

# **Corporal punishment of children in Panama: Briefing for the Universal Periodic Review, 22<sup>nd</sup> session, 2015**

From Dr Sharon Owen, Research and Information Coordinator,  
Global Initiative, [sharonGI@childrights.onmicrosoft.com](mailto:sharonGI@childrights.onmicrosoft.com)



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

**The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.**

**In Panama, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and during the 1<sup>st</sup> cycle UPR in 2010 (accepted by the Government).**

**We hope the Working Group will note with concern the legality of corporal punishment of children in Panama. We hope states will raise the issue during the review in 2015 and make a specific recommendation to Panama that legislation be adopted which prohibits all forms of corporal punishment of children in all settings, including the home, and explicitly repeals the “power to correct” as a matter of priority.**

## **1 Review of Panama in the 1<sup>st</sup> cycle UPR (2010) and progress since then**

1.1 Panama was reviewed in the first cycle of the Universal Periodic Review in 2010 (session 9). The issue of corporal punishment of children was raised in the compilation of UN information<sup>1</sup> and the summary of stakeholders’ information.<sup>2</sup> The following recommendations were made:<sup>3</sup>

“Prohibit all forms of corporal punishment of children (Brazil);

“Make efforts to include in its legislation a prohibition of all forms of corporal punishment of children (Costa Rica)”

1.2 The Government accepted the recommendations, stating: “The possibility of forthcoming legislation prohibiting all forms of corporal punishment against children is being considered.”<sup>4</sup> However, there has been no reform to date. **We hope members of the Working Group will recommend to Panama that legislation be adopted which prohibits all forms of corporal punishment of children in all settings, including the home, and explicitly repeals the “power to correct” as a matter of priority.**

<sup>1</sup> 13 August 2010, A/HRC/WG.6/9/PAN/2, Compilation of UN information, para. 30

<sup>2</sup> 5 August 2010, A/HRC/WG.6/9/PAN/3, Summary of stakeholders information, para. 20

<sup>3</sup> 4 January 2011, A/HRC/16/6, Report of the working group, paras. 70(15) and 70(16)

<sup>4</sup> 17 February 2011, A/HRC/16/6/Add.1, Report of the working group: Addendum

## **2 Legality and practice of corporal punishment in Panama**

- 2.1 **Summary:** Corporal punishment of children in Panama is unlawful in the penal system but it is not prohibited in the home, alternative care settings, day care or schools.
- 2.2 **Home (lawful):** Under article 319 of the Family Code 1994 those with parental authority over children have a duty and power “to reasonably and moderately correct them”, and there is a similar provision in article 443 in relation to guardians/tutors. The Civil Code also recognises the right of guardians to “reasonably and moderately” correct the child or adolescent in their care (art. 188). The Family Code 1994 (art. 501) and the Criminal Code 2007 (art. 198) protect children from corporal punishment which causes physical injury but do not prohibit all corporal punishment. Other legal provisions against violence and abuse in the Family Code 1994, Law No. 38 on Domestic Violence and Abuse of Children and Adolescents 2001, the Criminal Code 2007 and the Constitution 1972 are not interpreted as prohibiting all corporal punishment.
- 2.3 **Alternative care settings (lawful):** Corporal punishment is lawful in under the right of correction in the Family Code 1994 and the Civil Code (see para. 2.2, above).
- 2.4 **Day care (lawful):** Corporal punishment is lawful in early childhood care and in day care for older children under the right of correction in the Family Code 1994 and the Civil Code (see para. 2.2, above).
- 2.5 **Schools (lawful):** Corporal punishment appears to be lawful in schools under the right of persons with parental authority to correct children in articles 319 and 443 of the Family Code (information unconfirmed).
- 2.6 **Penal institutions (unlawful):** Corporal punishment is unlawful as a disciplinary measure in penal institutions. It is explicitly prohibited in article 144 of Law No. 40 on the Special regime of criminal responsibility regarding adolescents. Law No. 55 2003 provides for respect of human rights within the penitentiary system. However, a report on juvenile detention centres in Panama found that the young people were regularly subjected to very severe corporal punishment including beatings, the use of tear gas, being shot with rubber bullets and threatened with rifles. Other cruel and degrading punishments included the denial of family visits and imprisonment in very small cells with little water. The report was based on visits to four detention centres, which together housed 268 juvenile detainees, approximately 82% of the total population of the juvenile detention system.<sup>5</sup>
- 2.7 **Sentence for crime (unlawful):** There is no provision for judicial corporal punishment in criminal law.

## **3 Recommendations by human rights treaty monitoring bodies**

- 3.1 **CRC:** The Committee on the Rights of the Child has three times expressed concern about corporal punishment of children in the family and other settings in Panama and made recommendations to address it – in its concluding observations on the initial report in 1997,<sup>6</sup> on the second report in 2004<sup>7</sup> and on the third/fourth report in 2011.<sup>8</sup> In 2011, the Committee specifically recommended revision of articles 319 and 443 of the Family Code and article 188 of the Civil Code, which provide for the “right of correction” of children.

---

<sup>5</sup> Harvard International Human Rights Clinic, Alianza Ciudadana Pro Justicia & Asamblea Ciudadana de Panamá (2011), *Preventable Tragedy in Panama: Unnecessary Deaths and Rights Violations in Juvenile Detention Centers*, report submitted to the UN Committee on the Rights of the Child for its 57<sup>th</sup> session

<sup>6</sup> 24 January 1997, CRC/C/15/Add.68, Concluding observations on initial report, paras. 16 and 30

<sup>7</sup> 30 June 2004, CRC/C/15/Add.233, Concluding observations on second report, paras. 33, 34 and 40

<sup>8</sup> 21 December 2011, CRC/C/PAN/CO/3-4, Concluding observations on third/fourth report, paras. 45 and 46

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
[www.endcorporalpunishment.org](http://www.endcorporalpunishment.org); [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)  
September 2014

*The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities.*