot be enforced if they run contrary to the Constitution.
- **Laws (Kram)** are adopted by the National Assembly and the Senate, and promulgated by the King. Laws are countersigned by the Prime Minister and the interested Minister.
- **Royal Decrees (Reach-Kret)** are the highest norm that may be enacted by the Executive. Royal Decrees are promulgated by the King and generally countersigned by the Prime Minister and the interested Minister.
- **Sub-Decrees (Anu-Kret)** are regulations adopted by the Prime Minister and countersigned by the interested Minister.
- **Regulations (Prakas)** are usually enacted by the line Ministry to operationalize a specific law or sub-decree. Prakas are mainly binding within

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<sup>18</sup> The separation of powers between the Executive and Judiciary in Cambodia continues to be scrutinized by international and national human rights commentators. See for example: United Nations Office of the High Commissioner on Human Rights, "Cambodia: 'Judicial Harassment for Political Purposes Must Stop' - UN Special Rapporteur," November 18, 2014.

<sup>19</sup> Cambodia National Council for Children, *Gap Analysis of Child Protection Legislation in the Kingdom of Cambodia*.

<sup>20</sup> *ibid.*, pp 28-29.

<sup>21</sup> This information is sourced from Cambodian National Council for Children and UNICEF. *Compendium of child protection laws, policies and functions*, 2012, p 6 and *ibid.*, pp 27-28.

the Ministry in which they are signed and lack power to criminalise or sanction any acts.

- **Policies and standards** are general principles, frameworks and standards which guide the government and other duty-bearers in fulfilling their responsibilities.
- **Circulars or guidelines (Sarachors)** are more specific guidelines to explain or clarify certain legal or regulatory measures to provide instructions or implementing measures.
- **Decisions (Sechkdei Samrech)** are directives signed by the Prime Minister, a Minister or a Governor, within the scope of his or her own regulatory powers.

As Cambodia follows the French civil law system, international treaties are considered automatically integrated into domestic law when they are ratified.<sup>22</sup> As such, the CRC is implicitly incorporated into the *Constitution* (1993). It is also expressly incorporated through the following articles of the *Constitution*:

- Article 31: *“The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human rights, the covenants and conventions related to human rights, women’s and children’s rights....”*
- Article 48: *“The State shall protect the rights of children as stipulated in the Convention on Children, in particular, the right to life, education, protection during wartime, and from economic or sexual exploitation.”*

The implication of these articles is that there is a binding legal obligation for Cambodia to ensure that its laws are interpreted so as not to conflict with these international treaty obligations. The Constitutional Council of Cambodia recognised this approach in its decision No. 092/003. The decision was made in response to a petition lodged by NGOs questioning the constitutionality of the *Law on Aggravating Circumstances for Felonies* (2002) as applied to juvenile offenders based on their rights under the CRC. The decision found that Cambodian national law includes the international human rights treaties to which Cambodia is party, including the CRC, and that courts must take into account such treaties when they decide cases.<sup>23</sup>

## 2.2 International standards

The CRC sets out children’s right to protection from all forms of violence. Article 19(1) states:

*States Parties shall take all appropriate legislative, administrative, social and educational measures, to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.*

The scope of article 19 includes violence within the family home and within other caring institutions such as foster care and day care, schools, and other institutional settings, including penal institutions.<sup>24</sup> The CRC specifically refers to school discipline in article 28(2), which states:

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<sup>22</sup> *ibid.* p 29.

<sup>23</sup> Constitutional Council Decision No. 092/003 on the Applicability of the Convention on the Rights of the Child to Courts (2007).

<sup>24</sup> UNICEF, *Implementation Handbook for the Convention on the Rights of the Child*. p 258.



*States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.*

The Committee on the Rights of the Child has paid attention to the issue of physical and humiliating punishment since it began examining reports. As physical and humiliating punishment is in direct contradiction with the CRC, the Committee has requested States Parties to review their national legislation to ensure an absolute prohibition of any form of violence to children, however light, including as a form of discipline.<sup>25</sup>

As well as express prohibition, the CRC sets out a number of measures that States should take to ensure children are protected, and violence is avoided, including establishing reporting mechanisms for cases of violence against children. Article 19(2) provides:

*Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of 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 described heretofore, and, as appropriate, for judicial involvement.*

It is well-known that violence against children is often not reported due to a number of reasons including not knowing where to go for help, a lack of services, lack of trust in the services or in some cases fear of stigma or reprisals, etc. In light of this, the Committee on the Rights of the Child has recommended to a number of States Parties to introduce into national legislation the mandatory reporting of all kinds of violence and abuse of children. These duties apply to certain professions such as social workers, teachers, doctors and other health workers.<sup>26</sup> The Committee has also consistently recommended the development of appropriate and effective complaints procedures to receive complaints from children in relation to ill-treatment in all settings.<sup>27</sup> In relation to investigating measures, the Committee has called for States to clearly have formal responsibilities exercised through one or more agencies, “to investigate reported instances or allegations of violence to children,” in conformity with the principles of the CRC.<sup>28</sup>

## **2.3 National laws and policies**

In Cambodia, the provisions relating to physical and humiliating punishment of children are set out across a number of laws and policies. There is no overarching child protection law or policy. The following section sets out the most relevant provisions.

### **Home/ family settings**

The laws and policies that relate to physical and humiliating punishment of children in the home/ family setting are set out below:

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<sup>25</sup> Committee on the Rights of the Child, *General Comment No. 8*, [34].

<sup>26</sup> UNICEF, *Implementation Handbook for the Convention on the Rights of the Child*. p 266-267.

<sup>27</sup> *ibid.* p 267.

<sup>28</sup> *ibid.* p 268.

## **Constitution**

As noted, the Constitution is the highest or supreme law. Any other laws are subject to the Constitution, and cannot be enforced if they run contrary to the Constitution. Article 38 provides that: *“The law guarantees there shall be no physical abuse against any individual.... The law shall protect life, honour, and dignity of the citizens.”* Article 47 explains parents duty is: *“to take care of and educate their children to become good citizens...”*. As quoted above, article 48 provides that the State shall protect the rights of children as set out in the CRC. Notwithstanding article 48, it appears that provisions against violence and abuse in the Constitution and other laws are not interpreted as prohibiting physical and humiliating punishment of children in the home.

## **Civil Code (2007)**

The *Civil Code* sets out the rights and duties of individuals to one and other. In contrast, the *Criminal Code* is enforced by the State. The objective of civil law is to provide redress of wrongs by compelling compensation or restitution (i.e. making good or giving an equivalent for some injury). This contrasts to criminal law where the primary objective is to punish the wrongdoer. Concerning family relations, article 943(1) of the *Civil Code* provides that: *“Members of a family shall respect each other’s rights and freedom and shall support each other.”* Article 943(2) states: *“Family members shall prevent domestic violence and infringements of each other’s human rights.”* In relation to the rights and obligations of parents, article 1043 states: *“The parental power holder shall have the right and obligation to educate the child.”* Article 1045 states: *“The parental power holder may personally discipline the child to the extent necessary.”* A civil action seeking compensation could presumably be launched if a parental power holder breached their obligations. Moreover, the law provides for the suspension or divestment of the authority of the parental power holder in cases of breach. Article 1048 states:

*If a father or mother exercising parental power abuses his or her rights or neglects his or her obligations, the court, upon application by a relative of the child up to the 4th degree of relationship, a commune or sangkat head, the head of a public child welfare institution or a public prosecutor, may order the suspension or divestment of the authority of the parental power holder.*

The *Civil Procedure Code* (2006) also provides that ‘preservative relief’ may be sought from the court to prevent a *“significant damage or imminent risk”* that may arise affecting his or her rights (articles 530-532). This could technically apply to child victims of violence.

## **Criminal Code (2009)**

The *Criminal Code* criminalises a number of violent acts that could apply to cases of physical and humiliating punishment of children in the home and other settings. The offences include:

- *“Tortures and barbarous acts”* – punishable by 7-15 years imprisonment. This is increased to 10-20 years in aggravating circumstances, which include when the victim is *“particularly vulnerable due to his/her age”*, when the crime results in *“maiming or a permanent disability of the victim”*, or the unintentional death of the victim (articles 210-215).
- *“Intentional violence”* – punishable by 1-3 years imprisonment and a fine of between 2 million and 6 million riels. This is increased to between 2-5 years

imprisonment and a fine of between 4 million and 10 million riels in aggravating circumstances, which include when it is pre-meditated, using or threatening use of a weapon, by many persons, when the victim is *“particularly vulnerable due to his/her age”*, when the crime results in *“maiming or a permanent disability of the victim”*, or the unintentional death or suicide of the victim (articles 217-227)

- *“Less severe violence that did not result in any wound”* – punishable by a fine of between 5,000-100,000 riels (article 228).
- *“Abandonment of minors”* (less than 15 years of age) by *“a person who has authority to take care”* – punishable by imprisonment of between 1-5 years and a fine of between 2 million and 10 million riels, *“if the abandonment puts the health or the safety of the minor in danger”* (article 321).
- *“Depriving foods or cares for minors”* (less than 15 years of age) by *“any person who has authorities [sic]”* where his or her health is endangered – punishable by imprisonment of between two and five years and a fine between four million and 10 million riels. This is increased to imprisonment from 7-15 years when the offence results in the death of the victim (articles 337-338).
- Depriving *“the freedom of a minor”* by a person with parental authority or guardianship – punishable by imprisonment of between 1 month and 1 year and fine between 1,000,000 to 2 million riels if the act *“severely affects health, safety, mentality or education of the minors”* (article 347).

#### **Law on the Prevention of Domestic Violence and the Protection of Victims (2005) (Domestic Violence Law)**

Physical and humiliating punishment of children could fall under the definition of domestic violence, which involves acts that happen or could happen to a husband or wife, dependent children or *“persons living under the roof of the house and who are dependent of the households”* (article 2). Both physical and emotional violence (including threats) are included in the definition as set out in articles 3, 6 and 8:

- Article 3 defines violence as *“acts affecting life, acts affecting physical integrity, torture or cruel acts and sexual aggression.”*
- Article 6 defines torture or cruel acts as including *“Harassment causing mental/psychological, emotional, intellectual harms to physical persons within the households”* and *“Mental/psychological and physical harms exceeding morality and the boundaries of the law.”*
- Article 8 states the law *“is also required to prevent threats aiming at frightening, shocking the victims and acts affecting individuality and properties of the persons living under the same roof of the house and who are dependent of the same households.”*

The second paragraph of article 8 specifically discusses the discipline of children and states:

*Every disciplining by giving advice or reminding or appropriate measures taken to allow spouses or children or dependent persons to follow the good ways of living with dignity and the nation’s good custom and tradition, if the disciplining and teaching are conducted with the noble nature (consisting of compassion, pity, joy at other’s happiness, and sincerity) and in accordance with the principles of the United Nations Conventions on Human Rights and Child Rights recognized by the Kingdom of Cambodia, shall not be included as the use of violence or acts of domestic violence.*

The *Domestic Violence Law* obligates and enables local authorities to take action in cases of domestic violence. Article 9 provides that:

*The nearest authorities in charge have the duty to urgently intervene in case domestic violence occurs or is likely to occur in order to prevent [violence] and protect the victims.*

*The authorities in charge shall make a clear record about the incident and then report it immediately to the prosecutors in charge.”*

Article 13 sets out the actions that ‘authorities in charge’ can take including:

- Seizing the weapons or concrete objects that have been used or could be used by the perpetrators
- Moving the perpetrators from the scene or moving the victims if there is a request from the victims. In any special case the victim can be removed without having a request if there is a necessary reason to do so.
- Offering the appropriate assistance to the victims in accordance with their circumstances, especially providing the temporary shelter in which safety can be guaranteed and urgent medical assistance
- Explaining, educating and mediating both parties to stop violence and informing the victims about their rights to prevent violence.

Although acts of domestic violence are not criminalised under the *Domestic Violence Law*, article 19 provides that any domestic violence that is “*characterized as the criminal offence in the manner of felonies or severe misdemeanours*” can be subject to a criminal complaint. This would be in accordance with the *Criminal Procedure Code* (2007). The articles of the *Criminal Code* outlined above could potentially be applied in particular cases of physical and humiliating punishment of children.

The *Domestic Violence Law* provides for protection orders to be applied for and granted in certain circumstances. Article 22 provides that a protection order can be requested by the court by the “*victims or representatives of the victims or the authorities in charge within the victims’ residential areas or officials, agents who fulfil their work at the scene*” and in the case of children, “*any person who has learned about the incident of domestic violence.*” The orders that may be included in a protection order include “*Making a decision on the custody of the children and the rights to visit the children by paying the highest attention to the rights and interests of the children*” (article 25).

In cases of violence against children, article 28 provides:

*...the authorities in charge who have the role to serve the interests and protect the welfare of the children shall do the follow up of this issue. In severe cases, the authorities in charge shall file the case to the court.*

*Any responsible person assigned by the court including the prosecutors shall take charge of doing the follow up of the situation of the children and make a report about this situation to the court.*

*The court can grant a mandate to the institutions in charge to seek assistance and support for the victims of domestic violence as well as to protect the safety and welfare of the victims when the court is handling the proceedings.*

***Prakas No. 2280 on Procedures to implement the Policy on Alternative Care for Children (2011)***

In situations where children are a victim, or at risk of being a victim, of violence within the family setting, articles 14-15 of *Prakas No. 2280* mandate the Commune Committee for Women and Children (**CCWC**) to visit the home of the child. The CCWC is required to interview the child, to assess the risk situation, and in case of an immediate danger to the child's safety, to remove the dangerous adult or the child from the home, in cooperation with the City/District/Khan of Social Affairs, Veterans and Youth Rehabilitation. If required, the CWCC is also mandated to connect the family to the appropriate services with the goal of keeping the child in the family and monitor and follow up the child's and family's progress regularly based on the goals identified in the service plan.

***National Standards and Guidelines for the Care, Support and Protection of Orphans and Vulnerable Children (2010)***

Drafted by MOSAVY to provide practical guidance to government and international agencies, NGOs and community-based organisations who manage programs for orphans and vulnerable children, the standards cover six areas of support for orphans and vulnerable children. Care standards in the area of 'social, emotional and psychological' (standards 5.1-5.12) include:

- Referral to specialized counselling services for children for orphans and vulnerable children that have suffered trauma, including victims of violence, abuse and trafficking.
- Education of families and communities about child development and parenting, including on positive discipline and communicating with children.

**School settings**

The laws and policies that relate to physical and humiliating punishment of children in the school setting are set out below:

***Law on Education (2007)***

Children's right to be free from physical and humiliating punishment in school settings is set out in the *Law on Education*. Article 35 provides:

*The learner's rights concerning education are: ... the right to be respected and paid attention on human rights, especially the right to dignity, the right to be free from any form of torture or from physical and mental punishment...*

The right to seek remedy from the education authorities or a court is provided by article 40, which states:

*Parents or guardians, learners and educational personnel, whose rights specified in this law, are violated, have the right to request or protest to the competent educational authority at different levels as well as to the court.*

*The Ministry in charge of education shall issue regulations on procedures for requests, protests and solutions.*

Such regulations have not yet been enacted.

### **Sub-Decree No. 127 on Teachers Professional Code (2008)**

Article 12 provides that teachers shall not “*physically and spiritually torment the learners.*”

### **Prakas No. 922 on Problems relating to Imposing Penalties on Pupils (2006)**

Issued by the MOEYS, *Prakas No. 922* provides that “*penalties of all forms imposed on pupils at the educational establishments nationwide shall be totally prohibited.*”

It states that prohibited punishments include (i.e. it is not an exhaustive list):

- Physical punishment such as beating, kneeling down, standing under the sun
- Emotional punishment such as asking pupils to write entire lesson for many times in excess of his/her capacity to do so, causing mental suffering, causing emotional sadness in mind, or causing humiliation
- penalties of penal action nature include not allowing pupils to go out or force to fulfil a particular task individually without proper reason.

### **Child-Friendly School Policy (2007)**

Among other things, a ‘child-friendly’ school has a learning environment characterised by equity, balance, freedom, non-violence and a concern for physical, mental and emotional health. The policy was adopted by MOEYS for implementation throughout Cambodia in basic education. There are six dimensions to the child-friendly school. Relevant to physical and humiliating punishment of children is dimension 3 (concerning the health, safety and protection of children) and dimension 5 (concerning the participation of children, families and communities in the running of their local school). The MOEYS report a number of supporting documents have been produced to support implementation of these dimensions.<sup>29</sup> However, these were not available in English for review.

## **Residential and alternative care settings**

There is no legislation specifically addressing the status of physical and humiliating punishment of children in residential and alternative care settings. In some situations, a carer in a residential or alternative care setting would constitute a ‘parental power holder’ as set out in the *Civil Code* and therefore those provisions (noted above under home/ family settings) would apply.

There are four key *Prakas* that provide expected standards for children in residential care and those in alternative care in the community, as well as processes for reporting and monitoring. These are set out below:

### **Prakas No. 616 on Minimum Standards on Residential Care for Children (2006) and Prakas No. 198 on Minimum Standards on Alternative Care for Children in the Community (2008)**

Both *Prakas* set out a clear prohibition of physical and humiliating punishment of children. Article 3 in the Minimum Standards on Residential Care and article 5 in the Minimum Standards on Alternative Care state: “*Discipline is not intended to affect the physical, mental, emotional and social development of the child.*” Both *Prakas* state the following forms of discipline “*must be avoided*”:

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<sup>29</sup> Key informant interview, 19 December 2014.

- Corporal punishment
- Locking a child in solitary confinement
- Tying the child up
- Keeping away from school
- Deprivation of food, drink or sleep
- Any requirement that a child wear distinctive or inappropriate clothes
- Withholding of medical treatment
- The use of children to discipline other children
- Threats or scolding the children with impolite and obscene words
- Punishment beyond their physical capacity, for example forcing a small child to carry heavy thing
- Other discipline which affects the physical, emotional and social development of the child.

Those articles also state that children are “*encouraged to be well-behaved, polite, and gentle and to have solidarity and dignity*” and to only be “*disciplined when they disobey the rules.*” The articles also instruct that: “*Negative comments about the child’s behaviour do not take place in front of other people or children.*”

Children are entitled to make complaints under the *Prakas*. Articles 7 and 8 respectively state that the management and staff are required to ensure children are informed of their rights and procedures to make a complaint. They must “*earnestly*” take the complaint into consideration, particularly when it involves violence or abuse.

Monitoring is set out in articles 10 and 11 respectively, which provide that annual monitoring of the implementation of the Minimum Standards will be carried out by the Child Welfare Department and Provincial/Municipal DoSVY.

***Prakas No. 1501 on Qualifications for Recognition of Child Safe Organizations (2011)***

Article 4 requires that all organizations registered with MOSVY that provide care and support services to children have reporting procedures on child protection incidents, and to appoint responsible persons with duties for responding to children’s concerns.

***Prakas No. 2280 on Procedures to implement the Policy on Alternative Care for Children (2011)***

The *Prakas* delineates responsibility for children in alternative care between the CCWC and the Office of Social Affairs, Veterans and Youth Rehabilitation. Article 22 (3) provides that placement and monitoring of children placed with kin in the commune are responsibility of CCWC, whereas non-kin placements within the commune or across different communes within the same district, are the duty of OSVY. Further, DOSVY and OSVY “*shall guide the placement and monitor the welfare of children placed across districts or provinces, whether in community or residential care settings.*”

Article 22(4) gives “*relevant officials engaged in the alternative care placements*” the right to enter and monitor the residential care facilities with or without notice and be given direct access to the children and their records. Article 23(4) provides that OSVY social workers “*shall visit the child placed under alternative care regularly, once per three months, to ensure his/her safety and wellbeing, and shall evaluate*

*every six months the need for family or community reintegration for each child placed in residential care.”*

After receipt of report on a possible incident of child abuse, violence or neglect of a child placed in alternative care, article 23(6) provides that within 48 hours of receipt DOSVY with oversight of the director of the Department of Child Welfare shall:

*...investigate, interview the child and determine the need of removing the child from the alternative care setting in consultation with the child’s parents or legal guardian. Whenever practicable, the D/MoSVY shall conduct the interview jointly with the police and/or the commune authorities to minimize the number of interviews of the child.*

## **Justice and penal settings**

The relevant articles are set out below:

### **Constitution**

Article 38 provides that: *“Coercion, physical ill-treatment or any other mistreatment that imposes additional punishment on a detainee or prisoner shall be prohibited.”*

### **Prison Law (2011)**

Prisoners are entitled to file complaints about violence committed by prison staff. Article 28 provides:

*Any prisoner is entitled to file a complain to the Prison Chief, Director General of Prisons, Royal Prosecutor, and General Prosecutor attached to the Court of Appeal, about abuse committed by fellow prisoners or by prison staff. Prisoner complaints shall be lodged through a prison officer, an official visitor, visiting relatives, the prisoner’s lawyer, or representative of the prosecution. Any complaint shall be handled and responded to within a reasonable time. No prisoner shall be punished or otherwise prejudiced for having made a complaint or a request.*

In relation to any disciplinary action against prisoners, article 42 provides that this *“shall be taken at the minimum level necessary to ensure security, safety and good order only.”* Article 53 expressly prohibits any form of corporal punishment, as well as *“detention in a dark cell, reduction of diet and collective punishment and the use of a prisoner to punish another prisoner.”*

### **Draft Juvenile Justice Law**

There is not yet an English version of the current draft law. The CNCC *Gap analysis of child protection legislation in the Kingdom of Cambodia* includes reference to a previous draft version and notes that article 102 provides that *“any person who tortures, uses cruel treatment or intentionally uses violence against the minor shall be punishable in accordance with the Penal Code.”* Moreover, article 5 prohibits all forms of corporal punishment.



## Workplaces

### ***Law on Labour (1997)***

Article 83 of the *Law on Labour* sets out “serious offenses” on the part of the employer, which include:

- Refusal to pay all or part of the wages
- Abusive language, threat, violence or assault
- Failure to implement labour health and safety measures in the workplace as required by existing laws.

Articles 179 and 180 mandate all employers to keep a register of children aged less than 18 years old, whom they employ, indicating their date of birth. A record must be kept indicating the date of birth, manual labour conditions for children, and their daily schedule. The register and the record must be submitted to the Labour Inspector at the end of each year.

Article 233 requires Labour Inspectors and Controllers to visit establishments and to undertake inspections of the enforcement of the legislative provisions and regulations regarding health, working conditions and safety.

However, the law excludes several employment sectors, such as domestic or household servants (except in cases of forced or compulsory labour) (article 15).

It is arguable that domestic helpers could fall under the domestic violence definition in the *Domestic Violence Law* as dependents of the household.

## 2.4 Gaps in law and policy

### ***Physical and humiliating punishment of children in home/ family settings is allowed by law***

The Committee on the Rights of the Child has expressed concern that article 1045 of the *Civil Code* allows a “parental power holder to personally discipline the child to the extent necessary” and that article 8 of the *Domestic Violence Law* “implicitly authorizes corporal punishment of children for disciplinary purposes.”<sup>30</sup> There does not appear to have been any judicial interpretation of these articles nor any explanatory material published to assist in this analysis.<sup>31</sup> Article 1045 is clearly problematic, providing no limitations on forms of discipline and open to an interpretation that allows physical punishment of children as a parental power holder sees fit. MOWA’s *Cambodia Gender Assessment 2014* also highlighted this article as problematic.<sup>32</sup>

A different interpretation of article 8 of the *Domestic Violence Law* was put forward during key informant interviews. It was suggested that article 8 only allows positive discipline given that the definition of domestic violence in the law only excludes disciplinary acts “conducted with the noble nature (consisting of compassion, pity, joy at other’s happiness, and sincerity) and in accordance with the principles of the

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<sup>30</sup> Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: Cambodia*, CRC/C/KHM/CO/2, June 20, 2011, [40].

<sup>31</sup> Cambodia does not currently have a system whereby the public can access and read judicial decisions, however key informants advised that to their knowledge, these provisions have not been considered by any judge.

<sup>32</sup> Kingdom of Cambodia, Ministry of Women’s Affairs, *Policy Brief 7: Violence Against Women and Girls - Cambodia Gender Assessment*, 2014, p 17.

*United Nations Conventions on Human Rights and Child Rights recognized by the Kingdom of Cambodia*". At best, it is arguable that article 8 is ambiguous. At worst, it permits physical and humiliating punishment of children. If its inclusion was in fact to ensure that positive, peaceful interactions within the household would not be misinterpreted as domestic violence, it is arguably unnecessary. After all, it would be tantamount to including an article in the *Criminal Code* under the offence of intentional violence, for example, and stating that interactions between persons that are conducted harmoniously in accordance with international human rights law shall not be included as acts of violence. Another key informant explained that any judicial interpretation of article 8 would be based on prevailing social norms and cultural practices which would allow pulling ears and hair, and kicking, amongst other things. To remove any doubt, article 1045 of the *Civil Code* and article 8 of the *Domestic Violence Law* must be removed or amended.

### ***Physical and humiliating punishment of children in home/ family settings is not prohibited by law***

Even if article 1045 of the *Civil Code* and article 8 of the *Domestic Violence Law* were removed, this would be what is characterised as 'silent' reform. It does not send a clear educational message that physical and humiliating punishment of children is unlawful. Prohibition is achieved when the repeal of any authorisation is accompanied by the insertion of a statement which makes it clear that violence can no longer be justified as punishment or 'discipline'.<sup>33</sup> A key informant suggested that article 8 of the *Domestic Violence Law* was included not only because there is traditional acceptance of violent and humiliating punishment of children in communities but also, because leadership does not want to prohibit this form of punishment. Interestingly, Cambodian culture, the lack of readiness of Cambodian families for such reform, and the desire to protect Cambodian parents from "going to jail" was raised a number of times during the review but only by government respondents. The following quotes illustrate these concerns:

*"The real implementation is not possible, especially within Cambodian culture. Parents just want to advise their children, make them do things in the right way, they do not want to harm them."* (Key informant interview, national level)

*"If it was made criminal, many parents would be in jail."* (Key informant interview, national level)

*"Our people do this kind of punishment from generation to generation so it is very difficult to change."* (Key informant interview, national level)

Such arguments are more or less the same as those that have been put forward in different countries around the world that have sought to ban physical and humiliating punishment.<sup>34</sup> Interestingly, while the field research findings cannot be generalised beyond the sample, every person interviewed and consulted in Prey Veng (126 participants) answered 'yes' to the question "*In some countries the physical and humiliating punishment of children has been prohibited by law in all settings (in the home, school, alternative care, penal institutions, etc.), do you think such a prohibition should exist in Cambodia?*" Only one official in the province wavered in their response, repeating the notions outlined above, but eventually concluded that it

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<sup>33</sup> Save the Children Sweden and Global Initiative to End All Corporal Punishment of Children, *Ending Corporal Punishment and Other Cruel and Degrading Punishment of Children Through Law Reform and Social Change: Campaigns Manual*, 2010.

<sup>34</sup> Pernilla Leviner, "The Ban on Corporal Punishment of Children, Changing Laws to Change Attitudes: the Swedish Experience," *Alternative Law Journal* 38, no. 3 (October 2013): 156–59.

was “...*much better to have a law.*” Discussed further below in section 3.4.

***It is unclear who should respond to cases of physical and humiliating punishment of children in home/ family settings and the process for response***

There is a lack of clarity in existing legislation and policy regarding local authorities’ roles, reporting and response. The *Domestic Violence Law* does not define “*authorities in charge*” that can intervene during domestic violence. The Glossary to the law states that these details are still to be regulated by a sub-decree. While there is reference to the implementing regulations of the *Domestic Violence Law* in some publications, the draft does not appear to have yet been made public. The lack of implementing regulations has also been raised by the Committee on the Rights of the Child.<sup>35</sup> CNCC has recommended that for consistency with other legislation, the implementing regulations should define “*authorities in charge*” as the Commune Focal Point for Women and Children and officials from the sub-national offices (district and provincial) of Social Affairs, Veterans and Youth Rehabilitation.

The regulations should also detail the process for reporting and response. For example, there is not currently any guidance for local authorities to determine what constitutes a minor versus severe misdemeanour and therefore what should be classified as criminal or not. With unclear guidelines and direction, it is likely that local values and standards will be injected into the administration of justice. One further point requiring clarity is article 22(2) of the *Domestic Violence Law*, which stipulates that a complaint or a protection order can be requested by a victim, or “*any person who has learned about the domestic violence incident if the victim is a child.*” “*Any person*” is arguably too broad and open for misuse.<sup>36</sup>

***The process for reporting and responding to cases of physical and humiliating punishment in school settings is unclear***

Physical and humiliating punishment is prohibited in public and private schools. However, the relevant instruments do not provide guidance on how children can report abuse cases or on procedures that should be followed when teachers and others identify abuse cases. There is no requirement that education professionals report suspected cases of child abuse.

***The process for responding to cases of physical and humiliating punishment in residential and alternative care settings is unclear***

Despite the existence of fairly comprehensive *Prakas*, carers in residential care centres and community based care would generally fall under the definition of parental power holders and therefore article 48 of the *Civil Code* allowing a “*parental power holder to personally discipline the child to the extent necessary*” arguably continues to encourage physical and humiliating punishment of children in these settings. The process for responding to complaints of abuse within these settings is also not standardised and instead occurs ad-hoc on a case by case basis.<sup>37</sup> More generally, it has been suggested that MOSVY’s mandate to regulate, monitor and inspect, as well as to shut down centres in cases of serious or repeated breach of standards, should be reinforced in legislation together with detailed procedures on responding to investigating complaints, sanctioning and enforcement of decisions.

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<sup>35</sup> Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: Cambodia*, CRC/C/KHM/CO/2, [49].

<sup>36</sup> Cambodia National Council for Children, *Gap Analysis of Child Protection Legislation in the Kingdom of Cambodia*.

<sup>37</sup> *ibid.* citing MOSVY, Mapping and Assessment of Child Protection System in Cambodia, supported by UNICEF Cambodia, April 2011 version, pp 39-40.

***There are no child-friendly complaints mechanisms for reporting physical and humiliating punishment in penal settings***

Physical and humiliating punishment is unlawful as a disciplinary measure in penal institutions and as a sentence for crime. There is no provision for judicial corporal punishment in the *Criminal Code* or the *Criminal Procedure Code*. Although a complaint provision is included in the *Prison Law* for prisoners to lodge complaints, there appears to be no official accessible child-friendly complaints mechanisms.<sup>38</sup> This is complicated by the lack of specific, children-friendly justice in Cambodia. Despite reporting to the Committee on the Rights of the Child in 2010 that the draft law on Juvenile Justice was finalised in September 2006 by the Working Group on Law Review of the CNCC and further recommendations sought by consultative meetings in May 2007,<sup>39</sup> the law still has not been enacted.

***Children working as domestic helpers are not protected by labour laws and vulnerable to physical and humiliating punishment***

Contrary to international standards, domestic or household services are excluded under the *Labour Law*. This leaves children working in these settings without legal protection, with no labour inspection, legal safeguards or remedies. Accordingly such children are at heightened risk of labour exploitation as well as physical and humiliating punishment.<sup>40</sup>

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<sup>38</sup> *ibid.*

<sup>39</sup> Committee on the Rights of the Child, *Second Periodic Report of States Parties Due in 1999: Cambodia*, CRC/C/KHM/2-3, October 4, 2010.

<sup>40</sup> Pech Sothary, "Domestic Workers Push for Protections," *Phnom Penh Post* website, December 11, 2014. National and foreign NGOs are calling on the Government to ratify the International Labour Organization's 2011 Domestic Workers Convention in order to better safeguard the rights of Cambodian domestic workers, both inside and outside of the country.

### 3. Accessibility and functionality

#### 3.1 Children's experiences

##### 3.1.1 Existing research

###### *Home and school settings*

The physical and humiliating punishment of children in Cambodia is reportedly widespread and documented in a number of researches and reports. For example, in its initial country report to the Committee in 1998, Cambodia mentioned that the “*practice of striking children by way of family chastisement*” was widespread.<sup>41</sup> *Cambodia's Violence against Children Survey*,<sup>42</sup> the first national study on violence against children, documents children's experience of physical and humiliating punishment of children. Although not distinguishing between violence inflicted as a form of discipline or otherwise, the survey found:

- Over half of both females and males aged 18-24 years (52.7% and 54.2%, respectively) reported at least one experience of physical violence prior to the age of 18.
- Females and males aged 13-17 years reported similar rates with 61.1% of females and 58.2% of males reporting at least one experience of physical violence.
- Almost 2 in 10 females and a quarter of males aged 18 to 24 reported experiencing emotional violence by a parent or caregiver prior to age 18.
- Nearly 3 out of 10 females and males 13 to 17 years old experienced emotional violence by a parent or caregiver.
- The most likely person to cause childhood physical or emotional violence was a parent, especially mothers.
- Teachers were the most common perpetrators of childhood physical violence outside of home settings. Male teachers were cited more often than female teachers across all groups.

Evidence from developed countries suggests that disciplinary or ‘corrective’ action on the part of parents is often at the core of child abuse cases and this fact can be obscured by aggregate data.<sup>43</sup> Others posit that “*physical punishment is responsible for the majority of child abuse cases as parents who set out to discipline a child lose control of their anger or underestimate their strength.*”<sup>44</sup> As such, while the survey did not examine punishment in-depth, it may be that much of the physical and emotional violence experienced by children originated from some kind of disciplinary action on the part of the parent or teacher. The qualitative research component of *Cambodia's Violence against Children Survey* revealed that children felt a sense of sadness and powerlessness at not being able to communicate meaningfully with parents, especially when they were admonished for wrongdoing. Children described being blamed, insulted, humiliated and cursed at by parents. Some said they were often

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<sup>41</sup> Committee on the Rights of the Child, *Initial Report of States Parties Due in 1994: Cambodia*, CRC/C/11/Add.16, June 24, 1998.

<sup>42</sup> Kingdom of Cambodia, Ministry of Women's Affairs, UNICEF Cambodia, US Centers for Disease Control and Prevention, *Findings From Cambodia's Violence Against Children Survey 2013*. 2,376 children were surveyed.

<sup>43</sup> Landau, “Policing the Punishment: Charging Practices Under Canada's Corporal Punishment Laws” citing Trocme *et al.*, 2001.

<sup>44</sup> *ibid* citing Durrant 1996, p 107.

unclear about exactly why they were shouted at and strongly desired that their parents explain their views more constructively by offering advice and guidance.<sup>45</sup>

In relation to physical and humiliating punishment in schools, participants in *Cambodia's Violence against Children Survey* witnessed or experienced the following forms inflicted by teachers:

- Beaten with a belt
- Hit or hurt on various parts of their body (hit on the palm of hand, heads banged together, hair or sideburns pulled, twisting the skin on the thigh of girls, twisting the skin on the stomach, pinching, including on the face)
- Hit with a small stick or ruler especially on the ends of fingernails, and being forced to punch the table or whiteboard themselves or bang the ends of their fingernails on a hard surface
- Made to stand on one leg/foot during break time, stand for long periods of time including under the sun, run around the school, to do push-ups, crawl across the floor, raise their hand and keep their mouth open, and to do labour activities such as clean toilets, fetch water and water flowers or dirt, and cut the grass
- Excluded from class for an hour for not wearing a name tag
- Fined for being late or forced to buy paper or a book from the teacher.

The research found that boys discussed discipline in schools more than girls. When asked how they were affected by such experiences, children said they felt sad, embarrassed, anger and fearful and often did not want to attend school or to study. Children said that discipline was expected from teachers but they expressed a strong desire that it should not take the form of physical or emotional violence.<sup>46</sup>

In relation to reporting incidents of violence, a major reason among girls and young women for not disclosing or seeking help was that they feared being admonished for gossiping and being told to mind their own business. On the other hand, boys did not disclose incidents because they were too shy, they felt that there was no point because no one could help, and feared being accused of gossiping about adults. Older males complained about inconsistent police and judicial action, which discouraged them from reporting and seeking help. The research found that males were more likely than females to explicitly state that they did not or would not tell someone about an incident of violence.<sup>47</sup>

Earlier research conducted by World Vision Cambodia in 2005 with 12-18 year olds in Kandal Province revealed similarly concerning prevalence of physical violence against children by parents.<sup>48</sup> The research found:

- 92% of respondents had seen or heard of a boy being beaten by a parent and 71% of respondents had seen or heard of a girl being beaten by a parent
- 67% of boys and 38% of girls had been beaten by their father, 76% of boys and 60% of girls by their mother

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<sup>45</sup> Kingdom of Cambodia, Ministry of Women's Affairs, UNICEF Cambodia, US Centers for Disease Control and Prevention, *Findings From Cambodia's Violence Against Children Survey 2013: Qualitative Research*, 2014. A total of 116 children and young adults (54 females and 62 males) took part in facilitated participatory workshops and focus group discussions.

<sup>46</sup> *ibid.*

<sup>47</sup> *ibid.*

<sup>48</sup> World Vision Cambodia and Graham Fordham, "*Wise" Before Their Time: Young People, Gender-Based Violence and Pornography in Kandal Stung District*, September 2005. The number of participants involved in the qualitative research phase is not specified, however 103 children and young people were surveyed for the quantitative phase.

- The majority said someone should intervene to stop children being beaten by their parents (95% for a boy; 92% for a girl)
- Almost half of respondents said a relative should intervene but neighbours, village chiefs and the police were also identified
- 84% of respondents said they had seen or heard of a teacher beating a boy and 67% of respondents had seen or heard of a teacher beating a girl
- 56% of boys and 19% of girls said they had been beaten by a teacher
- 36% of respondents said it was always wrong for a teacher to beat a boy, and 44% said it was always wrong for a teacher to beat a girl.

One of the conclusions of the research was that the use of violence to discipline was considered so normal that it was not recognised as violence.

As part of the contribution to the UN Study on Violence against Children, Save the Children undertook research on 'corporal punishment' across the region, including Cambodia, and found corporal punishment was widespread.<sup>49</sup> In Cambodia, children mentioned that physical punishments included:

- Being hit with a variety of implements, including a stick, cane, 'whip' made of electric cable, belt, whip, chain
- The use of sharp implements (knife) and sharp-edged domestic items (brooms, shoes), kicking, punching, pinching, pulling, and twisting joints.

Of those children who mentioned body parts where they were hit, 39.8% reported being hit on the head and neck, 82.2% on the limbs, 80.7% on the back, 33.1% buttocks, 2.3% chest and 3.3% stomach. When asked what they did in response to punishment:

- 61% of boys and 76% of girls said they stood still and endured it
- 1.8% of boys and no girls said they "fight back"
- 27% of boys and 23% of girls said they "escape" the punishment
- 16% of boys and 4% of girls said they begged not to be punished.

Tearfund also undertook research in 2005 to contribute to the UN Study on Violence against Children.<sup>50</sup> Half of the boys (50.5%) and over a third of the girls (36.4%) reported having been beaten by their parents. 82.4% of girls and 81.1% of boys reported witnessing other children being beaten by their parents. Slightly less than half of all children (44.5%) thought that beating could sometimes be right as well as wrong. Children conveyed their belief that parents had a right to beat them if they had done something wrong.

Nearly one in four girls (24.1%) and over one in three boys (34.7%) reported having been beaten by their teacher in school. Children identified punishments that teachers use and punishments they should use as set out in Table 3.

<sup>49</sup> Save the Children Sweden, *What Children Say: Results of Comparative Research on the Physical and Emotional Punishment of Children in Southeast Asia and the Pacific*, 2005. The research in Cambodia involved 504 children (250 boys, 254 girls) from urban, rural and remote areas, and 275 adults (122 men, 153 women).

<sup>50</sup> Tearfund, *Stop Violence Against Us! Summary Report - a Preliminary National Research Study Into the Prevalence and Perceptions of Cambodian Children to Violence Against Children in Cambodia*, 2005. The research involved 1,314 12-15 year olds (639 boys and 671 girls).

**Table 3: Punishments that children say teachers do use and should use according to Tearfund (2005)<sup>51</sup>**

Response	Punishment children say teachers do use %	Punishments children say teachers should use %
Beating with a cane	46.8	19.8
Smacking with the hand	27.1	17.9
Explaining to children about their mistakes	83.5	91.4
Other	66.9	69.4

### **Other settings**

There is limited research looking at children’s experiences of physical and humiliating punishment in other settings in Cambodia, often because these children are hidden and inaccessible making them particularly vulnerable to violence. A 2013 research published by Human Rights Watch investigated physical punishment in ‘drug detention centres’ where people who use drugs and others considered ‘undesirable’ by the authorities (including children and adults living or working on the street) are detained. The report was based on interviews with 33 people held in drug detention centres between 2011 and 2013, including three detained when they were under 18. Punishments included beating, punching and kicking detainees, shocking them with electric batons and forcing them to do painful physical exercises such as crawling on the ground. According to government statistics cited in the report, at any one time around 1,000 people were held in the eight drug detention centres in Cambodia, with at least 10% under 18 year of age.<sup>52</sup> The Committee on the Rights of the Child has also expressed its concern about “*the thousands of children who are working as domestic workers, primarily in Phnom Penh*”, under forced and abusive conditions.<sup>53</sup> Some recent cases were raised during field work<sup>54</sup> and are also noted in a handful of newspaper reports.<sup>55</sup>

## **3.1.2 Field work findings**

### **Methods of discipline**

To understand children’s perspectives on physical and humiliating punishment and how, if at all, these were influenced by existing laws and policy, children and young people were asked about the methods of discipline used by adults (parents, carers, teachers) on children in their community. The question was asked in child-friendly language with further explanation and probing questions by the facilitator to solicit information. It was emphasised that the question was not about the children’s personal experience but about things they may have seen or heard of in the community.<sup>56</sup> Children and young people were then asked to sort these methods into

<sup>51</sup> The figure does not add up to 100% because children reportedly gave more than one response.

<sup>52</sup> Human Rights Watch, “*They Treat Us Like Animals*” *Mistreatment of Drug Users and ‘Undesirables’ in Cambodia’s Drug Detention Centers*, 2013.

<sup>53</sup> Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: Cambodia*, CRC/C/KHM/CO/2, [67].

<sup>54</sup> Eang Mengleng, “Family Free After Alleged Abuse of Child Workers,” *The Cambodia Daily* website, August 1, 2014. concerning the alleged abuse of a 18 year old girl and her 12 year old brother forcibly held for eight and two years respectively as domestic servants. The bodyguard of the family was eventually charged: Aun Pheap. “Family’s Bodyguard Charged in Child Abuse Case,” *The Cambodia Daily* website, August 4, 2014.

<sup>55</sup> Abby Seiff and Cheng Sokhorn, “Torture Case Shines Light on World of Child Servants,” *The Cambodia Daily* website, October 20, 2009, concerning the alleged torture of an 11 year old girl kept as a domestic servant by a wealthy couple in Phnom Penh; {BenSokhean:2014wr} concerning the alleged abuse of a 17 year old girl working as a domestic worker in Phnom Penh.

<sup>56</sup> The field research did not investigate individual experiences of physical and humiliating punishment. This was not undertaken given the recently launched national survey provides useful data on prevalence. The short time in the field meant that other investigations were prioritised given the objectives and scope of the review.



forms that they considered ‘acceptable’ and ‘not acceptable’. A total of 36 children and young people (21 females and 15 males) aged 10-16 years old from a range of socio-economic backgrounds participated in this particular activity. The participants were not involved in Save the Children programming. Children listed acceptable forms that included gentle advice and explanations, while unacceptable forms included different forms of harsh language and verbal abuse and physical methods that included injury (see Table 4).

**Table 4: Summary of ‘acceptable’ and ‘unacceptable’ forms of discipline according to children and young people**

Acceptable	Not acceptable
Beating	Beating
Hit or slap on the shoulder or hand strongly	Hit or slap on the shoulder or hand strongly
Explaining with a “ <i>soft voice</i> ” and “ <i>sweet words</i> ”	Loudly accusing or blaming children
Advising the “ <i>right way</i> ” politely	Cursing (this was described as saying cruel words, e.g. you deserve to be in prison, you deserve to be struck by lightning, you deserve to be handcuffed, you deserve to be shot to death, etc.)
Parents advise children to go to school	Cursing badly (this was described as very offensive language, swear words)
Parents advise not to “ <i>go for a walk</i> ” (i.e. hang around) with a sweet and soft voice	Accusing/blaming children by using “ <i>not good</i> ” words
Speaking with soft and sweet words	Beating and seriously hurting children when they do not obey or listen to their parents
Parents tell children what is wrong (e.g. not to steal the others belongings)	Parents hit children with whip (like what they use to hit the cow), electrical wire, rope (that they use to hold the cow), belt, sticks
Parents use a “ <i>medium</i> ” voice to ask children to study hard	
Parents to tell children to avoid using drugs	
Parents advise children to study hard with a “ <i>soft voice</i> ” and “ <i>sweet words</i> ”	

Interestingly, the groups of boys consulted were clear about the methods of discipline they considered acceptable and unacceptable. The examples they provided, such as being hit with a whip, electrical wire, rope, belt, and sticks, came from their direct experience. There were differing views amongst girls in one group in relation to ‘beating’ where five out of nine girls thought beating was not acceptable because hitting “*hurts children mentally and physically.*” In contrast, four out of nine girls considered it was acceptable in circumstances where “*we do the wrong thing and deserve to be beaten.*” Children’s view that physical punishment is justified in some circumstances was also reflected in later discussions. For example, a girl in a group discussion of girls aged between 13-17 years old in a residential care centre explained that if “*students study hard, teachers will not hit them.*” When discussing how children could respond to violence in school settings, a 12 year old boy stated: “*If it happens at school, it doesn’t mean the teacher hit, they are just disciplining.*” In response to a question about what else is needed to prevent physical and humiliating punishment of children, a 12 year old girl stated that “*Children have to change their own behaviour from bad to good.*”

Another group of girls had different views about whether a strong hit or slap on the shoulder or hand was acceptable or not. Seven out of 12 girls thought it was acceptable, whereas five considered it unacceptable. It could be speculated that boys may receive or witness more violent punishment therefore are strongly against physical punishment, whereas girls may be subject to ‘lighter’ beatings that are commonplace therefore leading to ambiguity about whether or not such punishment is acceptable. The legal status that permits physical punishment in the home likely both reflects and encourages such views and practices.

### ***Laws relating to physical and humiliating punishment***

Children and young people were asked for their view on whether physical and humiliating punishment of children should be prohibited by law in all settings. All 52 children and young people (28 females, 24 males) unequivocally answered 'yes'; one boy raised both hands to emphasise his absolute support for the proposition! The children and young people provided a range of reasons to support their view. The comments below, for example, conveyed a desire to see an improvement in Cambodian society:

*"I want Cambodians have a good habit like the other countries."* (Girl in group discussion of girls aged 10-13 years)

*"I want to see Cambodian society progress like the other countries."* (12 year old boy)

*"Having law to stop this punishment is good. We won't have violence in society."* (12 and 14 year old boy)

Children's responses also demonstrated their belief that such a law would stop physical and humiliating punishment of children as parents and teachers would want to obey the law for fear of punishment. The following are examples:

*"If there is such a law, parents cannot beat children because it is wrong."* (Girl in group discussion of girls aged 10-13 years)

*"With this law there will be no beating for children because they will be afraid of the law."* (11 year old boy)

*"If we have this law, mothers will not dare to hit their children."* (13 year old girl)

*"Teachers will stop beating students."* (Girl in group discussion of girls aged 13-17 years)

Girls in particular conveyed that children should not be beaten and that physical and humiliating punishment negatively impacts children's well-being and family life. For example:

*"We need this law because we don't want to be beaten as it hurts."* (Girl in group discussion of girls aged 10-13 years)

*"Adults should not hit because it breaks children's hearts and damages their brain."* (Girl in group discussion of girls aged 10-13 years)

*"Such a law would be good so children can live comfortably and peacefully."* (Group discussion of girls aged 10-14 years)

*"I think that the law is good because children should not be beaten."* (Girl in group discussion of girls aged 10-14 years)

*"With such a law, the family will be good and prosperous."* (Girl in group discussion of girls aged 13-17 years)

*“Family members can live peacefully together.”* (Girl in group discussion of girls aged 13-17 years)

Children were also asked about the impact such a law would have on the behaviour of people that use physical or humiliating punishment on children. The majority (56%) believed it would have ‘some impact’ or in other words that those adults would not use physical and/or humiliating forms of punishment so frequently or they would not use such harsh forms. The breakdown of responses is listed in Table 5.

**Table 5: Children and young people’s perception of the impact of a law that prohibits physical and humiliating punishment of children**

Impact	Females	Males
No change	1	
Some change	6	12
Complete change	3	10
<b>Total</b>	<b>10</b>	<b>22</b>

Some children spoke about the need for strict consequences for those who violated the law as illustrated by the following quotes:

*“They should be handcuffed.”* (13 year old boy)

*“If the teacher does not obey the law, they should be arrested and punished. Tie up the teacher on a chair and let the teacher listen to the law.”* (13 year old girl)

Children and young people had a number of suggestions that could contribute to reducing physical and humiliating punishment, including education and awareness-raising for parents, teachers, and communities. They also emphasised the important role of local authorities:

*“Need to teach the parents in the commune.”* (12 year old girl)

*“Use posters to conduct awareness-raising.”* (13 year old girl)

*“The Commune Chief has to educate parents to stop hitting.”* (Girl in group discussion of girls aged 13-17 years old)

*“The [local] authority can prevent violence if they get training on the issue.”* (Group discussion of boys aged 11-16 years old)

*“Commune [officials] should go to meet the people that experience domestic violence and advise and educate them.”* (13 year old girl)

*“The school director should tell teachers [not to beat children].”* (14 year old girl)

*“Use the loud speaker and go village by village [raising awareness].”* (15 year old girl)

*“The District Governor should assist in doing awareness-raising.”* (Group discussion of boys and young men aged 10-19 years)

Finally, some children spoke about surrounding conditions that they considered contributed to parents tendency to inflict physical and humiliating punishment on children.

*“When parents have money, they will not hit anymore.”* (12 year old boy)

*“As a result of drinking wine, parents hit their children.”* (Boy in group discussion of boys aged 11-12 years old)

*“Parents with good living conditions never hit their children.”* (Group discussion of boys aged 11-12 years old)

### **Reporting physical and humiliating punishment**

Children and young people in four group discussions with a total of 31 participants (7 females, 24 males) were asked to whom they would report if they experienced violence in the home or school. The village chief and police were mentioned in three of four discussions. Neighbours or relatives or adults they trust, including parents if the perpetrator was a teacher, were also mentioned. The full range of responses is listed in Table 6.

**Table 6: To whom will children report if they experience violence at home or in school**

Person/organisation	# of 4 discussions
Village chief	3
Police	3
Aunt or uncle or family member that did not beat them (e.g. parent if beaten by grandparent or teacher)	3
Adult neighbour	2
Trusted person (e.g. grandparent or friend)	1
Head of district	1
Grandparent (if beaten by parent)	1
Elders in the community	1
Court	1
Commune chief	1

When asked about any worries or concerns that children have regarding reporting, all groups expressed they were *“afraid”* of the consequences of making a report. Three boys out of 10 in a group discussion said they were not afraid because the perpetrator was outside of the family and it was good to report so that the police could stop them. Children and young people were fearful of a range of things including: being *“blamed”* in the case of reporting violence by teachers; being *“discovered”* by the victim’s parents if they reported violence against another person; or having water (possibly acid) sprayed at them or being beaten or stabbed, including *“to death.”* In response to his peers concerns, one 14 year old boy said: *“If we report to the police and the person who we complained about hits us, we can report to the police again.”* The full range of responses is listed in Table 7.

**Table 7: Children’s concerns and worries about reporting physical and humiliating punishment**

Responses	# of 4 discussions
Afraid of being beaten	3
Afraid that the information would be leaked to the victim’s parents and they would know/ be annoyed	2
Afraid of being beaten to death	1
If happens at school and the teacher becomes aware, then they will be brought to the office and blamed	1
Afraid of revenge	1

Responses	# of 4 discussions
If they report, when they walk alone, they may experience trouble [i.e. they will feel unsafe when they walk alone]	1
They are afraid of having water sprayed at [this may have been a reference to 'acid']	1
Afraid of being beaten to death when walking to school	1
Afraid of being stabbed to death	1

Interestingly, none of the children or young people raised concerns about shame or fears of being admonished for 'gossiping', both of which were raised in the qualitative research in *Cambodia's Violence against Children Survey*. It may be due to the fact that the national survey dealt with all forms of violence, including sexual violence, which is particularly sensitive. The violent and graphic examples shared in the field research, including by a 10 year old boy living in residential care, conveyed the deep fear children held. When asked about what could make reporting easier, children and youth frequently mentioned the telephone and said they could borrow a phone from an older sibling or member of the family or use a public phone. The anonymity of the phone appeared to be the reason children preferred this method of reporting, highlighting the important function of services such as those provided by Child Helpline Cambodia.

A consultation was also undertaken with 10 'Village Volunteers' (7 female, 3 male), community members supported by Save the Children to facilitate peer group education with parents and carers. In relation to encouraging children to report, one female Village Volunteer explained that children were "*not afraid to report within children's club*" and that children's club leaders could then pass information to local authorities. This was not raised by children, presumably because none of the children interviewed participated in Save the Children supported children's clubs.

## 3.2 Parents and carers' perspectives

### 3.2.1 Existing research

Earlier small-scale research found that physical and humiliating punishment of children is commonly practiced and accepted by parents and carers. In research undertaken during 2008,<sup>57</sup> the 'Khmer 1-2-3' method of discipline was described with i) polite verbal correction, ii) initial scolding, swearing or threatening remarks often followed by iii) hitting, beating and striking with various objects if the child continued to be disobedient and ignore instruction. Most parents appeared to do this with the well-meaning intention of raising children to match the cultural expectations they themselves were brought up with, in keeping with the proverb, you must "*Strike iron while it is still hot; train a child while he/she is still young.*" However, physical punishment was also viewed as a practical means of controlling a child's behaviour and protecting the family honour. Few parents were able to give any positive and effective alternatives to this method, except some parents from higher socio-economic backgrounds in Phnom Penh. Interestingly, nearly all adults (96%) in the 2005 Save the Children research admitted that they felt unhappy after they had been punished as children.<sup>58</sup> A recent baseline survey in eight of World Vision Cambodia's Area Development Programmes revealed a contrast between what children and parents said about the use of positive discipline. The proportion of children saying

<sup>57</sup> Steve Gourley and NGO Committee on the Rights of the Child, *The Middle Way: Bridging the Gap Between Cambodian Culture and Children's Rights*, 2009. The qualitative phase of the research involved 540 (360 parents / 180 children) focus group participants and the quantitative phase involved 1800 (1,200 parents / 600 children) survey respondents.

<sup>58</sup> Save the Children Sweden, *What Children Say: Results of Comparative Research on the Physical and Emotional Punishment of Children in Southeast Asia and the Pacific*.

their parents used positive discipline was lower (51%) than the proportion of parents saying they used positive discipline on children (61%). In all surveyed locations except for one, parents/caregivers tended to report the use of positive discipline more often.<sup>59</sup>

### 3.2.2 Field work findings

#### **Methods of discipline**

To understand parents and carers' perspectives on physical and humiliating punishment and how, if at all, these were influenced by existing laws and policy, they were asked about the methods of discipline used by parents and carers on children in their community. To encourage participation, it was emphasised that the question was not about the participants' personal experience but about things they may have seen or heard of in the community. Parents and carers were then asked to sort these methods into forms that they considered 'acceptable' and 'not acceptable'. One group of seven fathers and one group of 10 mothers (including one grandmother) were consulted. Some of the parents were participating in Save the Children's positive parenting peer groups facilitated by Village Volunteers and thus were likely to have been more conversant with positive discipline techniques than the general population. The parents and carers were from mixed socio-economic backgrounds. Among men, there were differing views on whether using a small stick to hit children's legs was acceptable or unacceptable. Four of seven considered it acceptable, while three said it was unacceptable. No women considered this form acceptable. In relation to threats to hit, five fathers of seven considered it acceptable, whereas two said it was unacceptable. All women agreed threats to hit were an acceptable form of discipline. The full list of methods is set out at Table 8.

**Table 8: Summary of 'acceptable' and 'unacceptable' forms of discipline according to parents and carers**

Acceptable	Not acceptable
Using a small stick to hit children's legs	Using a small stick to hit children's legs
Threatening to hit	Threatening to hit
Sweet, soft and convincing words	Using a stick to hit
Not using harsh words	Using a stick after children do not listen to parents/carers initial persuading methods
Use Buddhist (positive) discipline like: <i>"please help me to do the job"</i>	
Tell the children to do the good thing by being a good role model, e.g. if his mother calls him, he will say yes. When he calls his children, his children will say yes too.	
Use the soft words like: <i>"Please go to school. If you don't study, you may not have the knowledge."</i>	

To triangulate findings, Village Volunteers working across eight different communes were also asked about discipline in the community. The Village Volunteers agreed that the traditional saying to *"Strike iron while it is still hot; train a child while he/she is still young"* is still prevalent in the community. The following are illustrations of forms of physical and humiliating punishment the Village Volunteers had encountered:

*"There was one boy who was beaten with electrical wire by his father until he*

<sup>59</sup> World Vision Cambodia, *Extract From Child Protection Baseline in 8 Districts Noting Proportion of Parents Caregivers Who Report the Use of Positive Discipline*, 2014.

bled.” (Female Village Volunteer)

*“If children disobey, parents say I used ‘Buddhist psychology’ [i.e. sweet words] so you want to receive ‘hot Buddhist psychology’ [i.e. hitting and shouting].”* (Male Village Volunteer)

*“If children are instructed to go to the market and they don’t obey, they are threatened that they won’t have anything to eat. I know of a real case where children were denied food as punishment.”* (Female Village Volunteer)

*“Parents use threatening words to punish their children like: ‘If you don’t obey, I will kick you so hard that you will fall into the corner of the wall’.”* (Female Village Volunteer)

*“For children between aged between six and nine, I am aware of punishments when they don’t obey including making them stay outside the house during the night to make them frightened. Parents say frightening things until the children agree or confess.”* (Female Village Volunteer)

Without clear legislation expressly prohibiting physical and humiliating punishment, it may make it difficult for professionals, such as Village Volunteers, to state clearly to families that these forms of discipline are not permitted.

### ***Laws relating to physical and humiliating punishment***

Parents and carers were also asked for their view on whether physical and humiliating punishment of children should be prohibited by law in all settings. All parents agreed there should be a full ban. The same question was also put to 10 Village Volunteers (7 female, 3 male) who work closely with parents and carers in the province to triangulate findings. All Village Volunteers agreed that such a prohibition should exist in Cambodia. A range of reasons were put forward to support the position, with the majority of views indicating that the introduction of such a law would play an important educative role and reduce physical and humiliating punishment of children. For example:

*“If there is a law, parents will understand they cannot use violence.”* (44 year old father)

*“When people are about to hit their children, they will remember the law and will stop.”* (50 year old grandmother)

*“Because Cambodian parents do not know about the law like people in other countries, they use physical discipline.”* (44 year old father)

*“If we have the law, there will be no violence. Without the law, there will be more violence.”* (38 year old mother)

*“If there is not a law, parents are not afraid of being punished and will hit children wherever and whenever they feel angry or think their children do not obey them or do something wrong. They feel free to hit children. Parents may be more reluctant if there is a law – they will think ‘Oh it is against the law to hit children’ and refrain.”* (Female Village Volunteer)

One female Village Volunteer referred to a particularly serious case where a father punished his son by pushing his head into a jar of water for 15 seconds or so and

then pulled back his head and asked if he would stop doing the thing the father considered was bad. The Village Volunteer said a prohibition of physical and humiliating punishment was necessary to *“protect children from having such serious punishment from their parents.”*

Parents and carers also indicated that such a law would have positive impacts on future generations and reduce the likelihood of their own children inflicting physical and humiliating punishment on their children, as well as the potential of children experiencing violence in the home going on a trajectory towards violent and criminal behaviour in the future:

*“If there is such a law, maybe my son’s generation will not use violence.”* (32 year old mother)

*“With this law, the young generation will follow.”* (33 year old mother)

*“I want this law as I wish to see Cambodian children have a good role model from older people and their parents not using violence.”* (Female Village Volunteer)

*“[If there was such a law, we] won’t have gangsters.”* (27 year old mother)

The responses also reflected a sense that such a law would contribute to positively advancing Cambodian society. For example:

*“With this law, we can educate children in a modern way.... Cambodia will be up to date and not use violence against children.”* (50 year old grandmother)

Some participants also emphasised the human rights of children as the following quotes illustrate:

*“Children do not deserve to be hit.”* (25 year old father)

*“Children also have emotions, also have the rights, also have freedoms. If there is no law, punishment will be allowed on children.”* (48 year old father)

*“Having a law that prevents physical and humiliating punishment will enable children to develop well physically and mentally.”* (Female Village Volunteer)

Almost all mothers and fathers felt that such a law would contribute to some change in the behaviour of parents and carers that use physical and humiliating punishment on their children. This would gradually increase over time. One 30 year old father explained that *“People will learn from each other. They may ask why someone is using positive discipline and learn they can do it themselves.”* In a later interview with a district official, a similar observation appealing to community concepts of shame was made: *“If there are 10 people and 9 out of 10 agreed to positive discipline, the one remaining will feel embarrassed and follow.”* One mother was optimistic that such a law would enable a complete change in behaviour.

Village Volunteers reflected on their experiences sharing information on positive discipline with parents and carers in the province and felt that there would be some change, but a low percentage would continue to use physical and humiliating punishment. The following quotes illustrate some of the challenges faced by Village Volunteers in educating parents and carers about alternatives to physical and humiliating punishment:



*“It can’t be a complete change immediately. I have seen this from my experience providing training on positive discipline to parents. Some can apply it, but some keep cursing in front of their children.”* (Female Village Volunteer)

*“From my experience in educating parents about positive discipline, some try to use it but for example, their son will not obey even if the parents use ‘sweet words’.”* (Female Village Volunteer)

*“One family I was working with were hitting their children. I advised them not to hit their children but the parent replied ‘You have no right to say that. I’m the parent and I can hit them.’ I explained that ‘Children have rights and there are laws.’ They said, ‘I don’t care if there is a law. They can come and arrest me. The children were born from me, not you.’”* (Female Village Volunteer)

*“Sometimes those that attend meetings pay little attention as they claim that despite never being taught how to raise children, they can have already done it. Some of them already have grown children that are married, etc. so they see no need to learn about positive discipline.”* (Male Village Volunteer)

In relation to other measures that could contribute to reducing physical and humiliating punishment, all the suggestions provided by mothers and fathers related to educating community members. Some thought it was the responsibility of NGOs to conduct awareness-raising in the community (six mothers), whereas two fathers said the local authorities should teach people about this. One father referred to traffic laws as an example and said he received no knowledge about traffic law by officials in the province but when he went to the city centre, he could see how other people drive and indicate to left and right, etc. Other suggestions included having community legal education by a “*legal person*” and conducting peer-to-peer education for parents. The need for a budget for awareness-raising activities was also raised. The following quote from a male Village Volunteer illustrates the promising influence of peer-to-peer education:

*“Parents are lacking information and education on how to raise their children. Physical and humiliating punishment is also a habit of parents passed from generation to generation. Through working with parents groups with positive discipline, parents can apply these methods. Even other parents that do not attend because they don’t have time, can see and learn from others in practice.”* (Male Village Volunteer)

Village Volunteers also highlighted the importance of involving local authorities in educating and implementing the law. One Village Volunteer shared a case example where a father reportedly stopped physically punishing his son after a visit from the Commune Focal Point for Women and Children and the Local Authority where they explained to the father that his behaviour was wrong and the consequences of his behaviour. The Village Volunteer considered this visit from the authorities was influential in the father’s behaviour change. It was also suggested that the Village Leader is engaged to invite people to meetings. Media channels for disseminating positive discipline messaging included radio, TV and short films that could be mobile and shown in villages at night when people have finished work. Given low literacy levels, written information or newspaper advertisements, etc. were not recommended.

### 3.3 Teachers' perspectives

#### 3.3.1 Existing research

There is limited research in Cambodia investigating the views of teachers and those working in educational institutions on physical and humiliating punishment of children. In mid-2014, UNICEF Cambodia conducted a rapid assessment to better understand the relationship between teachers and students, teachers' classroom management and anger management, as well as teachers' practices of corporal punishment to inform future programming.<sup>60</sup> The assessment revealed the challenges in researching the topic as on the surface there was a common sense of 'non-violence' in schools. Every interviewee reportedly told the interviewers in the beginning of the interview that: *"We don't use violence anymore. We have now other methodologies to discipline our students."* On investigating further, the researchers found that while teachers from the 'old generation' (including those with more than 10 years experience) continued to hold this view and explained they now have *"messy classes"*, teachers from the 'new generation' (including teachers with pre-service training in 2010/11) were open to speak about how they really operate saying: *"We don't want to use violence, but we use violence."*

Teachers listed a range of typical punishments in schools including using a loud voice, hitting the blackboard with a stick, making students do additional work as well as so-called *"soft corporal punishment"* such as slapping students on the shoulder, hitting a student's thigh with a thin tree branch and slapping the inner side of a student's hand with a 30 centimetre ruler. Teachers revealed their need for knowledge and practical training on how to manage classrooms and difficult students:

*"We really want to teach child-friendly but we have no good knowledge how to deal with difficult, lazy or tricky students and how to manage a classroom!"*

*"We need methodologies about how to set up a child-friendly relationship with the students."*

*"We need support in anger management."*

Interestingly, interviews with parents showed that parents 'trusted' the teachers and would complain if a teacher used 'severe' physical punishment (i.e. if the child showed bloody wounds or bruises). The assessment also drew attention to the systemic challenges facing teachers including large classrooms of around 50 students, low salaries, a lack of structurally assured ground rules such as strict laws and professional codes of conducts, limited democratic participation in schools (such as a functioning parents committee and students committee), an absence of good training and monitoring, and a lack of reporting and penalty mechanisms.

#### 3.3.2 Field work findings

##### ***Standards/guidelines on school discipline***

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<sup>60</sup> UNICEF Cambodia, "Violence in Schools: Findings and Recommendations From a Literature Review and a Rapid Assessment," 2014. A total of 28 teachers, school directors and parents (17 female, 11 male) were consulted through 17 interviews and two focus group discussions. The assessment noted a bias on the school level with all schools claiming to be the best 'child-friendly' school in the district or city therefore limiting information about the real situation in schools that have no or less knowledge about the child-friendly school approach.

As physical and humiliating punishment in schools is prohibited in law, policy and guidelines, the research tool was designed to measure the accessibility and functionality of those instruments. In the first consultation with 10 secondary school teachers (3 females, 7 males) with teaching experience ranging from 4-26 years, only two males (the Head and the Deputy Head of the school) were aware of the standards and none of the teachers reported receiving any training or orientation on matters relating to discipline. The research tool was thus adapted and teachers were asked about the methods of discipline in schools and which were 'acceptable' and 'not acceptable'. See Table 9.

**Table 9: Summary of 'acceptable' and 'unacceptable' forms of discipline in school settings according to secondary school teachers**

Acceptable	Not acceptable
Run around the school campus (2 to 3 rounds)	Run around the school campus (2 to 3 rounds)
Write out/copy the lesson/ lines	Write out/copy the lesson/ lines
Ask students to carry 1-3 buckets of water to put in the toilet	Ask students to carry more than 1-3 buckets of water to the toilet
Use soft and sweet (i.e. gentle) words	Force students to get out of the class during the lesson
	Make students stand next to column of the national flag
	Verbally threaten the students (e.g. I will hit you)
	Pinch or twist the student's skin
	Curse or yell with harsh words

There were differing views on acceptable methods. While some teachers said running around the school campus was acceptable and even positive as it encouraged fitness, other teachers said it was a huge area and children would get tired. Writing out or copying a lesson was also disputed by some who said it was not acceptable if it was a long lesson. There was also a sense that some of these methods used to be acceptable but were not anymore. Interestingly, teachers said the change was due to guidelines, instructions and laws, although none had been able to reference these earlier. Teachers also highlighted that NGOs now exist that have worked on child rights and also, that parents are more likely to complain these days about any punishment because "*they are well-educated*" (Male teacher).

A second consultation was undertaken with nine primary school teachers (7 females, 2 males) with teaching experience ranging from four to 33 years. Of these, two males and four females said they were aware of the standards/guidelines that apply to the discipline of children in schools, though no one could name the documents. There was discussion about an instruction from the Ministry of Education, Youth and Sports, however the teachers did not know exact form of the instruction. In relation to training or orientation, four teachers (3 females, 1 male) mentioned attending human rights training and one male said he had attended training on not using violence against children. All nine of the teachers believed there had been a complete cessation of physical punishment of children in their school, however believed there was still some change required in relation to humiliating punishment.

### **Responses and procedures**

Teachers were asked about the process if a child or teacher makes a complaint about physical or humiliating punishment at the school. The School Director of the primary school highlighted that there had never been such a case but if there was the process would involve the school Disciplinary Council. Before meeting the Disciplinary Council, the teacher would meet the School Director. The teacher would then be invited to the Disciplinary Council which would investigate the facts. The Head of the secondary school also referred to the Disciplinary Council and highlighted that in 'serious cases' which were described as when "*there is an injury, for example, a student bleeding or marks on their body or broken bones*" the criminal

law would apply and the police may become involved. In cases that were not serious, the Head of the primary school also referred to his role in advising teachers that their behaviour was not acceptable and giving them instructions. He also explained that a meeting would be held with the parents so they could understand “*why their child was punished in that way.*” Teachers were asked who they would report to if they suspected physical or humiliating punishment of children. The primary school teachers said they would phone or tell the School Director or speak directly to the accused if they knew them well. All teachers (19 out of 19) agreed that they had a responsibility to report any suspected case of physical or humiliating punishment of their students (either at school by another teacher or if they suspect something at home).

### ***Support to keep schools free from physical and humiliating punishment***

Teachers raised a number of strategies that could assist in reducing physical and humiliating punishment. These included more support to the teachers on classroom and anger management, as well as addressing the low salaries that teachers currently receive. Teachers also spoke about the need for educating parents and students on the importance of education and the integration of ethical values and non-violence from traditional culture and Buddhist philosophy within the education curriculum. The following quotes are examples:

*“Students should be well-educated from a very young age so they can learn well and the teacher won’t get angry.”* (Female, Grade 7 teacher, teaching for 26 years)

*“There needs to be an instruction to train teachers how to control their [teacher’s] anger.”* (Male secondary school teacher)

*“Teacher’s living conditions should be improved. Sometimes the teacher has an argument within their family due to their living conditions and then when at school, if a student says something wrong, the teacher gets very angry.”* (Male Head of secondary school)

*“Education should be provided to both parents and students to understand the importance of education. There is also a need to educate students about basic morality.”* (Male Head of secondary school)

## **3.4 Local authority responses**

### **3.4.1 Existing research**

There is little literature examining local authority responses to physical and humiliating punishment of children, or violence against children more broadly. Anecdotal evidence suggests that child abuse cases are settled informally out of court by local authorities themselves rather than being recorded or processed through government systems. Although it was expected that the *Domestic Violence Law* could improve legal protection for children experiencing violence in the home including physical and humiliating punishment,<sup>61</sup> by and large the focus of MOWA and development partners assisting in its implementation has been on women, and in some cases, women and girls. Despite the enactment of the *Domestic Violence*

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<sup>61</sup> Molly Ball, “Abused Children in Cambodia Await Tougher Laws, Enforcement,” *The Cambodia Daily* website, December 14, 2002.

Law in 2005, cases of Intimate Partner Violence rarely go to court. In 2013, the Minister of Women's Affairs Ing Kantha Phavi reportedly told the Committee on the Elimination of Discrimination Against Women that there have been no documented cases of women taking violence and abuse cases to court.<sup>62</sup> Traditional attitudes and a lack of skills and resources has allegedly resulted in the practice of defining violence against women as 'serious' and 'non-serious' by police and other authorities.<sup>63</sup> In the absence of regulations/sub-decree on the Domestic Violence Law, local authorities are unclear if and when an incident has to be classified as criminal or not.<sup>64</sup> As part of efforts to address shortfalls in how the criminal justice system handles such cases, a 100-page set of guidelines for the legal protection of the rights of women and children was launched by MOWA in June 2014, with funding from the German and Spanish Governments. In the Cambodian context with a weak rule of law, the usefulness of such guidelines are seemingly limited.<sup>65</sup>

### 3.4.2 Field work findings

#### *Roles and responsibilities*

Representatives from commune, district and provincial level authorities were interviewed/ consulted with a total of 15 government officials (6 female, 9 male) participating in the research. At commune level, representatives from one CCWC (4 males) were consulted that were outside Save the Children's target area. Representatives from four CCWCs in Save the Children's target communes were also consulted (3 female, 5 male). In response to the question about the role and responsibility of the CCWC in relation to physical and humiliating punishment, the CCWC from outside Save the Children's target area described their broad mandate to monitor children's security and education and said that the commune/*sangkat* receives funds from the government to provide services to women and children. Representatives from target CCWCs explained the range of activities they were undertaking (for example: children's clubs, awareness-raising, etc.) rather than describe their specific roles and responsibilities. The district official explained that she receives reports from the local authorities once they have dealt with cases, but in cases of serious physical punishment she would work cooperatively with the relevant stakeholders. In such cases, the district not only assists the victim but also works with police to arrest the perpetrator. The district official said there was no documentation that sets out this process, but said she had attended training, together with some other district and commune officials, on child protection in around 2010 and was aware of how to assist/protect children. At provincial level, the official explained that she receives reports from the CCWC or Deputy Governor of the District, but did not elaborate further on her role.

#### *Responding to cases*

Officials were asked about the process if they receive or identify a case of physical or humiliating punishment of children (in all settings). The CCWC outside of Save the Children's target area said there had not been any such cases in their *sangkat*.

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<sup>62</sup> Lauren Crothers, "New Guidelines Aim to Protect Women, Children" *The Cambodia Daily* website, June 13, 2014.

<sup>63</sup> Kingdom of Cambodia, Ministry of Women's Affairs, *Policy Brief 1: Gender Mainstreaming - Institutional, Partnership and Policy Context, Cambodia Gender Assessment*, 2014, p 18.

<sup>64</sup> Katherine Brickell, Baureaksmeay Prak, and Bunnak Poch, "The Gap Between Legislation and Practice in Cambodia and What Can Be Done About It, Preliminary Research Report 2014," 2014, 1-72.

<sup>65</sup> Crothers, "New Guidelines Aim to Protect Women, Children," quoting Sok Sam Oeun, Executive Director of the Cambodian Defenders' Project.

When pressed for what would occur in a hypothetical situation, the following two scenarios were presented:

*In a 'civil case', for example if a member of the village came to the commune and said that parents had threatened or cursed children, the Commune Council would send the Focal Point [for Women and Children] to advise the parents not to do this because it's against child rights.*

*If it was a criminal case of beating, it would be referred to me. In such a case, I would invite the parents to my office to give advice and show the parents the context of the law on child rights. If it was a case where a child was punished by other people because of stealing, etc., those people would be invited to my office and I would give instructions on the law including that children have rights and they cannot be beaten and there would be punishment. (Male CCWC member, Police Chief)*

A Commune Chief from a CCWC in Save the Children's target area explained:

*If a serious case of violence against children occurs, information is sent to CCWC. They must be present at the event immediately. The first priority is to assist the child victims. The second is to detain/arrest the perpetrator.*

*Generally, no serious cases have happened in the commune. This doesn't mean that they don't happen. Parents hit children with a small stick, hurt their feelings – it seems not serious. In response to such cases, the Commune Focal Point [for Women and Children] is sent to educate and train the parents on positive discipline. Parents do change their habits. (Male CCWC Member, Commune Chief)*

The low official recognition of cases suggests there are likely very few child-friendly reporting mechanisms and routes for children to seek help. In relation to documentation that sets out this process, one Commune Chief referred to documentation about deconcentration and decentralisation that sets out the powers of the commune/*sangkat*. It was agreed that there was nothing clear explaining how to determine the 'seriousness' of the case but that the criminal law would apply if it was serious. The district official explained she would attend the scene if the incident was happening currently. In the case of a past event, the commune official will go to the scene, write a report and send this to the district.

### ***Measures to reduce physical and humiliating punishment***

All 15 government officials (6 female, 9 male) agreed that Cambodia should introduce a prohibition on the physical and humiliating punishment of children in all settings. This was seen as important to warn parents and also to punish parents and carers, including those that inflict physical and humiliating punishment on domestic helpers under 18 years of age. As noted, only one official in the province seemed to waver in their response and raised the following concerns:

*"Children seem spoilt... because they realise their mother and father cannot hit them."*

*"It is related to a mind-set of Cambodian culture. The way I discipline is the way of teaching a child how to be a good citizen."*

*“Parents won’t accept such a law. The concern is that parents will go to jail. It is not suitable to have such kind of law.”*

*“Even though parents hit their children, they definitely love their children because they are born from them. I have my own experience of physical punishment from my parents. ...I was the only daughter in the family and even I was still beaten. Discipline with a stick was effective for their daughter.”*

Although the purpose of such laws are primarily educative and preventative, some local authorities emphasised the need for penalties to accompany violation of any new law. The difficulty in implementing punitive provisions against people who seriously harm children, as well as the need for consistent and equal application of the law, was also highlighted. The following quotes are examples:

*“The law must come with a punishment provision, for example, to be jailed or fined. It will be difficult to implement either for people who are poor.”* (Male Commune Chief, Save the Children target commune)

*“The Civil Code and Criminal Code has punishment for those that seriously harm children. But there are challenges in implementation because of people’s living conditions.”* (Male Commune Chief, Save the Children target commune)

*“If we have such a law it should be implemented equally. It must not only be applied to the poor, low ranking people, but also the high ranking. For example, there are real cases [concerning land disputes] where a woman was arrested leaving behind small children with nothing to eat. The law should be equal and transparent. There are high profile cases in Phnom Penh that illustrate that this is happening....”* (Second Deputy Commune Chief, outside Save the Children target area)

As well as law reform, local authorities recommended a number of other measures to reduce physical and humiliating punishment. The need for awareness-raising and education for children, families and communities, as well as budget to support such activities, were raised:

*“I would like to see all NGOs and civil society organisations working with children and communities to make an awareness program on the law about corporal punishment in the country. If people are well-educated about the issue, physical and humiliating punishment will decrease.”* (Male Police Chief, outside Save the Children’s target area)

*“If a law was introduced, there must be funds to support awareness-raising.”* (Male Commune Clerk, outside Save the Children’s target area)

*“Direct awareness-raising with the people in the community is important.”* (Female Focal Point, Save the Children target area)

*“I would like to see education on morality and ethics enhanced from pre school age. If children are aware how to be well-behaved from an early age, they will make a good contribution when they are an adult.”* (Provincial representative)

*“It is important to reach parents of school children. Parents need a social network and to have monthly meetings with the school. This can avoid*

*misunderstanding and blame between teachers and parents. Parents say that teachers 'defame' their children. This can also be a way of peer-to-peer education."* (Provincial representative)

Local authorities also recommended their need for capacity building, as well as the need for investment in further human resources to support them in carrying out their role. For example:

*"For my commune, this is new work. We need on-going on-the-job training. I suggest there is an opportunity to learn from countries experienced with introducing such laws so we can understand the real results, impacts and consequences. Specifically, it would be good to have support for commune council members to take a study visit to learn and tackle the issue."* (Male Commune Chief, Save the Children target area)

*"I recommend the extension of the coverage area for Village Volunteers and Community Social Workers. Currently one Village Volunteer takes responsibility for two villages. More Village Volunteers and Community Social Workers may be better."* (Male Commune Chief, Save the Children target area)

*"We need training for relevant stakeholders so they can work effectively, as well as constant technical and financial support from Save the Children – not on and off."* (District representative)



## 4. Responsibility/stakeholder analysis

### 4.1 National government

The Government holds the ultimate responsibility for ensuring children's right to protection. As noted, there is no overall child protection policy or law in Cambodia and there is a general lack of direction and coordination by one government ministry or entity. MOSVY has primary responsibility to protect children from any form of violence. Child protection cuts across several of MOSVY's departments and coordination among those departments is reportedly limited.<sup>66</sup>

In mid-2006, MOSVY established NOVCTF to "facilitate and coordinate" key government and non-government stakeholders, including Save the Children, that work with orphans and vulnerable children.<sup>67</sup> In practice, NOVCTF has coordinated and organised forums between government and NGOs (every quarter) to look at achievements, challenges, solutions, and planning in relation to orphans and vulnerable children.<sup>68</sup> NOVCTF has led the development of the *National Standards and Guidelines for the Care, Support and Protection of Orphans and Vulnerable Children* aligning to *Prakas No. 907 on the Policy on Alternative Care for Children* and the accompanying *Prakas No. 2280 on Procedures to Implement the Policy on Alternative Care for Children* described above in section 2.3. The NOVCTF receives no government budget and to date its activities have been funded by development partners.<sup>69</sup>

The CNCC is the official government mechanism to coordinate and report on activities regarding to the survival, development, protection, welfare and participation of children.<sup>70</sup> CNCC's permanent Secretariat is located at MOSVY and its budget is within MOSVY's annual budget. The CNCC is limited by human and financial resources, as well as a lack of power, as noted by the Committee on the Rights of the Child:

*...the CNCC still lacks the necessary human, technical and financial resources to fulfill its coordinating role in relation to the implementation of the Convention, and that there is no obligation for any government department to refer or defer to the CNCC on issues related to child rights.*<sup>71</sup>

The CNCC is currently working with key actors to develop a national child protection system, with financial and technical support from Plan International. The CNCC has recommended that the Government undertake law reform and develop a comprehensive child protection law as set out in the *Child Protection Legislative Agenda. A National Plan for Children* is also currently being drafted, with some support from Save the Children, and includes actions for line ministries in relation to violence.<sup>72</sup>

MOWA's duty and responsibility is to protect the rights of women and their families. MOWA leads on ending violence against women and girls and the implementation of

<sup>66</sup> ECPAT International, Plan International, Save the Children, UNICEF, World Vision, *National Child Protection Systems in the East Asia and Pacific Region: a Review and Analysis of Mappings and Assessments*, 2014.

<sup>67</sup> *Prakas No. 1233 on Adjusting and Supplementing the Composition, Roles and Functions of the National Multi-Sectoral Orphans and Vulnerable Children Task Force* (2012).

<sup>68</sup> Key informant interview, 12 December 2014.

<sup>69</sup> *ibid.*

<sup>70</sup> *Royal Decree No. 1201 on Establishment of the Cambodia National Council for Children* (2009).

<sup>71</sup> Committee on the Rights of the Child. *Concluding Observations of the Committee on the Rights of the Child: Cambodia*, CRC/C/KHM/CO/2, June 20, 2011.

<sup>72</sup> Cambodia National Council for Children, *National Plan for Children - Draft*, August 2014.

the *Domestic Violence Law*. A sub-group on Gender-Based Violence was set up under the management of the Technical Working Group on Gender, which was established in 2004 and is chaired by MOWA with UNDP and JICA as co-facilitators. Members include representatives from government agencies, development partners and civil society organisations. This multi-sectorial body initiated the development of the NAPVAW II and will guide its implementation. Although the *Domestic Violence Law* includes protection of girls and boys and it was hoped that the introduction of the law would improve the protection of children from physical and humiliating punishment,<sup>73</sup> it appears much of the focus to date has been the protection of women from Intimate Partner Violence. It is possible this may change given MOWA led *Cambodia's Violence against Children Survey* and will coordinate the development of a *National Action Plan to Prevent and Respond to Violence Against Children*.

Other key ministries include the MOI, which has responsibility for police and the authority for the Provincial Governors and sub-national governance. The elimination of physical and humiliating punishment of children in schools falls under the remit of the MOEYS as the overarching national institution for education. The Ministries of Women's Affairs, Social Affairs, Education, Health, Interior, Justice, Labour, Information, Cults and Religion, and Statistics, as well as the CNCC, committed to specific actions following *Cambodia's Violence against Children Survey*. While all the commitments will support the development of a protective environment and are interconnected, the commitments most relevant to this review are listed below in Table 10. Many of these commitments have also been included as policy recommendations in MOWA's *Cambodia Gender Assessment 2014*.<sup>74</sup>

**Table 10: Key commitments to prevent and respond to violence against children relating to physical and humiliating punishment<sup>75</sup>**

Ministry	Key commitments relating to physical and humiliating punishment
<b>MOWA</b>	<ul style="list-style-type: none"> <li>• Coordinate development of a <i>National Action Plan to Prevent and Respond to Violence Against Children</i></li> <li>• Lead development and implementation of behaviour and social change strategy to respond to the social and cultural norms that legitimise and promote violence against children</li> <li>• Contribute to positive parenting and family and childhood education programmes to promote non-violent forms of child discipline and protect children from violence and abuse</li> <li>• Raise awareness and strengthen the implementation and enforcement of <i>Domestic Violence Law</i>, including advocating for the development of the implementing regulations enabling commune/sangkat and village officials to act to protect victims of domestic violence.</li> <li>• Include key indicators of violence against children in the Data Collection and Follow-up System on violence, to be developed to monitor and evaluate NAPVAW II.</li> </ul>
<b>MOSAVY</b>	<ul style="list-style-type: none"> <li>• In collaboration with MOWA, support the formulation and implementation of behaviour and social change strategy to address the social and cultural norms that legitimize and promote violence against children</li> <li>• Contribute to coordinating and harmonizing existing hotlines responding to violence against children</li> <li>• Create and implement gender-sensitive child abuse complaint and reporting mechanism, including all children who are separated from their families or relatives in residential care institutions, foster care or other alternative care placements</li> <li>• Prepare groundwork for coordinated and integrated multi-sectoral reporting,</li> </ul>

<sup>73</sup> Ball, "Abused Children in Cambodia Await Tougher Laws, Enforcement."

<sup>74</sup> Kingdom of Cambodia, Ministry of Women's Affairs, *Policy Brief 7: Violence Against Women and Girls - Cambodia Gender Assessment*, pp 21-27.

<sup>75</sup> Kingdom of Cambodia, Ministry of Women's Affairs, UNICEF Cambodia, US Centers for Disease Control and Prevention, *Violence Against Children in Cambodia: Core Commitments to Prevent and Respond to Violence Against Children in Cambodia*, 2014.

Ministry	Key commitments relating to physical and humiliating punishment
	<p>referral and response system at national and sub-national levels to abuse and violence against children</p> <ul style="list-style-type: none"> <li>Invest in the social and child welfare system at national and sub-national levels to enable the expansion and training of the social work force and increase budgets for social support services, such as family search programmes, case management, support during police-court procedures, reintegration and follow-up services</li> <li>In collaboration with MOWA, coordinate development of <i>National Action Plan to Prevent and Respond to Violence Against Children</i>.</li> </ul>
<b>MOEYS</b>	<ul style="list-style-type: none"> <li>Integrate positive parenting and positive fatherhood strategies to prevent violence against children in families into the guidelines for parent and caregiver education and the training of educators</li> <li>Strengthen implementation and enforcement of <i>Law on Education</i> and ensure all education staff are trained and adhere to the <i>Teachers Professional Code</i>. Disciplinary action for crimes and professional misconduct will be taken against offending education staff, working closely with the police and justice sector</li> <li>Promote the use of non-violent teaching and learning methods among education staff to eliminate and prevent physical punishment in schools</li> <li>Strengthen and scale up the implementation of the <i>Child-Friendly Schools Policy</i>, with increased attention on the 'protective' dimension of the framework and with school-based primary prevention programmes to ensure schools are free from all forms of violence</li> <li>Establish effective, child-friendly and gender-sensitive child abuse complaint, reporting and referral mechanisms in schools, by designating teachers and ensuring confidentiality and coordination through School Management Committees, local authorities and stakeholders for proper care, treatment and follow-up of abuse cases.</li> </ul>
<b>Ministry of Health</b>	<ul style="list-style-type: none"> <li>Develop guidelines for health clinics and effectively train health professionals on how to respond to violence against children, including identification, care, reporting and referral</li> <li>Reinforce the provision of community-based services, including family support, education on child cognitive and physical development and awareness-raising on the negative effects of violence against children and corporal punishment, to promote relationships between children and their parents and caregivers that are safe, stable and nurturing</li> <li>Include data on violence against children in the health information system.</li> </ul>
<b>MoI</b>	<ul style="list-style-type: none"> <li>Strengthen existing community-based prevention programmes and mobilize communities to challenge the social and cultural norms that promote acceptance of violence against children</li> <li>Ensure existing hotlines that respond to violence against children in Cambodia are fully functional and operated by teams of police officers</li> <li>Ensure <i>Professional Code of Ethics of the Cambodian National Police</i> includes child protection standards and that all police officers are trained on, understand and adhere to the Professional Code of Ethics</li> <li>Ensure that all administrative police stations provide child-friendly services, in a confidential and supportive environment, to children who report violence and abuse</li> <li>Strengthen the capacity of national police officers to identify, respond to and refer cases of violence against children</li> <li>Strengthen enforcement of the implementation of existing laws and policies to protect children from violence and abuse</li> <li>Empower local authorities to report cases of violence against women and children under the <i>Commune/Village Safety Policy</i>. Include indicators to monitor violence against children in the commune database.</li> </ul>
<b>MoJ</b>	<ul style="list-style-type: none"> <li>Continue its endeavour to strengthen the legal competency and code of ethics of law enforcement officials on child protection and ensure compliance with national and international laws</li> <li>Continue to strengthen its cooperation with relevant institutions in the delivery of legal and social services for children to ensure the protection of the legal rights of the child</li> <li>Continue to review provisions of national laws and prepare further provisions consistent with international norms and standards.</li> </ul>
<b>Ministry of Labour</b>	<ul style="list-style-type: none"> <li>Strengthen its efforts to raise awareness among children in child labour on</li> </ul>

Ministry	Key commitments relating to physical and humiliating punishment
<b>Ministry of Vocational Training</b>	<ul style="list-style-type: none"> <li>reporting mechanisms related to violence and abuse at schools, the workplace and in communities where children live</li> <li>Continue to strengthen the capacity of staff and child labour inspectors, to effectively identify, respond, report and refer cases of child labour, raising awareness of stakeholders on children's rights and laws and regulations related to the employment of children.</li> </ul>
<b>Ministry of Information</b>	<ul style="list-style-type: none"> <li>Facilitate implementation behaviour and social change strategy to address the social and cultural norms that legitimize and promote violence against children</li> <li>In collaboration with MOWA and MOSVY, facilitate the implementation of a communication strategy at national and sub-national levels to promote stable, safe and nurturing relationships between parents and their children, calling for zero tolerance to corporal punishment</li> <li>In collaboration with MOSVY, facilitate the implementation of a comprehensive communication strategy at national and sub-national levels, targeting children and their families and empowering them to report incidents of violence and abuse.</li> </ul>
<b>Ministry of Cults and Religion</b>	<ul style="list-style-type: none"> <li>Commit to disseminate religious principles to prevent corporal punishment and emotional violence against children and to promote religious principles on non-violent forms of child discipline in educating children, to ensure stable, safe and nurturing relationships between parents and caregivers and their children.</li> </ul>
<b>National Institute of Statistics of the Ministry of Planning</b>	<ul style="list-style-type: none"> <li>Contribute to the evaluation of specific prevention and response actions which are part of the National Action Plan to Prevent and Respond to Violence Against Children, to measure their impact and ensure they are continually improved.</li> </ul>
<b>CNCC</b>	<ul style="list-style-type: none"> <li>Strengthen its efforts to disseminate information and raise awareness on the <i>Convention on the Rights of the Child</i> to line ministries, local authorities and communities</li> <li>Strengthen its efforts to raise awareness of children, families, communities and those working directly with children on relevant laws and policies that protect children from violence and abuse, raising awareness about the illegal nature of such acts</li> <li>Disseminate the gap analysis of existing legislation on child protection in Cambodia. Based on this comprehensive review, the CNCC will develop an advocacy strategy with recommendations for amendments or new laws presented to the appropriate bodies</li> </ul>

## 4.2 Sub-national authorities

DOSVY implements guidelines, programs, policies, *Prakas*, and other directives of MOSVY as well as coordinates with the different levels to implement these.<sup>76</sup> At the district-khan level, OSVY collects information on the situation of vulnerable people and follows up and monitors implementation of communes and NGOs/service providers to ensure consistency with MOSVY's standards.<sup>77</sup> The NOVCTF also has six sub-national provincial task forces. CNCC is also represented in around nine provinces, although reportedly none of these provincial level mechanisms are working well.<sup>78</sup>

WCCC at capital, provincial, municipal and district levels are tasked with the responsibility to monitor and provide recommendations to councils, board of governors, governors and other committees regarding issues on gender equality, women, youth and children, as well as to promote understanding of relevant laws

<sup>76</sup> *Prakas No. 359 on the Organization and Functioning of Provincial-Municipal Department of Social Affairs, Veterans and Youth Rehabilitation* (2005).

<sup>77</sup> Key informant interview, 12 December 2014; *Prakas No. 395 on the Organization of the District-Khan Office of Social Affairs, Veterans and Youth Rehabilitation* (2005).

<sup>78</sup> Key informant interview, 11 December 2014.

and policies and promote information collection by communities to take necessary response measures, among other things.<sup>79</sup> Efforts to decentralize power to the commune level have been ongoing for over a decade and longer than district and provincial levels. The role of the CCWC, established in all communes/*sangkat* in the country, is to provide advice and assist its respective commune/*sangkat* on work related to women and children.<sup>80</sup> The CCWC is composed of:

- Commune/*Sangkat* Chief as Chairperson
- Second Deputy-Chief of Commune/*Sangkat* as Vice-Chairperson
- Commune/*Sangkat* Focal Point for Women and Children as permanent member
- Commune/*Sangkat* Clerk as member
- Chief or Deputy Commune/*Sangkat* Police as member
- Director of school or representative as member
- Director of health centre or representative as member
- Village chief or deputy from all villages as member.<sup>81</sup>

Commune Councils and CCWCs are mandated, among other things, to identify and assess children and families in situations of risk and take necessary action. The safety of the commune/*sangkat* is a priority policy for the government as articulated in the *Village Commune/Sangkat Safety Policy Guidelines* (2010). The criteria for a safe commune/*sangkat* requires:

- No stealing, snatching, robbery
- No production and dealing of illegal drugs
- No prostitution, trafficking of women and children, and domestic violence
- No gangs
- No illegal gambling, illegal weapons, and crime.<sup>82</sup>

One concern about the safe commune/*sangkat* policy is that it does not encourage officials to report on cases within the community for fear of harming their “*white*” (unblemished) commune status. There are also concerns about the limited understanding and experience of stakeholders at sub-national level. There is a shortage of social workers to cover the needs of the country.<sup>83</sup> DOSVY social workers, one per district, generally do not travel and work meaningfully with families.<sup>84</sup> As such, the direct interface with children and the community is not led by trained professionals. Evidence from developed countries illustrates the positive association between the reduction of child abuse and an increase in both the numbers and skills of social workers.<sup>85</sup> With so few government social workers, NGOs currently fill the service gap.

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<sup>79</sup> Prakas No. 4275 on Organization and Functioning of the Women’s and Children’s Consultative Committees at Capital Council, Provincial Councils, Municipal Councils, District Councils and Khan Councils (2009).

<sup>80</sup> Guidelines on Organization and Establishment of the Committee for Women and Children for all Commune/Sangkat (2007).

<sup>81</sup> *ibid.*

<sup>82</sup> *Village Commune/Sangkat Safety Policy Guidelines* (2010).

<sup>83</sup> Cambodia National Council for Children, *Report Reply to the List of Issues Raised by the Office of the Special Representative of the Secretary General on Violence Against Children in Cambodia*, January 2012.

<sup>84</sup> ECPAT International, Plan International, Save the Children, UNICEF, World Vision, *National Child Protection Systems in the East Asia and Pacific Region: a Review and Analysis of Mappings and Assessments*.

<sup>85</sup> *ibid.*

### 4.3 Development partners and NGOs

There are a multitude of child-focused NGOs in Cambodia delivering interventions that directly and indirectly address children's exposure to violence. In relation to physical and humiliating punishment of children specifically, NGOs are increasingly engaging parents and carers and providing positive parenting skills training to enable them to better care for their children and understand the impacts of violence. As well as Save the Children, World Vision, for instance, delivers training for parents through peer groups in its Area Development Programmes. ICS also delivers Skilful Parenting training in communities across Cambodia and trains facilitators to deliver its training. ICS eight modules cover roles and responsibilities, self-esteem, values, positive discipline, family relations and communication, anger and conflict management in the family, child protection, and family budgeting. In respect of physical and humiliating punishment in schools, UNICEF has recently conducted a rapid assessment and literature review with the intention of developing a positive discipline teacher training package.

### 4.4 Families and communities

Families are the first duty-bearer holding responsibilities for ensuring their children's rights to protection. In its second report to the Committee on the Rights of the Child, the Government stated:

*Cambodian citizens make all effort to become good parents and assume responsibility for raising, caring, providing education, advice and direction to, and preparing for the future of their children.*<sup>86</sup>

This parental duty is reflected in the *Constitution* as outlined above in section 2.3. Importantly, grandparents, uncles, aunts and other relatives also contribute significantly to taking care of and advising children in accordance with Cambodian tradition.<sup>87</sup> Communities play an important role in supporting families to care for their children, as well as having responsibilities to mobilise for child protection in the community. Many families and communities in Cambodia have limited knowledge and skills related to children's rights and protection. The use of physical and humiliating punishment by parents, caretakers and teachers to advise and correct children is a prevailing traditional and social norm. As a result, practices relating to physical and humiliating punishment of children go unreported and unaddressed. It appears that only cases where a child is severely punished, i.e. resulting in injury, that relevant authorities intervene or children themselves speak out.<sup>88</sup> A lack of education, economic and other hardships endured by many families can often lead to decisions that are directly damaging to their children's protection such as withdrawing children from education to work or placing children in residential care.<sup>89</sup> Even with limited resources, communities can be supported to strengthen the protective environment in their area as demonstrated by a number of community-based child protection mechanisms operating throughout Cambodia. The issue of physical and humiliating punishment is also being addressed through peer groups,

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<sup>86</sup> Committee on the Rights of the Child, *Second Periodic Report of States Parties Due in 1999: Cambodia*, CRC/C/KHM/2-3.

<sup>87</sup> *ibid.*

<sup>88</sup> Kingdom of Cambodia, Ministry of Women's Affairs, UNICEF Cambodia, US Centers for Disease Control and Prevention, *Findings From Cambodia's Violence Against Children Survey 2013: Qualitative Research*; Field work findings

<sup>89</sup> Committee on the Rights of the Child, *Second Periodic Report of States Parties Due in 1999: Cambodia*, CRC/C/KHM/2-3; Field work findings

such as parents groups and children's clubs facilitated by Save the Children and other NGOs.

**Table 11: Summary of key stakeholders involved in reducing physical and humiliating punishment of children in Cambodia**

Level	Type	Key actors	Role
<b>National</b>	<b>Key ministries and institutions</b>	MOWA MOSVY CNCC MOEYS MOI MOJ UNICEF Save the Children World Vision Plan International Friends International	<i>Development and implementation of laws and policies within their respective mandates</i>
	<b>Development partners and NGOs</b>	<i>Coordinate implementation of policies at district and commune level</i>	<i>Technical and financial support to key ministries and institutions</i>
<b>Provincial and district</b>	<b>Provincial and district governors, their deputies</b>		<i>Coordinate implementation of policies at district and commune level</i>
	<b>Provincial and district level departments representing national ministries</b>		<i>Implementation of relevant policies within respective mandates</i>
	<b>WCCC</b>		<i>Providing recommendations to councils, board of governors, governors and other committees regarding issues on gender equality, women, youth and children</i>
	<b>Courthouse</b>		<i>Legal services for cases</i>
	<b>Provincial police</b>		<i>Providing reports and action plans for intervention in cases of violence</i>
	<b>Province and district based NGOs</b>		<i>Implementation of programming at community level to prevent and respond to violence against children</i>
<b>Commune and below</b>	<b>Commune chief and councillors</b>		<i>Implementers at commune level to prevent, intervene and report cases of violence</i>
	<b>CCWC and officer</b>		<i>Under direct supervision of commune councillors, responsible for implementing commune plan including prevention of and intervening in domestic violence</i>
	<b>Commune police</b>		<i>Work under supervision of Commune Chief and offer interventions in cases of domestic violence</i>
	<b>Village chief</b>		<i>Implementer at village level to prevent, intervene and report cases of violence</i>
	<b>Head teachers</b>		<i>Implementing policies and instructions within schools</i>
	<b>Parents and carers</b>		<i>Primary responsibility for their children's rights</i>
	<b>Children and young people</b>		<i>Rights-holders</i>

## 5. Recommendations

The review comes at an opportune time when a number of systemic child protection initiatives are being pushed at national level. Save the Children's support to these broad initiatives as well as pursuing the specific interlinked recommendations outlined below should enhance the protective environment for children and contribute towards reducing physical and humiliating punishment of children in Cambodia.

### *Recommendation 1: Advocate for law reform*

It is recommended that Save the Children coordinate with other child focused agencies in Cambodia, including UNICEF, to advocate at national level for law reform. There are a number of gaps in law and policy that relate directly to physical and humiliating punishment, as well as numerous systemic gaps on child protection.<sup>90</sup> These gaps have been included within the CNCC's *Child Protection Legislative Agenda* which has reportedly been approved by the Government, though no timeframe or commitment for implementation has been set.

UNICEF has advised that different development partners/NGOs can advocate for implementation of particular aspects of the *Child Protection Legislative Agenda*.<sup>91</sup> To date, no agency has indicated its intention to focus on the reform relating to corporal punishment. As at May 2014, 37 countries have achieved law reform to prohibit all corporal punishment of children, including in the home. A further 46 countries have expressed a commitment to enacting prohibiting legislation.<sup>92</sup> On 17 December 2014, the Philippines' House of Representatives approved a bill to protect children from corporal punishment.<sup>93</sup> Once enacted, the Philippines will be the first country in Asia to prohibit physical and humiliating punishment. Save the Children can advocate for Cambodia to join the Philippines in leading the way in the region.

The specific reform recommended is that the 'authorisation' of physical and humiliating punishment under article 1045 of the *Civil Code* and article 8 of the *Domestic Violence Law* is removed and an express prohibition inserted so that such violence against children can no longer be justified as 'discipline'. This should be drafted using clear, uncompromising language. Examples of explicit prohibition from other countries include:<sup>94</sup>

*"Children are entitled to care, security and a good upbringing. Children are to be treated with respect for their person and individuality and may not be subjected to corporal punishment or any other humiliating treatment."* (Sweden, *Parenthood and Guardianship Code*, amended 1979, article 1)

*"Physical punishment of the child by the parents, as well as other inhuman or degrading treatment or punishment are prohibited."* (Ukraine, *Family Code*, 2003, article 150)

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<sup>90</sup> See Cambodia National Council for Children, *Gap Analysis of Child Protection Legislation in the Kingdom of Cambodia*.

<sup>91</sup> Key informant interview, 11 December 2014.

<sup>92</sup> Global Initiative to End All Corporal Punishment of Children, *Childhood Free From Corporal Punishment—Changing Law and Practice*. The Global Initiative also reports that it will freely provide technical support and assistance for advocacy to introduce prohibiting classes.

<sup>93</sup> Patricia Lourdes Viray, "House Passes Bill Banning Corporal Punishment for Children", *The Philippine Star* website, December 17, 2014.

<sup>94</sup> Save the Children, *Prohibiting All Corporal Punishment in Southeast Asia and the Pacific: Report of the Regional Technical Workshop for Save the Children and Partners 'Building Effective Child Protection* (Bangkok, Thailand, 2-4 March 2009), 2009, 1–152.



*“Parental authority confers the rights and imposes the duties to orient, educate, care, supervise and discipline the children, which in no case authorises the use of corporal punishment or any other form of degrading treatment against the minors.” (Costa Rica, Family Code, amended 2008, article 143)*

Other priorities for law reform include addressing those gaps outlined in section 2.4. These are also included in the CNCC’s *Child Protection Legislative Agenda*. The most pertinent reforms are:

- Enacting implementing regulations for the *Domestic Violence Law*, which should include:
  - Defining ‘authorities in charge’ as the Commune Focal Point for Women and Children and Social Affairs, Veterans and Youth Rehabilitation officials at district, provincial and capital level
  - Detail about the process for reporting and response to cases of violence against children.
- Limiting the term ‘any person’ in article 22(2) of the *Domestic Violence Law*
- Enacting implementing regulations for the *Law on Education*, or another instrument, to provide guidance on how children can report abuse cases and on procedures that should be followed when teachers identify abuse
- Introducing mandatory reporting of all forms of violence and abuse of children to appropriate bodies by certain professional groups, such as health and education professionals, with appropriate sanctions
- Expressly prohibiting physical and humiliating punishment of children in residential and alternative care settings in legislation
- Standardising processes in residential and alternative care settings for responding to cases of violence against children
- Setting out MOSVY’s mandate to regulate, monitor, inspect and shut down facilities that do not comply with standards in legislation
- Setting out official accessible child-friendly complaints mechanisms in law or policy including in penal settings
- Including domestic workers under the *Labour Law*.

It is crucial for Save the Children to identify the correct government agency to partner with to advance any legislative reform. One legal expert consulted in this review advised that MOJ or MOI would be the most strategic partner for Save the Children. Of note, one of the core commitments of the MOJ from *Cambodia’s Violence against Children Survey* was to review provisions of national laws and prepare further provisions consistent with international norms and standards.

### *Recommendation 2: Build the evidence base for advocacy and programming*

It is recommended that Save the Children invest in research to build the evidence base to support advocacy and programming. A number of reoccurring attitudes or themes emerged throughout the review that stand as obstacles for reducing physical and humiliating punishment of children. These are listed below. It is notable that the first two were only expressed by national government officials:

1. An appeal to Cambodian culture and ‘traditional’ ways of discipline to justify permitting physical and humiliating punishment of children in law and practice
2. A concern that banning physical and humiliating punishment might criminalise otherwise upright and loving parents and this would constitute a large proportion of parents in Cambodia

3. The apparent ineffectiveness of 'positive' or 'Buddhist' methods of discipline when contrasted to methods of physical and humiliating punishment
4. A concern that ceasing to use methods of physical and humiliating punishment would result in 'spoilt' or disrespectful children and later adults that would not make a positive contribution to society.

Each of these objections presents opportunities for research and presentation of evidence to advance law reform as well as to shift broader societal attitudes and ultimately behaviour (discussed further below). This includes evidence from those countries that have already prohibited physical and humiliating punishment. For example, many of the same arguments were raised in Sweden in the late 1970s before corporal punishment was prohibited. Since then, support for physical punishment has reportedly decreased dramatically. This decline has been accompanied by a reduction in its use, and forms of physical punishment have become increasingly mild.<sup>95</sup> In relation to the particular concern about imprisoning parents, countries that have achieved law reform offer no evidence to support this view.<sup>96</sup> In Sweden, for example, those parents who still smack their children are not stigmatised, nor seen as criminals, and generally children are not removed from their parents.<sup>97</sup> While national stakeholders in Cambodia tended to view the purpose of such reform as punitive, it is important for Save the Children to explain that the purpose of such reform is education and deterrence to achieve protection rather than prosecution.<sup>98</sup> There are numerous statements explaining this approach.<sup>99</sup> Save the Children can usefully emphasise that global experience shows that minor assaults on adults by adults, while clearly unlawful, very seldom get to court. Often because of a lack of suitable evidence minor assaults on children, and particularly on babies and young children who are probably the most frequent victims of physical punishment, are even less likely to go to court.<sup>100</sup>

In relation to the latter points raised by stakeholders; further research in Cambodia to showcase the positive outcomes of eliminating physical and humiliating punishment and applying positive discipline is recommended. The results of this present review illustrating children's and community perspectives can also be included. While there is some literature suggesting that physical punishment may improve immediate compliance in some circumstances,<sup>101</sup> there is now an overwhelming body of scientific evidence concerning the harmful impacts of physical and humiliating punishment on children's physical and mental well-being and development. The so-

<sup>95</sup> Joan E Durrant, "Evaluating the Success of Sweden's Corporal Punishment Ban," *Child Abuse & Neglect* 23, no. 5 (March 19, 1999): 435–48.

<sup>96</sup> Save the Children Sweden and Global Initiative to End All Corporal Punishment of Children, *Ending Corporal Punishment and Other Cruel and Degrading Punishment of Children Through Law Reform and Social Change: Campaigns Manual*.

<sup>97</sup> Leviner, "The Ban on Corporal Punishment of Children, Changing Laws to Change Attitudes: the Swedish Experience."

<sup>98</sup> Save the Children Sweden, *Discipline and Punishment of Children*. This approach is not without criticism. In Sweden for example, while reports to police have increased since the ban, the rate of prosecutions remain low. Some claim that crimes against children are not taken seriously enough when parents who hit their children are not prosecuted. Others argue that the important task for society is to support parents and to proactively promote other methods of parenting, rather than to prosecute parents. Moreover, some would claim that there might be a proactive effect in cases being reported to the police in the sense that it sends a signal that it is against the law to hit a child: Leviner, "The Ban on Corporal Punishment of Children, Changing Laws to Change Attitudes: the Swedish Experience."

<sup>99</sup> See for example: Committee on the Rights of the Child, *General Comment No. 8*, [38]; Save the Children Sweden and Global Initiative to End All Corporal Punishment of Children, *Ending Corporal Punishment and Other Cruel and Degrading Punishment of Children Through Law Reform and Social Change: Campaigns Manual*.

<sup>100</sup> Committee on the Rights of the Child, *General Comment No. 8*, [40]; Save the Children Sweden and Global Initiative to End All Corporal Punishment of Children, *Ending Corporal Punishment and Other Cruel and Degrading Punishment of Children Through Law Reform and Social Change: Campaigns Manual*.

<sup>101</sup> Adam J Zolotor and Megan E Puzia, "Bans Against Corporal Punishment: a Systematic Review of the Laws, Changes in Attitudes and Behaviours," *Child Abuse Review* 19, no. 4 (July 21, 2010): 229–47, citing Gershoff, 2002; Larzelere and Kuhn, 2005.

called 'effectiveness' of physical and humiliating punishment cannot be examined in isolation of the risks of detrimental impacts. These include:

- Increased aggression in children
- Increased violence in adults
- Poor mental health
- Poor physical health
- Impaired cognitive development.<sup>102</sup>

It is recommended that this data is collected and presented in suitable formats, such as short policy briefs, for relevant audiences.

### *Recommendation 3: Develop a behaviour change campaign*

It is recommended that Save the Children develop and implement a behaviour change campaign to inform, educate and motivate parents and carers to stop physical and humiliating punishment of children. During the field work, all participants spoke about the importance of education to contribute to reducing physical and humiliating punishment of children. In its Concluding Observations in 2011, the Committee on the Rights of the Child also recommended that Cambodia:

*Introduce public education, awareness-raising and social mobilization campaigns on the harmful effects of corporal punishment with a view to changing the general attitude towards this practice and promote positive, non-violent, participatory forms of child-rearing and education as an alternative to corporal punishment.*<sup>103</sup>

Such a campaign should not simply be 'information dissemination' or 'awareness-raising'. A survey of knowledge, attitudes and practices should be carried out as a baseline and to inform campaign development. A well-considered monitoring system to measure shifts in knowledge, attitudes and practices should also be developed. It is recommended that an communications agency with proven expertise in behaviour change is engaged to develop and market the campaign. Lessons may be drawn from similar global and regional campaigns, as well as from public health agencies in Cambodia that have implemented successful behaviour change campaigns regarding other public health issues. The campaign concept could potentially be both confronting as well as inspiring and portray the immediate and possible longer-term impacts of physical and humiliating punishment. There may also be opportunity to impart key information on childhood development and positive ways to communicate with, and discipline, children through the campaign. It would be important to utilise a medium that will enable greatest access to all families, including those not participating in Save the Children or other NGO/community initiatives. As an example, the media campaign that accompanied the law reform carried out in Sweden in 1979 included printing information on milk cartons to encourage awareness and discussions within families 'around the kitchen table'.<sup>104</sup> Two years after the ban was introduced, more than 90% of Swedish parents were aware that the law had changed, and the ban was quickly and widely socially accepted.<sup>105</sup> For the Cambodian context, community venues (such as health centres, etc.) or mass

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<sup>102</sup> Global Initiative to End All Corporal Punishment of Children, *Childhood Free From Corporal Punishment—Changing Law and Practice*.

<sup>103</sup> Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: Cambodia, CRC/C/KHM/CO/2* [41].

<sup>104</sup> Leviner, "The Ban on Corporal Punishment of Children, Changing Laws to Change Attitudes: the Swedish Experience."

<sup>105</sup> *ibid.*

media (such as TV or radio) may be suitable channels through which to reach and engage parents and carers.

MOWA (with close collaboration from MOSAVY and the Ministry of Information) has committed to lead the development and implementation of “*behaviour and social change strategy to respond to the social and cultural norms that legitimise and promote violence against children*” following *Cambodia’s Violence against Children Survey*.<sup>106</sup> This campaign could be contributed to this strategy.

*Recommendation 4: Expand positive parenting education*

Depending on the results of any monitoring and evaluation of Save the Children’s pilot program in Prey Veng, it is recommended that Save the Children continue and expand its programming on positive parenting and discipline. Such education programmes are also recommended in *Cambodia’s Violence against Children Survey* and MOWA has committed to contribute to positive parenting and family and childhood education programmes to promote non-violent forms of child discipline and protect children from violence and abuse.<sup>107</sup>

*Recommendation 5: Support awareness-raising and skills-building for teachers*

It is recommended that Save the Children support MOEYS to disseminate information on relevant policies and strategies to promote non-violence in school settings. While laws and guidelines prohibiting physical and humiliating punishment of children in school settings exist, the field research suggests these are largely theoretical with limited accessibility and functionality in practice. Among other things, MOEYS committed to strengthen implementation and enforcement of *Law on Education* and ensure all education staff are trained and adhere to the *Teachers Professional Code* following *Cambodia’s Violence against Children Survey*.<sup>108</sup> Save the Children may also want to keep watch on UNICEF’s positive discipline teacher training package to explore opportunities for collaboration.

*Recommendation 6: Develop/strengthen child-friendly reporting mechanisms*

It is recommended that Save the Children coordinate with other child focused agencies in Cambodia, including UNICEF, to support the development of child-friendly reporting mechanisms. This was identified as a gap, both in legislation/policy as well as practice, in all settings where children experience physical and humiliating punishment. The field work found that children were afraid of the repercussions of reporting violence that they or someone they knew experienced and would prefer an anonymous way to report, preferably through the phone. The low official recognition of cases suggests there are likely very few child-friendly reporting mechanisms and routes for children to seek help.

At a national level, Save the Children can continue to advocate on the establishment of an independent mechanism (like an Ombudsperson for Children) to be established. This could be either as part of a National Human Rights Institution with a Child Unit, or set up a separate mechanism to monitor the implementation of the

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<sup>106</sup> Kingdom of Cambodia, Ministry of Women's Affairs, UNICEF Cambodia, US Centers for Disease Control and Prevention, *Violence Against Children in Cambodia: Core Commitments to Prevent and Respond to Violence Against Children in Cambodia*.

<sup>107</sup> *ibid.*

<sup>108</sup> *ibid.*

CRC, deal with children's complaints of violations of their rights in a child-friendly and expeditious manner, and provide remedies for such violations.<sup>109</sup>

Of note, MOSAVY has committed to contribute to coordinating and harmonizing existing hotlines responding to violence against children following *Cambodia's Violence against Children Survey*.<sup>110</sup> Child Helpline Cambodia is the country's only child-focused service providing children free, confidential access to information on social and protection services, advice and basic counseling. There may be opportunities for Save the Children to collaborate or support this service.

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<sup>109</sup> Cambodia National Council for Children, *Gap Analysis of Child Protection Legislation in the Kingdom of Cambodia*.

<sup>110</sup> Kingdom of Cambodia, Ministry of Women's Affairs, UNICEF Cambodia, US Centers for Disease Control and Prevention, *Violence Against Children in Cambodia: Core Commitments to Prevent and Respond to Violence Against Children in Cambodia*.

## References

### Laws, policies and court decisions

#### **International treaties**

*Convention on the Rights of the Child*

#### **National laws**

*Constitution (1993)*

*Civil Code (2007)*

*Civil Procedure Code (2006)*

*Criminal Code (2009)*

*Law on the Prevention of Domestic Violence and the Protection of Victims (2005)*

*Law on Education (2007)*

*Prison Law (2011)*

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# Annexes

## Annex 1: Terms of reference

### Review of existing legislation and guidelines relating to Physical and Humiliating Punishment on children

Key Information	
Topic	Review the existing legislation
Theme	Child Protection
Focal point person	Mr. Man Phally, Child Protection Specialist, and M&E Specialist
Supervised and Reported to	Henk VanBeers, PDQ director

#### 1. Introduction

Save the Children is the world's largest independent child rights organization, working in more than 120 countries, including Cambodia. Save the Children's vision is a world in which every child attains the right to survival, protection, development and participation and its mission is to inspire breakthroughs in the way the world treats children and to achieve immediate and lasting change in their lives. Save the Children implements its programs in Cambodia in partnership with the Government, civil society and relevant research organizations.

The review of existing legislation and guidelines relating to physical and humiliating punishment on children contributes to the development of Child Protection Strategy 2016-2018. This review is part of the Eliminating Physical and Humiliating Punishment (PHP) on Children Project funded by Save the Children Norway in 2014 that is currently being implemented at national level.

#### 2. Objective of the review of existing legislation

The objective of this review of existing legislation and guidelines relating to physical and humiliating punishment is to understand the gap in Cambodian legislation and guidelines in relation to the elimination of PHP on children.

Key question of this review includes:

- What legislation and guidelines that exist in Cambodia relating to physical and humiliating punishment.
- What are the gaps of existing legislation and guidelines related to the elimination of PHP on children at home and in schools?
- What are the recommendations from this review to strengthen laws, guidelines and practices in relation to physical and humiliating punishment?

#### 3. Scope of the analysis

The review will comprise:

- 1 An analysis of the gaps in terms of the legislation, guidelines and practice environment such as the law on the Prevention of Domestic Violence and the Protection of Victims, Civil Code, Education law or other laws related to PHP on children at home and school.
- 2 An assessment of the current accessibility and functionality of those legislations, guidelines and practice relating to eliminate PHP at home and in schools in the selection of Save the Children target areas.
- 3 An analysis of the responsibility/stakeholder – who are the duty bearers and what are they doing or not doing?

- 4 A comprehensive list of recommendations for strengthening the enforcement of laws concerning PHP on children and the development of a comprehensive law on PHP on children at home and in school in Cambodia or and identify areas where new laws, guidelines and practices needs to be introduced and reinforced.

#### **4. Methodology**

The process of review and analysis will include desk review, interviews with key informants, and children. Save the Children considers the undertaking of the Legislation review as an opportunity to build the capacity of its staff and partners. The consultant will consult with relevant stakeholders including UNICEF, UN Women, Ministry of Women Affairs, Cambodian National Council for Children, plus others. The consultant will work closely with the Save the Children thematic working group, specialists and advisors in the process of this review. The Consultant will develop a detailed work plan, sampling methodology and sample size.

#### **5. Role of the consultant**

The consultant is responsible for:

- 1 Planning, designing, and conducting the review including the methodologies
- 2 Producing the report in consultation with Save the Children staff
- 3 Has full responsibilities in collecting data, entering data and analysing.
- 4 Translating and interpreting in Khmer and English.
- 5 Transport facilities to visit stakeholders

#### **6. Deliverables**

- 1 Design of the research/review on existing legislations, including methodology, develop the list of documents to be reviewed, proposed budget and work plan
- 2 Provide weekly progress reports
- 3 Presentation of initial findings to the Save the Children team and partners
- 4 Prepare the final report in the required format in English, including a 4 page summary
- 5 Present the final report to Save the Children team
- 6 Submission of the final report to Save the Children in both soft and hard copy and data set.

#### **7. Role of Save the Children**

- 1 Providing relevant resource documents to the consultant
- 2 Providing meeting facilities including the organisation appointment with key informants

#### **8. Time frame**

The Legislation review is expected to take approximately 25 working days starting from November 2014.

#### **9. Payment Schedule**

The consultant will be the only team member receiving a consultant fee including tax. Payment to the consultant shall be made in three instalments- 20% at the beginning of the work, 40% after having the draft report and 40% of final report of review with satisfactory from Save the Children.

## Annex 2: Key informants

### National

Date	Representative	Female	Male
11 Dec 2014	CNCC	1	2
	UNICEF	1	
12 Dec 2014	MOSVY		1
18 Dec 2014	Legal Aid of Cambodia		1
	NGOCRC		1
	Working Group for Partnership in Decentralisation	1	1
19 Dec 2014	MOWA		1
	MOEYS		1
<b>Total</b>		<b>3</b>	<b>8</b>

### Provincial

Date	Participants	Female	Male
15 Dec 2014	CCWC		4
	WCCC	2	
	Girls	9	
	Boys		5
	Provincial government	1	
16 Dec 2014	NGO	1	
	CCWC	3	5
	Secondary teachers	3	7
	Fathers		7
	Mothers	10	
	Boys		10
17 Dec 2014	Village Volunteers	7	3
	Community Social Workers	10	2
	Primary teachers	7	2
	Girls	12	
	Girls (residential care)	7	
	Boys/ young men (residential care)	9	
<b>Total</b>		<b>81</b>	<b>45</b>

## Annex 3: Field research tools

### Children and young people

Date:	
Name of village, commune, district:	
Name of facilitator/s:	
Name of note-taker:	

#### A. INFORMED CONSENT

	<i>Tick the box as you say this</i> <input checked="" type="checkbox"/>
<b>Explain the purpose of the discussion:</b> To learn more about children and young people's views on physical and other discipline and how to reduce physical and humiliating punishment.	<input type="checkbox"/>
<b>Explain voluntary participation:</b> You can choose if you wish to participate.	<input type="checkbox"/>
<b>Explain what will happen with information:</b> Group discussion will be noted, but you will not be identified. Information will be used to formulate recommendations for Save the Children.	<input type="checkbox"/>
<b>Ask for verbal consent:</b> Are you willing to participate in this activity?	<input type="checkbox"/>

#### B. FACILITATOR/PARTICIPANT INTRODUCTION

*Briefly introduce yourself and ask participants to introduce themselves. A short 'ice-breakers' can also be used if suitable. If possible, ask children to place a sticker with their name and age so you can use the age for your notes.*

Age	Number of males	Number of females
10		
11		
12		
13		
14		
15		
16		
17		

#### C. DISCUSSION

1. Ask children to list all the methods of discipline that are used on children in their community, i.e. what do parents/teachers/adults do when children do not obey/ do something they do not agree with, etc. (this is not about the children's personal experience but about methods they may have heard of in the community).

*Depending on ability, children could write these out themselves on separate pieces of paper. Or draw them. Or the facilitator could write all the ideas the children call out.*

2. Ask children to put these methods into 2 groups: "acceptable" and "unacceptable".

*Children can arrange the pieces of paper into two groups themselves. Or the facilitator can do it as the children call out their views.*

Take photo so these can be recorded later. Write any interesting comments or observations as children discuss which category each method falls under.

3. Where would you report to if you experienced violence in the home or school?

(This is an open question. The options listed below are just for ease of note-taking. The facilitator should not read these out.)

	<i>Number of females</i>	<i>Number of males</i>
Family member		
Teacher or head teacher		
Village leader		
CCWC		
Commune police		
NGO		

4. Do you have any worries/ concerns about reporting?

Write quotes and gender of person suggesting each item. If possible, also note their age.

5. What ideas do you have to make reporting easier?

Write quotes and gender of person suggesting each item.

6. In some countries the physical and humiliating punishment of children has been prohibited by law in all settings (in the home, school, alternative care, penal institutions, etc.), do you think such a prohibition should exist in Cambodia?

	<b>Yes</b>	<b>No</b>	<b>Don't know</b>
Number of males			
Number of females			

7. Why? Why not?

<i>Reasons why</i>	<i>Reasons why not</i>

8. What impact do you think such a law would have on the behaviour of people that use physical or humiliating punishment on children?

	<i>Number of females</i>	<i>Number of males</i>
No change in behaviour		
Some change in behaviour (e.g. not use PHP so frequently or not use such harsh forms)		
Complete change in behaviour (i.e. stop using PHP)		

9. What other things are needed in the community to stop the use of physical and humiliating punishment on children?

*Write quotes and gender of speaker. If possible, also record their age.*

#### **E. THANKS & OBSERVATIONS**

*Thank children for their participation and great ideas and encourage them to contact WOMEN if they have any concerns about violence in their community.*

*Write any other interesting things that you observed during the discussion. For example: What was the dynamic of the group? Did participants seem comfortable and open talking about this issue? Was it the first time it had been discussed? Was there general agreement or a lot of debate?*

## Parents and carers

<b>Date:</b>	
<b>Name of village, commune, district:</b>	
<b>Name of facilitator/s:</b>	
<b>Name of note-taker:</b>	

### A. INFORMED CONSENT

	<i>Tick the box as you say this</i> <input checked="" type="checkbox"/>
<b>Explain the purpose of the discussion:</b> To learn more about parents and carers' views on physical and other discipline of children and how to reduce physical and humiliating punishment.	<input type="checkbox"/>
<b>Explain voluntary participation:</b> You can choose if you wish to participate.	<input type="checkbox"/>
<b>Explain what will happen with information:</b> Group discussion will be noted, but you will not be identified. Information will be used to formulate recommendations for Save the Children.	<input type="checkbox"/>
<b>Ask for verbal consent:</b> Are you willing to participate in this activity?	<input type="checkbox"/>

### B. FACILITATOR/PARTICIPANT INTRODUCTION

*Briefly introduce yourself and ask parents/carers to also introduce themselves.*

	Parents	Grandparents	Other carer
Number of males			
Number of females			

*Write other relevant about participants' socio-economic status/ disability status/ ethnicity, etc.*

### C. DISCUSSION

1. Ask parents/carers to list all the methods of discipline that are used on children.

*Write each method on a separate piece of small paper. (If there are additional methods from previous consultations, ask parents/carers if they agree and if they should be added to this list.)*

2. Ask parents to arrange these methods into 2 groups: "acceptable" and "unacceptable".

*Take photo so these can be recorded later. Write any interesting comments or observations as parents/carers discuss which category each method falls under.*

3. In some countries physical and humiliating punishment of children has been prohibited by law in all settings (in the home, school, alternative care, penal institutions, etc.), do you think such a prohibition should exist in Cambodia?

	Yes	No	Don't know
Number of males			
Number of females			



4. Why? Why not?

<i>Reasons why</i>	<i>Reasons why not</i>

5. What impact do you think such a law would have on the behaviour of parents/carers that use physical and humiliating punishment on their children?

	<i>Number of females</i>	<i>Number of males</i>
No change in behaviour		
Some change in behaviour (e.g. not use PHP so frequently or not use such harsh forms)		
Complete change in behaviour (i.e. stop using PHP)		

6. What other things, apart from a law, is needed in the community to stop the use of physical and humiliating punishment on children?

*Write what parents say and the gender of the speaker. If possible, note if the person is a parent or grandparent.*

#### **D. THANKS & OBSERVATIONS**

*Thank participants for their time and commend their efforts to raise their children in warm and safe households and communities.*

*Write any other interesting things that you observed during the discussion. For example: What was the dynamic of the group? Did participants seem comfortable and open talking about this issue? Was it the first time it had been discussed? Was there general agreement or a lot of debate?*

## Teachers

<b>Date:</b>	
<b>Name of village, commune, district:</b>	
<b>Name of facilitator/s:</b>	
<b>Name of note-taker:</b>	

### A. INFORMED CONSENT

	<i>Tick the box as you say this</i> <input checked="" type="checkbox"/>
<b>Explain the purpose of the discussion:</b> To learn more about teachers' views on physical and other discipline of children and how to reduce physical and humiliating punishment in schools.	<input type="checkbox"/>
<b>Explain voluntary participation:</b> You can choose if you wish to participate.	<input type="checkbox"/>
<b>Explain what will happen with information:</b> Group discussion will be noted, but you will not be identified. Information will be used to formulate recommendations for Save the Children.	<input type="checkbox"/>
<b>Ask for verbal consent:</b> Are you willing to participate in this activity?	<input type="checkbox"/>

### B. FACILITATOR/PARTICIPANT INTRODUCTIONS

*Briefly introduce yourself to the group. Ask participants to introduce themselves and record their gender, as well as what grade they teach, what sort of school they teach at, and the number of years they have taught.*

	Male or female?	What grade?	How many years teaching?
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

*Write other relevant about participants' socio-economic status/ disability status/ ethnicity, etc.*

### C. DISCUSSION

1. Are you aware of the standards/guidelines that apply to the discipline of children in schools?

	Yes	No
Number of males		
Number of females		

2. Please list the standards/guidelines.

*Write the standards/guidelines that the teachers mention, e.g. Sub-decree No. 127 on the Teachers Professional Code (2008), Law on Education (2007), Prakas No. 922 on Problems relating to Imposing Penalties on Pupils, issued by the Ministry of Education, Youth & Sports (2006), Child-Friendly School Policy (2007).*

3. What sort of training/orientation have you received on these standards/guidelines? Describe.

*Write what the teachers say and note the gender of the people who say it.*

4. What impact do you think these standards/guidelines have had on the behaviour of people that use/d physical or humiliating punishment on children?

	Number of females	Number of males
No change in behaviour		
Some change in behaviour (e.g. not use PHP so frequently or not use such harsh forms)		
Complete change in behaviour (i.e. stop using PHP)		

5. Has there ever been a complaint from a child or parent at your school about physical or humiliating punishment? If so, describe.

*Write details of any cases teachers mention.*

6. What is the process if a child or teacher makes a complaint about physical or humiliating punishment at school?

*Write details of the process – who is responsible, what actions, steps.*

7. Do you have a responsibility to report any suspected case of physical or humiliating punishment of your students (either at school by another teacher or if you suspect something at home)?

	<b>Yes</b>	<b>No</b>
Number of males		
Number of females		

8. What is the process if you suspect a case of physical or humiliating punishment?

*Write details of the process – who does the report go to, what action, steps.*

9. What support do teachers need to keep schools free from physical and humiliating punishment?

*Write what the teachers say and note the gender of the people who say it.*

#### **D. THANKS & OBSERVATIONS**

*Thank teachers for their time and commend the important work they do to educate children in the community.*

*Write any other interesting things that you observed during the discussion. For example: What was the dynamic of the group? Did participants seem comfortable and open talking about this issue? Was it the first time it had been discussed? Was there general agreement or a lot of debate?*

## Officials

<b>Date:</b>	
<b>Name of village, commune, district:</b>	
<b>Name of facilitator/s:</b>	
<b>Name of note-taker:</b>	

### A. INFORMED CONSENT

	<i>Tick the box as you say this</i> <input checked="" type="checkbox"/>
<b><i>Explain the purpose of the discussion:</i></b> To learn more about the role of local authorities to prevent and respond to physical and humiliating punishment of children.	<input type="checkbox"/>
<b><i>Explain voluntary participation:</i></b> You can choose if you wish to participate.	<input type="checkbox"/>
<b><i>Explain what will happen with information:</i></b> Group discussion will be noted, but you will not be identified. Information will be used to formulate recommendations for Save the Children.	<input type="checkbox"/>
<b><i>Ask for verbal consent:</i></b> Are you willing to participate in this activity?	<input type="checkbox"/>

### B. FACILITATOR/PARTICIPANT INTRODUCTIONS

	<i>Male or female?</i>	<i>Role</i>
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

*Write other relevant about participants' socio-economic status/ disability status/ ethnicity, etc.*

### C. DISCUSSION

1. What is your role and responsibility in relation to physical and humiliating punishment of children (in all settings)?

2. Are these set out in any documentation (e.g. laws or guidelines)? If so, which ones?

3. Have you received training/support by any development partners or national/sub-national authorities to implement these responsibilities? Describe.

4. What is the process if you receive or identify a case of physical or humiliating punishment of children (in all settings)?

*Details of action steps. Details of response.*

5. Do children report now?

	<b>Yes</b>	<b>No</b>	<b>Don't know</b>
Number of males			
Number of females			

6a. If so, what is the most common way children report?

6b. If not, why not?

7. What would be the best/ideal reporting mechanism?

8. In some countries physical and humiliating punishment of children has been prohibited by law in all settings (in the home, school, alternative care, penal institutions, etc.), do you think such a prohibition should exist in Cambodia?

	<b>Yes</b>	<b>No</b>	<b>Don't know</b>
Number of males			
Number of females			

9. Why? Why not?

<i>Reasons why</i>	<i>Reasons why not</i>

10. What impact do you think such a law would have on the behaviour of those that use physical and humiliating punishment on their children?

	<i>Number of females</i>	<i>Number of males</i>
No change in behaviour		
Some change in behaviour (e.g. not use PHP so frequently or not use such harsh forms)		
Complete change in behaviour (i.e. stop using PHP)		

11. What other things are needed in the community to improve the process for identification, reporting and referral?

**D. THANKS & OBSERVATIONS**

*Thank participants for their time and commend their efforts.*

*Write any other interesting things that you observed during the discussion. For example: What was the dynamic of the group? Did participants seem comfortable and open talking about this issue? Was it the first time it had been discussed? Was there general agreement or a lot of debate?*