

Corporal punishment of children in Paraguay: Briefing for the Universal Periodic Review, 24th session, 2016

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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 Paraguay, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child and the Committee Against Torture. Draft legislation is under discussion which would achieve prohibition.

We hope the Working Group will note with concern the legality of corporal punishment of children in Paraguay. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Paraguay expedite the adoption of legislation clearly prohibiting all corporal punishment of children in all settings including the home.

1 Review of Paraguay in the 1st cycle UPR (2011) and progress since then

- 1.1 Paraguay was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 10). The issue of corporal punishment of children was raised in the compilation of UN information¹ and in the summary of stakeholders' information.² No recommendations were made specifically on corporal punishment but the Government accepted recommendations to incorporate the Convention on the Rights of the Child into domestic legislation and to implement the recommendations of the Committee on the Rights of the Child.³
- 1.2 Prohibiting and eliminating all corporal punishment of children in all settings including the home – through law reform and other measures – is a key obligation under the Convention on the Rights of the Child and other human rights instruments, though it is one frequently evaded by Governments. In Paraguay, draft legislation which would achieve full prohibition of corporal punishment has long been under discussion but has not yet been enacted.
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Paraguay. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Paraguay expedite the adoption of legislation clearly prohibiting all corporal punishment of children in all settings including the home.**

¹ 13 October 2010, A/HRC/WG.6/10/PRY/2, Compilation of UN information, para. 34

² 1 October 2010, A/HRC/WG.6/10/PRY/3, Summary of stakeholders' information, para. 22

³ 28 March 2011, A/HRC/17/18, Report of the working group, paras. 85(6) and 85(49)

2 Legality of corporal punishment in Paraguay

- 2.1 **Summary:** In Paraguay, corporal punishment of children is unlawful in the penal system and in some alternative care settings, but it is not fully prohibited in alternative care settings or in the home, day care, schools and penal institutions. Draft legislation is under discussion which would achieve prohibition.
- 2.2 **Home (lawful):** Article 4 of the Children and Adolescents Code 2001 states that parents are obliged to protect their children from violence and abuse and article 70 states that parental rights include the right and obligation to “educate and guide” their children. The Code does not confirm a right to punish children but neither does it explicitly prohibit all corporal punishment in childrearing. Article 72 of the Code states that parental authority can be suspended in the case of “violence that harms the physical or mental health and safety of the children, even if it is exercised by way of discipline, and without prejudice to other measures appropriate to the gravity of the act”: this protects children from severe corporal punishment but does not clearly prohibit all forms of corporal punishment. Similarly, article 134 of the Penal Code 1998 punishes child abuse involving the infliction of “considerable psychological pain, severe and repeated mistreatment or damage to health” but does not address all forms of corporal punishment.
- 2.3 A Bill is under discussion that would prohibit all corporal punishment of children. Article 2 of the Good Treatment of Children and Adolescents Bill states (unofficial translation): “The use of physical punishment or any kind of cruel and humiliating treatment as a form of correction or discipline by parents, guardians, managers and anyone else responsible for the upbringing, care, education, attention, treatment and protection of children and adolescents is forbidden....” Article 3 defines corporal punishment as “disciplinary measures in which physical force is used, for the purpose of causing pain or discomfort, however light, to the child or adolescents, to correct, control or change behaviour”. The Bill was introduced in August 2014 and scrutinised and passed by six parliamentary committees; following consideration in the plenary in the House of origin, the Bill was returned to the Committees for further analysis.⁴
- 2.4 **Alternative care settings (partially prohibited):** Corporal punishment is prohibited in shelter homes under articles 21 and 28 of the Enabling Regulations for the operation of shelter homes for children and adolescents in the special protection system 2006 under the Children and Adolescents Code 2001. There is no explicit prohibition of corporal punishment in other alternative care settings.
- 2.5 **Day care (lawful):** There is no explicit prohibition of corporal punishment in all early childhood care settings and in day care for older children.
- 2.6 **Schools (lawful):** A number of laws protect students’ dignity, including the Children and Adolescents Code 2001 (arts. 21, 22 and 114) and the General Education Law 1998 (art. 125), but there is no clear prohibition of corporal punishment.
- 2.7 **Penal institutions (unlawful):** Corporal punishment is explicitly prohibited as a disciplinary measure in penal institutions in article 245 of the Children and Adolescents Code 2001.
- 2.8 **Sentence for crime (unlawful):** There is no provision for judicial corporal punishment in criminal law.

⁴ Global Infancia, correspondence with the Global Initiative, 11 June 2015

3 Recommendations by human rights treaty bodies

- 3.1 **CRC:** The Committee on the Rights of the Child has twice recommended to Paraguay that all corporal punishment of children be prohibited, including in the home – in its concluding observations on the second state party report in 2001⁵ and on the third report in 2010.⁶
- 3.2 **CAT:** In 2011, the Committee Against Torture recommended to Paraguay that corporal punishment be explicitly prohibited in all settings including the home.⁷

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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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.

⁵ 6 November 2001, CRC/C/15/Add.166, Concluding observations on second report, paras. 31 and 32

⁶ 10 February 2010, CRC/C/PRY/CO/3, Concluding observations on third report, paras. 37, 38 and 39

⁷ 14 December 2011, CAT/C/PRY/CO/4-6, Concluding observations on fourth-sixth report, para. 26