

Ending legalised violence against children



Global Initiative to
End All Corporal Punishment
of Children



Save the Children
Sweden

Report for Latin America Regional Consultation

– the UN Secretary General's Study on Violence against Children

Buenos Aires, Argentina 2005

Contents

5	The human rights imperative
7	Human rights standards in the region
8	Global progress
10	Recommendations
12	The purpose of law reform
16	State-by-state analysis
38	Summary information

PUBLISHED BY

Global Initiative to End All Corporal Punishment of Children

Save the Children Sweden, Regional Programme for Latin America and the Caribbean

THIS REPORT AND ITS RECOMMENDATIONS ARE ENDORSED BY:

- + Acción por los Niños, Peru
- + Agencia de Noticias dos Direitos Da Infancia-ANDI, Brazil (News Agency for the Rights of the Child)
- + Agencia UGA UGA de Comunicacao, Brazil (Communication Agency UGA UGA)
- + Asociación Civil Vichama (Civil Association Vichama)
- + Asociación Proyección, Peru (Protection)
- + Casa del Niño Trabajo de Colombia, Colombia (House of Working Child of Colombia)
- + Centro Comunitario de Aprendizaje-Cecodap, Venezuela (Community Learning Centre)
- + Centro de Promoción de la Mujer Micaela Bastidas, Perú (Centre of Women Promotion Micaela Bastidas)
- + Centro Nicaraguense de Promoción de la Juventud y la Infancia "Dos Generaciones"; Nicaragua (Nicaraguan Centre for Childhood and Youth Promotion "Dos Generaciones")
- + Coalición contra la vinculación de niños, niñas y adolescentes en el conflicto armado en Colombia (Coalition against the involvement of children and adolescents in armed conflict)
- + Coordinadora por los Derechos de la Infancia y Adolescencia-CDIA, Paraguay (Children's and Adolescent's Rights Coordinator)
- + Fundación Paniamor, Costa Rica (Paniamor Foundation)
- + Global Infancia, Paraguay
- + Gurises Unidos, Uruguay
- + Instituto para la Formación de Educadores de Jóvenes, Adolescentes y Niños Trabajadores de América Latina y el Caribe-IFEJANT, Perú (Institute for Training Teachers of Working Children, Adolescents and Youth in Latin America and the Caribbean)
- + Instituto Promundo, Brasil (Promundo Institute)
- + Laboratório de Estudos da Criança-LACRI, Brazil (Research Centre for Children)
- + Movimiento de adolescentes y niños trabajadores hijos de obreros cristianos-MANTHOC, Peru (Movement of Working Children and Adolescent Sons and Daughters of Christian Workers)
- + Pro Derechos del Niño-Prodeni, Chile (For Children's Rights)
- + Procuraduría para la Defensa de los Derechos Humanos, Costa Rica (Children's Ombudsman's office in Costa Rica)
- + Red por la Infancia y Adolescencia-RIA, El Salvador (Network for childhood and adolescents)
- + S.A.I.-Programa ARCOIRIS, Uruguay (S.A.I.-Rainbow Programme)
- + Save the Children Canada, Regional Office for South America
- + Save the Children Honduras
- + Save the Children Norway in Nicaragua
- + Save the Children Spain
- + Save the Children Sweden, Regional Programme for Latin America and the Caribbean
- + Save the Children UK, Programme for South America

Hitting people is wrong – and children are people too. Corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity. Its legality breaches their right to equal protection under the law. Urgent action is needed in every region of the world to respect fully the rights of all children – the smallest and most fragile of people.

This report reviews law and policy in relation to corporal punishment and deliberate humiliation of children in each state in the region. It makes recommendations for law reform and other measures which it is hoped will be adopted at the Consultation and pursued at a national, regional and international level.

Foreword

Jaap E. Doek

Chairperson

United Nations Committee on the Rights of the Child

One hundred and ninety two governments, including all those in this region, have accepted an obligation to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of violence (article 19 of the United Nations Convention on the Rights of the Child).

The Committee on the Rights of the Child, which monitors implementation of this Convention, has recommended to governments across the region and the world that they should systematically:

- Prohibit all forms of violence, including all corporal punishment however light, in the upbringing of children in their homes, in schools, in care institutions, penal systems and any other place;
- Undertake – at the same time – educational and awareness-raising campaigns to inform parents and others about children's right to protection and about non-violent methods of disciplining and raising children.

Many citizens and politicians express deep concern about increasing violence in their societies. The credibility of this concern is questionable as long as they are not willing to seriously and systematically address the use of violence against children. And nobody should suggest that a little bit of violence is acceptable. That applies equally for adults and children.

If we all want a violence-free society, we must hope that the context of the UN Secretary General's Study on Violence against Children will accelerate moves to prohibit and eliminate all corporal punishment as an unacceptable violation of human dignity and physical integrity.

Jaap E. Doek
Chairperson
Committee on the Rights of the Child
March 2005

The human rights imperative to end all corporal punishment

Rights to respect for human dignity and physical integrity and to equal protection under the law are upheld for everyone – including children – in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The Convention on the Rights of the Child (CRC) re-emphasises that children, too, are holders of human rights. The Convention also requires states to protect children from “all forms of physical or mental violence” while in the care of parents or others (article 19).

The Committee on the Rights of the Child – the monitoring treaty body for the CRC – consistently interprets the Convention as requiring prohibition of all corporal punishment, including in the family, linked to awareness-raising and public education. This interpretation is supported by other human rights treaty bodies, both international and regional, and by high-level court judgments in a growing number of states.

States’ human rights obligations to end all currently legalised violence against children are clear and immediate; there can be no justification for delay. Humanity and logic suggest that children should be the first, not the last, members of human societies to be effectively protected from assault and deliberate humiliation.

The case against corporal punishment does not have to be proved. We do not look for evidence of harm to justify prohibition and other measures to end domestic violence against women or elderly people. The issue is one of fundamental rights. But in any case there is overwhelming research evidence to support the human rights imperative for eliminating corporal punishment. Hitting babies and children is dangerous. Harsh and humiliating forms of discipline are associated with the development of violent and anti-social attitudes and actions in childhood and later life and also with psychological difficulties for the victims.

“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...”

UN Convention on the Rights of the Child, article 19



Hitting children is a lesson in bad behaviour; it teaches them that adults who demand their respect believe that violence is a legitimate way to sort out conflicts or impose authority.

Some adults like to suggest that corporal punishment and child “abuse” are two quite separate phenomena. In fact, more or less all physical “abuse” is administered in a context of punishment or control – it **is** corporal punishment. There are different degrees of severity, but all corporal punishment breaches children’s right to respect for their human dignity and physical integrity. We do not try to draw lines and justify any level of violence against women or elderly people – so why children? Zero tolerance is generally accepted as a target for ending domestic violence between adults in the home – so why not for children?

Defenders of corporal punishment suggest that children are different. But their differences – their dependence, developmental state and fragility – certainly do not reduce their human rights or justify less protection from violence. Parents and other carers need to use physical actions to protect and restrain children, especially babies and young children. But such actions are clearly distinguishable from causing pain or humiliation as a form of discipline or control.

Human rights standards in the region

All states in the region have ratified the Convention on the Rights of the Child. None has entered any reservation to reduce its obligation to protect children from all forms of violence. The Committee on the Rights of the Child has expressed concern over the prevalence of corporal punishment and other forms of violence against children to all states in the region. In many cases it has recommended explicit prohibition of all corporal punishment and awareness-raising and public education to promote positive, non-violent forms of child-rearing and education.

All states in the region apart from Cuba have ratified the American Convention on Human Rights. The Inter-American Court of Human Rights in San José, Costa Rica has emphasised states' obligations to protect children from all forms of violence, including by "private" individuals, referring to the Convention on the Rights of the Child and the conclusions of the Committee on the Rights of the Child. It did this in an advisory opinion on "The legal status and human rights of the child", requested by the Inter-American Commission on Human Rights in 2002 (Advisory Opinion OC-17/2002, 28 August 2002).

The Court notes (para. 87): "This Court has repeatedly established, through analysis of the general provision set forth in Article 1(1) of the American Convention, that the State is under the obligation to respect the rights and liberties recognized therein and to organize public authorities to ensure persons under its jurisdiction free and full exercise of human rights. According to legal standards regarding international responsibility of the State that are applicable to International Human Rights Law, actions or omissions by any public authority, of any branch of government, are imputable to the State which incurs responsibility under the terms set forth in the American Convention. This general obligation requires the States Parties to guarantee the exercise and enjoyment of rights by individuals with respect to the power of the State, and also with respect to actions by private third parties. By the same token, and for the purposes of this Advisory Opinion, the States Party to the American Convention are under the obligation, pursuant to Articles 19 (Rights of the Child) and 17 (Rights of the Family), in combination with Article 1(1) of this Convention, to adopt all positive measures required to ensure protection of children against mistreatment, whether in their relations with public authorities, or in relations among individuals or with non-governmental entities."

CENTRAL AMERICA CHILDREN'S OMBUDSPEOPLE CALL FOR ABOLITION

The second meeting of Children's Ombudspeople from Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua issued a declaration in 2004 calling on parliaments "to promote and approve all legal reforms to eradicate corporal punishment against children and adolescents" and on national and international organisations to promote awareness-raising and educational campaigns aimed at eliminating corporal punishment.

The Declaration refers to corporal punishment "as a very generalised practice that is deeply rooted in our cultures and is unfortunately still a form of legalised violence that is very common and forms part of the daily lives of children and adolescents".

Global progress towards ending all corporal punishment

Globally, less than 20 of the 190-plus states have as yet prohibited all corporal punishment, including in the family (for details see www.endcorporalpunishment.org). So only 52 million children out of the world's 2,195 million live in countries where the law gives them equal protection from being assaulted. In about 85 states worldwide, corporal punishment is still authorised in schools and other institutions; in 15 states in this region it is not explicitly prohibited in schools. In almost 100 states worldwide, whipping or caning is still permitted as a sentence of the courts or as a punishment in penal institutions for young offenders. In this region, all states have prohibited corporal punishment as a sentence, but 13 have not explicitly prohibited it as a disciplinary measure in penal institutions. All this state-authorised deliberate and severe violence against children ironically co-exists in these countries with child protection systems. Corporal punishment is also reported in domestic and other situations of child labour.

Prevalence of corporal punishment

One indication of the low priority accorded to this issue is the lack of research into the violent victimisation of children by adults in their homes, schools, other institutions and situations of child labour. No state can judge to what extent it is fulfilling its human rights obligations to children without this basic research.

Where corporal punishment in the family has not been systematically challenged through law reform linked to public education, research from a number of states in each continent suggests that a majority of children are being hit regularly by one or both parents and that up to a third are being punished “severely” – beaten with belts or sticks.

In this region there has been some research in a few states (see state-by-state analysis beginning on page 16). This suggests that corporal punishment remains socially approved by a majority and severe punishment is still common.

Promoting positive discipline

In states in all continents there are developed programmes and materials to promote positive, non-violent forms of discipline and child-rearing for parents, other carers and teachers. In some states, the government has taken a lead with public education. In others, non-governmental organisations, human rights institutions and private sector publishers and media have taken initiatives (for links to a variety of programmes and materials, see www.endcorporalpunishment.org).

Challenging the concept of “Biblical discipline”

In all regions of the world there are groups of Christians who defend corporal punishment of children as their parental duty. Texts from the book of Proverbs are frequently cited to support this form of punishment, which is often called “Biblical discipline”.

Christians look to the example of Jesus for the way to live their lives, so what did Jesus say about hitting children? Jesus was a teacher and Rabbi, and an expert in interpreting the scriptures. There is no evidence to suggest that he cited the scriptures to justify hitting children. Christians who apply the words of Proverbs 9:10 “The fear of the Lord is the beginning of wisdom,” and the shorthand version of Proverbs 13:24 “Spare the rod and spoil the child,” are suggesting that small, fragile children are deserving of such punishment and that the deliberate infliction of fear and pain is a necessary part of childhood experience.

This attitude to children fails to match up to the approach taken by Jesus who always treated the vulnerable and defenceless with love and compassion. All the recorded encounters between children and Jesus were kind, gentle and respectful, and his reported words about those causing children to stumble, and the consequences for doing so (Matthew 18:6), are amongst the strongest in the New Testament. When he set a little child in the midst of the disciples and said “The kingdom of God belongs to such as these” (Mark 10:14), he demonstrated enormous regard for children.

Christians who take these accounts seriously have a duty to challenge the harmful practice of hitting children, just as Jesus challenged so many of the cultural and social aspects of his own time. Positive non-violent parenting best models Christ’s teachings.

In the United Kingdom, where some groups of Christians have been prominent in defending corporal punishment of children, there is a strong campaign backed by more than 400 organisations to give children equal protection under the law. Supporters include the Methodist and United Reformed Churches, Roman Catholics, Quakers and a number of Anglican Bishops.

Churches' Network for Non-Violence (CNNV); Coordinator Chris Dodd
info@churchesfornon-violence.org; www.churchesfornon-violence.org

RECOMMENDATIONS

THE GLOBAL INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN AND SAVE THE CHILDREN SWEDEN REGIONAL PROGRAMME FOR LATIN AMERICA AND THE CARIBBEAN URGE THE REGIONAL CONSULTATION TO ADOPT AND PROMOTE THE FOLLOWING RECOMMENDATIONS FOR IMMEDIATE ACTION IN ALL STATES IN THE REGION. THE AIM SHOULD BE TO ADOPT THE DEADLINE OF THE CONCLUSION OF THE UN SECRETARY GENERAL'S STUDY ON VIOLENCE AGAINST CHILDREN IN 2006 FOR IMPLEMENTATION OF LAW REFORM AND PUBLIC EDUCATION TO ELIMINATE CORPORAL PUNISHMENT.

1 Explicitly prohibit all violence against children, including all corporal punishment, in the family and in all other settings. This requires repeal of any existing defences that can be used to justify violent punishment and of any laws that authorise corporal punishment in any setting. Explicit prohibition in sectoral laws applying within the family and to alternative care, schools and the penal system is required to send a clear message.

This action, taken to date by less than 20 countries worldwide, sends a clear signal that children have an equal right to respect for their human dignity and physical integrity. The extent to which the law is respected and effectively and appropriately enforced may vary between states. But no state will make significant progress towards preventing and eliminating violence against children until it has a clear and well-publicised legal framework prohibiting all violence. All states have criminal laws against assault; some have constitutions outlawing inhuman or degrading treatment; most have laws prohibiting "abuse" or cruelty; many have incorporated the Convention on the Rights of the Child and other international instruments into their domestic law. But none of this is adequate to challenge the traditional acceptance of violent and humiliating punishment of children.

2 Ensure that awareness-raising of children's right to protection, promotion of non-violent child-rearing and education and the principles of non-violent conflict resolution are built into all the points of contact with future parents and parents and into the training of all those working with or for children and families. Encourage political, community and faith leaders and educators to support this awareness-raising and public education.

Promoting non-violence does not have to be a separate and expensive process. All those in contact with future parents and parents can build messages into their programmes and activities, from ante-natal classes, through birth registration, immunisation, health surveillance and treatment, pre-school and school and so on. There is no shortage of models of programmes and materials which can be adapted for all states and cultures.

3 Review the extent of violent victimisation of children, including in the family, through interview studies with children themselves, parents and other carers.

Making the true extent of violence against children visible is an essential step towards gaining public support and political priority for its elimination. The methodology exists for such studies, involving confidential interviews with parents and with children, with appropriate ethical safeguards. Studies can be quite small-scale, but must cover children of all ages and children in institutions and other forms of care, as well as children living and/or working on the street and in other situations of child labour.

4 Review safeguards to protect children from all forms of violence in the full range of residential institutions and other forms of alternative care, state and private, and implement any necessary improvements.

Studies in states in all continents suggest that children in institutions and alternative care have suffered physical, mental and sexual violence on a huge scale and remain at risk unless a range of safeguards are implemented. These include effective training and vetting of all staff, regular, confidential reviews of all children's placement and treatment, independent inspection including interviewing of children and staff in private and protection of whistle-blowers.

What is the purpose of law reform against corporal punishment and how will it be implemented?

Children's rights to respect for their human dignity and physical integrity and to equal protection under the law require that the law effectively and equally protects them from all forms of corporal punishment and other humiliating punishment or treatment.

Equal protection for children **does** mean that any assault of a child that would be considered a criminal assault if directed at an adult should be considered and dealt with under the criminal law as a crime. All countries have laws which define and prohibit criminal assault and this definition should include all corporal punishment as a form of assault.

But this principle of equal protection for both adults and children in cases of assault **does not** necessarily mean that cases involving corporal punishment should result in prosecution of parents. This is very seldom in the interests of children, because of children's dependent status, and should only be used as an intervention of last resort.

In every case in which corporal punishment in the family comes to light, the aim must be first to seek to help parents and children through voluntary positive interventions – offers of advice, discussions with other parents and so on – which aim to stop violent and humiliating treatment of children.

In extreme cases of serious and continuing abuse, separating children from their parents may be the only way to protect them. And in those cases, according to the Convention on the Rights of the Child (article 9), there must be a court hearing, focusing on the best interests of the child and with the parents and child represented. In exceptional cases, where it is believed the child is at risk of severe violence, it may be necessary immediately to remove the child or the perpetrator to protect the child. But such measures should be temporary and only continued following a court hearing.

Equal protection under the law

Efforts to reform the law to prohibit all corporal punishment as a form of assault often meet with strong opposition. One of the fears expressed is that it will lead to thousands of parents being prosecuted and put in prison, or children will be taken away and put in institutions; it will turn children against their parents, and so on. But in the growing number of states in which the law has been changed, this has not been the experience. The first aim of these reforms, linked to awareness-raising and public education, is to raise awareness of the right of the child to equal protection. Changing the law and linking this to awareness-raising is likely to change attitudes and reduce violence against children. Adults' sensitivity to violence against children is likely to increase and this may lead to more reporting of such violence.

Controlling prosecution policy in relation to parental corporal punishment

In most countries, there is a code or advice to decide when prosecution for a crime should go ahead. This usually requires certain tests to be satisfied. For example:

- that there is sufficient evidence to make conviction likely;
- that the prosecution is in the public interest.

The prosecution of parents and other close family carers should only proceed when it appears to be the only way to provide the child with effective protection and other supportive interventions have failed. It is important that guidelines are developed and implemented which set out conditions for prosecution in these cases. In addition, detailed guidance is required for all those involved in child protection, including for example social workers, health workers, teachers and police. This should focus on the need for interventions to emphasise the dangers and illegality of hitting children and to seek to provide appropriate support for positive, non-violent parenting.

In advocating law reform, it can be emphasised that minor assaults on adults by adults, while clearly unlawful, very seldom get to court (in many states, the *de minimis* principle is recognised: that the law does not concern itself with trivial matters).

Some opponents of law reform will then respond: "But what is the point of a law if it is unenforceable?" The first answer is that the real purpose of law is education and deterrence to achieve protection, rather than prosecution. Prosecution is always a sign of the failure of the law effectively to deter and prevent a child being assaulted.


The law will be as enforceable as the law on assault between adults, if the necessary evidence exists – but there will need to be consideration to determine whether prosecution is in the best interests of the victim child as well as in the public interest. In the few cases in which prosecution is considered necessary to protect a child, and in the child’s best interests, it will be easier to pursue if parents can no longer defend assault before the courts as “reasonable punishment”.

In order to deter parents from using corporal punishment in the privacy of their homes, the law needs to send a very clear message. That is the real purpose of explicit law reform. Having clear law that prohibits all corporal punishment enables all those working with and for families and children to promote this clear message.

Enforcing prohibition of corporal punishment outside the family

Corporal punishment in schools, other institutions and forms of care and places of employment must be prohibited explicitly in legislation. Prohibition through administrative circular or guidance is not adequate. Implementation and enforcement of prohibition requires proper administrative measures including awareness-raising of the law among adults and children; building knowledge of the prohibition into training, both initial and in-service, for teachers and other school personnel; rigorous inspection by trained inspectors independent of the institution (including interviews in private with children and adults); and access to advice, advocacy and independent complaints procedures for children and parents and ultimately access to the courts.

Respecting the law will or should become a contractual condition, so that teachers and others who continue to use corporal punishment risk losing their jobs. This in itself will act as a strong deterrent. In cases in which teachers and others, after warning, continue to use corporal punishment, prosecution is a legitimate and necessary response.



“As for corporal punishment, few countries have clear laws on this question. Certain States have tried to distinguish between the correction of children and excessive violence. In reality the dividing line between the two is artificial. It is very easy to pass from one stage to the other. It is also a question of principle. If it is not permissible to beat an adult, why should it be permissible to do so to a child? One of the contributions of the Convention is to call attention to the contradictions in our attitudes and cultures.”

**Concluding statement to Committee on the Rights of the Child
General Discussion on Children’s Rights in the Family, October 1994**



CORPORAL PUNISHMENT IN LATIN AMERICA

State-by-state analysis of legality and prevalence

The information in this section was compiled from many sources, including reports to and by the United Nations human rights treaty bodies. We are particularly grateful to the Andean Commission of Jurists (www.cajpe.org) who have carried out detailed research on the legal situation. Also, we are very grateful to government officials, UNICEF and other UN agencies, NGOs and human rights institutions and many individuals who have helped to compile and check information. Please let us know if you believe any of the information to be incorrect: info@endcorporalpunishment.org
Country reports will be published and updated on the website of the Global Initiative: www.endcorporalpunishment.org

ARGENTINA

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home under federal legislation. The Civil Code (1998) states that children are under the authority of their parents (article 265) and that children owe respect and obedience to their parents (article 266). Article 278 states: “Parents have the power to correct the behaviour of their minor children or have it corrected. This power must be exercised in moderation, without abuse, punishment or acts that injure or harm the child physically or psychologically. Judges must safeguard minors against excessive correction by their parents, ordering the cessation of such acts and relevant sanctions if appropriate.”

Children have some protection from violence and abuse at the federal level under other provisions in the Civil Code (articles 268 and 307), the Criminal Code and the Law on Protection Against Violence in the Family (1994).

At the provincial level, the Constitution of the **Province of Tierra del Fuego, the Antarctic and the South Atlantic Islands** gives protection from abusive exercise of family authority (article 18), and in the **Province of Mendoza** the Law on Protection of Minors Law 6354 (1995), protects the psychological and physical integrity of children and adolescents (articles 6 and 14).

Schools

There is no explicit prohibition of corporal punishment in schools. Article 5 of the Federal Education Law (2000) recognises the child’s right to dignity and well-being and states that this must be respected in setting guidelines for educational policy. The Law on the School Coexistence System (1999) protects the child’s right to physical integrity (article 6) and does not list corporal punishment among permitted sanctions in schools, but according to legal opinion this does not amount to a prohibition of corporal punishment.

Penal system

Corporal punishment is unlawful as a **sentence for crime**. Article 18 of the Constitution (1994) abolishes whipping and any kind of torture forever. There is no provision for corporal punishment as a sentence for crime under Act 22,803 on young offenders or in the Code of Criminal Procedure.

There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions. Under article 18 of the Constitution, prisons should be “for the security and not for the punishment of the prisoners confined therein”. The Code of Criminal Procedure and the Criminal Code provide for the establishment of specific facilities for children in pre-trial detention or sentenced to imprisonment, but in practice conditions in child detention centres do not match the legal standards and many children are detained in local police stations where they are subject to corporal punishment and other ill-treatment (World Organisation Against Torture, 2002, *Rights of the Child in Argentina*, OMCT).

Alternative care

There is no explicit prohibition of corporal punishment in other institutions and forms of childcare. The general protections against violence and abuse in the Civil Code and the Criminal Code (see above) apply.

Prevalence research

Research by Serpaj-Argentina and Don Bosco Hogares in 1998 into the conditions of detention in child institutions found that incarcerated children were regularly subject to disciplinary sanctions such as confinement in “chastisement cells” and corporal punishment. (SERPAJ/Argentina, Hogares Don Bosco, 1998, *Informe carcel y ninos*, cited in World Organisation Against Torture, 2002, *Rights of the Child in Argentina*, OMCT)

An analysis of treatment of children in police stations and institutions run by the Province Council of the Minor between July 1998 and July 2001 found that torture and ill-treatment was systematically perpetrated against children, with 576 cases of such treatment being recorded during the period. (SERPAJ-Argentina, Recopilacion de denuncias efectuadas por el Defensor del Departamento Judicial de San Isidro, Provincia de Buenos Aires, Novembre 2001, cited in World Organisation Against Torture, 2002, *Rights of the Child in Argentina*, OMCT)

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(9 October 2002, CRC/C/15/Add.187, Concluding observations on second report, paras. 38, 39, 62 and 63 (g))

“The Committee notes with concern that there is no explicit prohibition of corporal punishment under law and that it is still widely practised in the home and in some institutions.

“The Committee recommends that the State party expressly prohibit corporal punishment in the home and all institutions and carry out public education campaigns to promote positive, non-violent forms of discipline as an alternative to corporal punishment.

“The Committee ... notes with concern the poor conditions of children in detention, including the lack of adequate basic services such as education and health, the absence of adequately trained staff, and the use of corporal punishment and isolation.

“The Committee recommends that the State party:
g) take the necessary measures to improve detention conditions....”

Committee on the Rights of the Child

(15 February 1995, CRC/C/15/Add.35, Concluding observations on initial report, paras. 12 and 20)

“The Committee is also worried about the high number of single mothers in Argentina between the ages of 12 and 18 and about reports on the occurrence of domestic violence and sexual abuse.

“The Committee suggests that the State party considers the possibility of introducing more effective legislation and follow-up mechanisms to prevent violence within the family in the spirit of article 19.”

BOLIVIA

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. Children have some protection from violence and abuse under the Children and Adolescents Code (1999) and the Law Against Domestic Violence (1995). The Children and Adolescents Code defines abuse as acts of violence that harm the child’s physical and psychological health and well-being (articles 108 and 109). Article 105 guarantees the child’s right to physical integrity, and the right to dignity is recognised in many articles. Article 276 of the Criminal Code states: “No aggression will be punished if the victim of the aggression is not seriously hurt and the aggressor is husband or wife, parent or grandparent, child or grandchild, sibling, close relative, political sibling, and if they are living together.” The Law Against Domestic Violence includes in its definition of domestic violence “when parents, guardians or those responsible for custody jeopardize a minor’s physical or psychological integrity through abuse of corrective or disciplinary measures or by imposing work that is excessive and inappropriate for the minor’s age or physical condition” (article 6).

Schools

There is no explicit prohibition in law of corporal punishment in schools, though it is apparently prohibited by regulation (third report to the Committee on the Rights of the Child, 2004, CRC/C/125/Add.2, pp.41-42). Article 109 of the Children and Adolescents Code states that “a child or adolescent is the victim of abuse when ... school discipline fails to respect his or her dignity and well-being”. There is no reference to corporal punishment in the Educational Reform Law.

Penal system

Corporal punishment is unlawful as a **sentence for crime**. It is not a permitted sanction under the Juvenile Code (1992). Article 69 of the Law on the Public Ministry (2001) states: “In criminal investigations and legal cases involving adolescent suspects and in proceedings to establish social responsibility as provided for in the Children and Adolescents Code, the Public Ministry will assign special prosecutors and will take care that: the criminal proceedings do not cause harm to the adolescent; ... the sentence is appropriate for reincorporation into society; and the socio-educational measures taken do not take the form of penal sanctions.”



There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions. Article 201 of the Constitution states that the State has a duty to ensure the safety and physical well being of minors deprived of their liberty. The provisions against violence and abuse in the Children and Adolescents Code (see above) apply.

Alternative care

There is no prohibition of corporal punishment in other institutions and forms of childcare. The provisions against violence and abuse in the Children and Adolescents Code (see above) apply.

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(28 January 2005, Unedited version, CRC/C/15/Add.256, Concluding observations on third report, paras. 35 and 36)

“The Committee expresses deep concern that, despite its prohibition in the Code for Children and Adolescents, corporal punishment is still widely used within the family and in schools and other institutions.

“The Committee recommends that the State party take effective measures, including through public awareness campaigns, to promote positive, participatory and non-violent forms of discipline as an alternative to corporal punishment at all levels of society, and to effectively implement the law prohibiting corporal punishment.”

Committee on the Rights of the Child

(26 October 1998, CRC/C/15/Add.95, Concluding observations on second report, para. 21)

“While the Committee takes note of existing legislation prohibiting corporal punishment of children, it remains concerned that corporal punishment is still widely used within the family and in schools and institutions. In connection with the child’s right to physical integrity, recognized by the Convention in its articles 19, 28, 29 and 37, the Committee recommends that the State party consider the possibility of undertaking educational campaigns. Such measures would help to change societal attitudes towards the use of physical punishment within the family and in schools and institutions.”

BRAZIL

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. According to article 1634 of the Civil Code, children have an obligation to obey and respect their parents. Article 1638 allows “moderate” punishment of children by parents.

Children have some protection from violence and abuse under the Criminal Code (1940, last amended 2004 by the Law on Domestic Violence), the Code on Children and Adolescents (1990) and the Constitution (1988). Article 136 of the Criminal Code punishes actions that endanger the life or health of a person under the authority or custody of the one who commits the action, including abusing corrective or disciplinary measures. Article 17 of the Code on Children and Adolescents recognises the child’s right to well being and physical integrity, and the right to dignity is recognised in many articles. Article 227 of the Constitution states: “It is the duty of the family, society and the state to ensure for children and adolescents, with absolute priority, the right to life, health, food, education, recreation, professional training, culture, dignity and family and community life, and safeguard them against all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.”

Bill No. 2,654 (2003) proposes amendments to the Code on Children and Adolescents and the Civil Code which would prohibit corporal punishment in all settings, including the home, schools and places of detention.

Schools

Corporal punishment is lawful in schools. The Code on Children and Adolescents refers to the right of children and adolescents to be respected by their tutors, but there is no explicit prohibition of corporal punishment. Prosecution for “abuse of power” is possible under the Criminal Code (see above). Bill No. 2,654 (see above) would prohibit corporal punishment in schools.

Penal system

Corporal punishment is unlawful as a **sentence for crime**.

Corporal punishment is lawful as a **disciplinary measure** in penal institutions. The Code on Children and Adolescents recognises the right of adolescents deprived of their liberty to be treated with respect and dignity (article 124) and charges the state with responsibility for ensuring their physical and mental integrity (article 125), but there is no explicit prohibition of physical punishment in detention centres. Article 136 of the Criminal Code applies (see above). Bill No. 2,654 (see above) would prohibit corporal punishment in places of detention.

The Anti-Torture Act prohibits the infliction by individuals of intense physical or mental suffering as a way of applying a personal punishment or preventive measure on a child or adolescent under their care, power or authority (article 1).

Alternative care

There is no explicit prohibition of corporal punishment in other institutions and forms of childcare. The provisions against violence and abuse in the Code on Children and Adolescents and the Criminal Code (see above) apply. Bill No. 2,654 (see above) would prohibit corporal punishment in all settings.

Prevalence research

Research by Human Rights Watch in 17 detention centres in Northern Brazil, including four girls and including interviews with 44 detained young people, found that children are routinely beaten by police. Beatings both during and after arrest were found to be common. Children complaining of beatings reported that military police hit them with rubber batons with a metal core. (Human Rights Watch, 2003, *Cruel Confinement: Abuses against detained children in Northern Brazil*)

Research in five juvenile detention centres in the State of Rio de Janeiro found that beatings, and impunity for offenders, were common. Verbal violence was also common, and youths experienced lengthy periods of lock-up and being forced to stand for long periods of time in uncomfortable positions. (Human Rights Watch, 2004, “*Real dungeons*”: *Juvenile Detention in the State of Rio de Janeiro*, vol.16, no.7)

In 1999, research by the Child Studies Laboratory (LACRI), University of Sao Paulo, into the experiences of 894 boys and girls aged 7-15 at schools in Sao Paulo found a high prevalence of corporal punishment in the home. Among those aged 7-9 years, the most frequent forms of punishment were smacking, spanking and ear/hair pulling (41.51%, 41.92% and 36.79% respectively for boys; 32.76%, 24.14% and 27.59% for girls). Of those aged 10-12 years, between a quarter and just over a half of those who reported having received corporal punishment were still being beaten, and among those aged 13-15 who experienced corporal punishment, there was no form of punishment that had not been experienced by at least one child. Punishment is administered by both mothers and fathers, but particularly the mother the younger the child. Children aged 7-9 reported feeling predominantly pain and sadness when they were beaten; those aged 10-12 mainly pain and rage; those aged 13-15 mainly rage. (Azevedo, M. A. & de Azevedo Guerra, V. N., 2001, *Hitting Mania: Domestic corporal punishment of children and adolescents in Brazil*, Sao Paulo: IGLU Editora)

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(1 October 2004, CRC/C/15/Add.241, Concluding observations on initial report, paras. 42 and 43)

“The Committee expresses its concern that corporal punishment is widely practised in the State party and that no explicit legislation exists in the State party to prohibit it. Corporal punishment is used as a disciplinary measure in penal institutions, ‘reasonable’ punishment is carried out in schools and ‘moderate punishment’ is lawful in the family.

“The Committee recommends that the State party explicitly prohibit corporal punishment in the family, school and penal institutions, and to undertake education campaigns that educate parents on alternative forms of discipline.”

CHILE

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. According to the Civil Code (1994, amended 1998), children have an obligation to obey and respect their parents (articles 219 and 276). Parents may lawfully administer “moderate” punishment to their children (article 267), though this should not endanger the child’s health or include abuse (articles 234, 235, 238 and 239).

Children have limited protection from violence and abuse under other provisions in the Civil Code, the Criminal Code and the Family Violence Act (amended 2000). The Criminal Code prohibits physical abuse which causes bodily harm. Habitual abuse of a child that endangers his or her life or causes serious harm is unlawful under the Civil Code (article 267). The Family Violence Act sanctions ill-treatment within the family which affects the victim’s mental or physical health, including violence resulting in slight injury to persons under 18 years which would not be covered by the Criminal Code.

Schools

Corporal punishment is lawful in schools. Children are protected from violence considered abuse under the Juvenile Act (amended 1994) which specifies penalties for child abuse outside the family, including abuse resulting from an act or omission damaging the physical or mental health of a minor (article 62). It also covers minor injuries.

Penal system

Corporal punishment is unlawful as a **sentence for crime**. It is not a permitted response to juveniles under the age of 16 (or those between 16 and 18 acting without discernment) under article 29 of the Juvenile Act. Young people aged between 16 and 18 considered to have acted with discernment are subject to the provisions in the Criminal Code, which states that the minimum sentence applicable to an adult must be given in the event of conviction (article 10). These provisions do not include corporal punishment.

There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions. Children are protected from punishment which causes injury under article 62 of the Juvenile Act (see above).

Alternative care

There is no explicit prohibition of corporal punishment in other institutions and forms of childcare. Children are protected from punishment which causes injury under article 62 of the Juvenile Act (see above).

Prevalence research

Research reported in 2000 involving interviews with 160 young people in conflict with the law found that 81% characterised their treatment by police as bad, 7% as average and 12% as good, contrasting with the situation once actually in custody where 11.3% said the treatment was bad, 27% average and 61.7% good. The most common forms of police abuse were repeated kicking (120 cases), followed by drenching with hoses (33), suffocation (27), hanging naked from a tree (17), forcing the head into a bucket of water (14), and the use of electric prods (11). (Jimenez, M. A., 2000, *Adolescent Detainees and Minor's Justice*, UDP, cited in World Organisation Against Torture et al., 2004, *State violence in Chile: An alternative report to the UN Committee Against Torture*, OMCT)

In 1994, a survey of 423 parents from two public schools and 104 parents from a private catholic school found that child battering was admitted by 80.4% in the public schools group and 57% in the private schools group. This was confirmed by surveys of 192 students which revealed that 85% of children at one of the public schools and 54% at the private school reported having been physically punished. Striking with the hand was the most frequent form of corporal punishment, but 23.8% of the private school children questioned reported being beaten with a belt. (Vargas, N., et al., 1995, "Parental attitude and practice regarding physical punishment of school children in Santiago de Chile", *Child Abuse & Neglect*, vol.19, no.9, pp.1077-1082)

As part of the World Studies of Abuse in the Family Environment (WorldSAFE) cross-national project, researchers looked at incidence rates for corporal punishment using the Parent-Child Conflict Tactics Scale, as self-reported by mothers covering the period of the previous 6 months. In Chile, "severe physical punishment" was reported as follows: hitting the child with an object not on the buttocks 4%. "Moderate physical punishment" was reported as follows: spanked buttocks with hand 51%, shook child 39%, twisted ear 27%, pulled hair 24%, hit with object on buttocks 18%, slapped face or head 13%, hit with knuckles 12%, pinched child 3%. (Reported in Krug, E. G. et al. (eds) (2002), *World report on violence and health*, Geneva: World Health Organization)

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(1 February 2002, CRC/C/15/Add.173, Concluding observations on second report, paras. 31 and 32 (a and b))

"The Committee is concerned that corporal punishment of children remains socially acceptable in Chile and it is still practised in families, schools and other institutions. It further notes that Chilean legislation does not expressly prohibit corporal punishment.

"In light of articles 3, 19, and 28 (2) of the Convention, the Committee encourages the State party to:

- a) develop measures to raise awareness on the harmful effects of corporal punishment and engage in the promotion of alternative forms of discipline in families to be administered in a manner consistent with the child's dignity and in conformity with the Convention; and
- b) explicitly prohibit corporal punishment in the family, in schools and in other institutions."

Committee on the Rights of the Child

(25 April 1994, CRC/C/15/Add.22, Concluding observations on initial report, para. 16)

"The Committee recommends that the Government of the State party consider pursuing the measures adopted to fight situations of child ill-treatment. It stresses the importance of ensuring training activities for the professional groups concerned, as well as of developing mediation measures."

COLOMBIA

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. Under the Civil Code (1883, as amended 1974), parents are lawfully able to administer "moderate" punishment to their children (article 262), although habitual abuse of a child endangering his or her life or causing serious harm is unlawful (article 315).

Children have limited protection from violence and abuse under other provisions in the Civil Code and under the Juvenile Code (1989), the Criminal Code (2000), the Constitution (1991) and the Law to prevent, remediate and sanction domestic violence (1996). The Juvenile Code states that "every minor has the right to protection of his or her personal integrity ... he or she may not be subjected to ... cruel or degrading treatment" (article 16). Abuse is defined as acts of violence that harm the child's physical and psychological health and well-being (article 272). The child's right to dignity is recognised in article 319.

A new Children's Code, Bill 32 (2004), drafted by an alliance of NGOs, UNICEF and members of the Congress, has been presented to the Congress which includes the prohibition of corporal punishment (articles 164 and 402).

Schools

Corporal punishment is possibly unlawful in schools under Act No. 509 (1999), but we have been unable to verify this.

Article 319 of the Juvenile Code states that “school directors ... cannot impose sanctions that ridicule the child or affect his or her personal dignity in any way”. There is no reference to corporal punishment in the Education Act (1994). Corporal punishment would be explicitly prohibited in schools in Bill 32 (see above).

Penal system

Corporal punishment is unlawful as a **sentence for crime**, except in indigenous Indian communities. Under article 246 of the Constitution (on special jurisdictions), the authorities of indigenous people can exercise jurisdictional functions within their territory in accordance with their own rules and procedures, when these do not contravene the Constitution and the laws of the Republic. Case law has established that corporal punishment among the “Paeces” community is not considered to breach the Constitutional prohibition of torture (Sentence No.T-523/97) since it is a common practice and is not aimed at correcting the person in public but at regaining one’s place in the community. According to legal opinion, while the limit for what constitutes torture or inhuman or degrading treatment should be lower when applied on a child, some degree of violence would be permissible as a punishment for indigenous children in conflict with the law. There are 85 Indian communities in Colombia.

Corporal punishment is lawful as a **disciplinary measure** in penal institutions, although according to the Juvenile Code a minor in detention “shall receive humanitarian treatment” (article 16). Corporal punishment would be explicitly prohibited in Bill 32 (see above).

Alternative care

There is no explicit prohibition of corporal punishment in other institutions and forms of childcare. Under the Juvenile Code (article 319) there is a direct obligation on the institution or its director not to impose sanctions that endanger the child’s dignity. Corporal punishment would be explicitly prohibited in Bill 32 (see above).

Prevalence research

In a study reported in 2000 focusing on male perpetrators of physical child abuse, an analysis of reported cases of physical abuse, ranging from single bruises to third degree burns on children aged 0-17, found that in 80% of cases it was not the first time the abuse had occurred and in 55% similar incidents had occurred during the previous year. 91% of abusers had been physically punished as children; 58% felt the punishments had been justified. 62% of abusers used their hands, 66% used implements, and 17% kicked or punched their victims. (Klevens et al. (2000), “Risk factors and context of men who physically abuse in Bogota”, *Child Abuse & Neglect*, vol.24, no.3, pp.323-332)

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(16 October 2000, CRC/C/15/Add.137, Concluding observations on second report, paras. 45 and 46)

“With regard to its recommendations on the situation of domestic violence (see CRC/C/15/Add.30, para. 21), the Committee welcomes the adoption of special legislation criminalizing domestic violence, but it remains concerned that physical and sexual abuse – within and outside the family – still widely exist in society. Concern is also expressed at the insufficient allocation of resources, both financial and human, as well as at the lack of adequately trained personnel to prevent and combat such abuse. The insufficiency of rehabilitation measures and facilities for victims and their limited access to justice are also matters of concern.

“In the light of, inter alia, articles 19 and 39 of the Convention, the Committee recommends that the State party take effective measures, including reinforcing current multidisciplinary programmes and rehabilitation measures to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It suggests, inter alia, that law enforcement should be strengthened with respect to such crimes and that procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and to avoid impunity for the offenders. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue. The Committee encourages the State party to consider seeking international cooperation to this effect from, inter alia, UNICEF.”

Committee on the Rights of the Child

(7 February 1994, CRC/C/15/Add.15, Concluding observations on initial report, para. 15)

“... Educational campaigns should be undertaken to reduce violence in society and in the family and to combat prejudice on the basis of gender.”

Committee on the Rights of the Child

(5 May 1997, CCPR/C/79/Add.76, Concluding observations on fourth report, paras. 27 and 42)

“The Committee expresses its deep concern at the situation of children in Colombia and at the lack of adequate measures to protect their rights under the Covenant. In this respect, the Committee notes that much remains to be done to protect children from violence within the family and the society at large, from forced recruitment by guerrilla and paramilitary groups and from employment below the legal minimum age, and specifically to protect street children from being killed or otherwise abused by vigilante groups and security forces.

“The Committee urges the Government to adopt effective measures to ensure the full implementation of article 24 of the Covenant, including preventive and punitive measures in respect of all acts of child murder and assault and protective, preventive and punitive measures in respect of children caught up in the activities of guerrilla and paramilitary groups. The Committee also specifically recommends that effective measures be taken to eliminate employment of children and that inspection mechanisms be established to this effect.”



COSTA RICA

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. Article 143 of the Family Code (1974) states: “Paternal authority confers rights and imposes the duty to educate, care for, watch over and, with moderation, correct the son or daughter.” Article 159 protects children from “excessive harshness in treatment or orders”. Under article 11 of the Code on Children and Adolescents (1998), children have an obligation to obey and respect their parents.

Legal protection from violence and abuse is afforded by the Law Against Domestic Violence (1996), the Code on Children and Adolescents, the Juvenile Criminal Justice Law (1996), the Criminal Code and the Constitution (article 51 on state obligations to protect children from violence in the family). The Code on Children and Adolescents recognises children’s rights to protection from any form of abuse and cruel, inhuman or degrading treatment (article 13) and to physical, psychological and moral integrity (article 24).

A draft law on the Abolition of Corporal Punishment Against Minors (2004) has been presented before the Legislative Commission on Youth, Children and Adolescents. Article 1 states that a new article 25B should be added to the Code on Children and Adolescents which should say: “It is prohibited for the father, mother, legal representative or persons in charge of the custody, care, attention, treatment, education and vigilance of minors, to use corporal punishment as a corrective or disciplinary measure on children or adolescents. The National Infancy Trust (*Patronato Nacional de la Infancia*), in coordination with other State institutions, will promote and carry out awareness-raising and education programmes aimed at parents and others responsible for the care of minors, on discipline and setting limits for their sons and daughters that do not involve corporal punishment.” Article 2 of the draft law states that article 143 of the Family Code should be modified to read: “Parental authority confers rights and imposes the duty to educate, care, watch over and discipline children, excluding physical punishment or any other form of mistreatment or degrading treatment...”

Schools

Corporal punishment is lawful in schools. Article 11 of the Regulations for the Teaching Profession (1972), article 20 of the Regulation for Learning Evaluation, and article 68 of the Code on Children and Adolescents make provisions for protecting the child’s dignity and physical integrity, but there is no explicit prohibition of corporal punishment. The draft law on the Abolition of Corporal Punishment Against Minors (see above) would explicitly prohibit corporal punishment by persons charged with education.

Penal system

Corporal punishment is unlawful as a **sentence for crime**. It is not among the permitted sanctions under article 121 of the Juvenile Criminal Justice Law. Article 138 states that the children who are being sanctioned have the “right to life, dignity and physical and moral integrity” and may not be subject to corporal punishment.

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions. The constitutional Tribunal has prohibited the use of physical violence and handcuffs on juvenile offenders. The provisions of the Juvenile Criminal Justice Law and the Code on Children and Adolescents apply (see above). Under article 138 of the Juvenile Criminal Justice Law, children in specialised detention centres have the right to be informed about disciplinary sanctions that can be applied to them, including the right not to be subjected to corporal punishment.

Alternative care

Corporal punishment is apparently unlawful in other institutions (Concluding observations of the Committee on the Rights of the Child, CRC/C/15/Add.117 (2000), para. 17), but we have been unable to confirm this and have no information concerning foster care. The draft law on the Abolition of Corporal Punishment Against Minors (see above) proposes explicit prohibition in all settings.

Prevalence research

In 2003, a survey by the Paniamor Foundation of 1,034 school children aged 9-16 found that nearly half (47.8%) experienced physical punishment occasionally in the home, while 4.2% experienced it frequently, more so for boys than girls in both cases; 11% said they had been punished in the past 15 days. The reasons given for being punished were mainly concerned with correcting behaviour: “they behave badly” (71.5%), “they don’t do as they are told” (22.7%), “to educate” (5.8%). Most punishment was administered by parents (mother 78%, father 77%), but was also given by grandparents (20%), older siblings (20%), uncles (19%), caregivers (16%), teachers (12%), domestic workers (9%), and the school principal (8%). When asked how they feel when they are punished, the most frequent responses were sadness (79.2%), pain (56.7%), fear (42.6%), guilt (39.8%) and loneliness (37.1%). The large majority of children viewed corporal punishment negatively, with almost two out of five children saying it is very bad and almost a third saying that people should not be punished in this way. (Paniamor Foundation/Save the Children Sweden, 2004, “National Survey of Children and Adolescents on Physical Punishment”, part of project “Prevencion de la Violencia desde la Familia y la Adolescencia”, presented at Costa Rica, March 2004)

Interviews with parents in 1997 found that one in ten mothers and fathers always hit their child when she or he did wrong, six in ten sometimes; almost a quarter reported never hitting. Asked about objects used to hit their children, 41.8% of mothers and fathers said they always used a belt, 12.2% sometimes used a rope or cord, 52.5% always or sometimes used their hand, and 8.1% used a cane. One in ten said they punished their children every day and over a

third said once a week. (Barrantes, Z., Castillo, E. & Ortega, X., 1997, “Problems of child aggression and the role of the administrator teacher in the one-teacher (unidocente) schools of Circuit 1 of the Guapiles Regional Education Management in 1997”, Latina University, cited in paper on draft law abolishing physical punishment of children and adolescents, presented in Costa Rica, March 2004)

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(24 February 2000, CRC/C/15/Add.117, Concluding observations on second report, para. 17)

“The Committee expresses its concern about the inadequate enforcement of the prohibition on the use of corporal punishment in schools and other institutions and in the penal system. In addition, the Committee expresses its concern that the practice of physical punishment of children in the home is not expressly prohibited by law and remains regarded as socially acceptable. The Committee recommends that the State party prohibit the use of corporal punishment in the home and take effective measures to enforce the legal prohibition of corporal punishment in schools and other institutions and in the penal system. The Committee further recommends that the State party undertake educational campaigns for the development of alternative disciplinary measures for children at home, in schools and other institutions.”

Committee on the Rights of the Child

(18 October 1993, CRC/C/15/Add.11, Concluding observations on initial report, para. 16)

“The Committee encourages the Government to intensify its information and advocacy campaigns at the community and family levels. The Committee therefore suggests that efforts should be made to widen educational campaigns to focus on gender discrimination and the role of parents, particularly with respect to the prevention of violence and abuse in the family and the problems associated with early marriage and early pregnancy.”

CUBA

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. The Family Code (1975) permits “moderate” punishment of children by parents (article 86) and guardians (article 152). Under the Constitution (article 38) and the Family Code (articles 84 and 152), children have an obligation to obey and respect their parents.

Children have limited protection from violence and abuse under the Family Code, the Criminal Code (1987) and the Constitution (article 36).

Schools

There is no explicit prohibition in law of corporal punishment in schools. The Joint Resolution of the Ministers of Education and Higher Education (1987), which approves the Regulation for Discipline at Work in Educational Activity, states that every worker serving in educational activities must not ill-treat the pupils by word or deed (article 4). Those breaking this prohibition will be sanctioned according to articles 27 and 28 of the Regulations.

Penal system

Corporal punishment is unlawful as a **sentence for crime**.

There is no explicit prohibition of corporal punishment as a **disciplinary measure** for persons under the age of 18 years in penal institutions. According to a 2002 report by the US Bureau of Democracy, Human Rights and Labor, the Criminal Code prohibits the use of corporal punishment on prisoners and the use of any means to humiliate prisoners or to lessen their dignity, but we have been unable to confirm this.

Alternative care

There is no explicit prohibition of corporal punishment in all alternative care settings, and the right of correction of guardians under the Family Code (see above) applies.

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(18 June 1997, CRC/C/15/Add.72, Concluding observations on initial report, paras. 19 and 35)

“While the Committee takes note of the State party’s efforts to deal with the issue of child abuse, including through the establishment of an early warning system for violence against children, it is of the view that these measures are insufficient to fully protect children from such violations. Furthermore, serious concern remains in relation to a child’s



opportunity to report abuse and other violations of his/her rights in the family, schools or other institutions and to have a complaint taken seriously and responded to effectively.

“The Committee recommends that further measures to protect children from abuse and maltreatment be undertaken, in particular through the development of a widespread public information campaign for the prevention of corporal punishment and bullying of children, whether by adults or by other children.”

DOMINICAN REPUBLIC

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. The Code for the Protection of Children and Adolescents (1994, in force 1995) states in Principle V that “no child’s or adolescent’s fundamental rights shall be threatened by ... violence, cruelty or oppression, or through punishment or any kind of assault, whether caused by action or omission”. In 2003, a new Code for Protection System and the Fundamental Rights of Children and Adolescents (Law 136-03) came into force which defines physical abuse as any physical harm that is intentionally meted out against children or adolescents and in which the person who causes harm is in a superior position (article 396), but does not explicitly prohibit corporal punishment by parents. Article 12 of the new Code reaffirms the child’s and adolescent’s right to personal integrity and the responsibility of the family and the state and society to protect them against ill-treatment. Article 74 states that parental authority may be suspended when the rights of the child are threatened or violated and their security and well-being are put at risk as a result of a disciplinary measure. Child abuse is punished under article 396.

Other laws giving protection are the Law Against Domestic Violence (1997), the Constitution (2002), the Criminal Code and the Code of Criminal Procedure.

Schools

Corporal punishment is unlawful in schools under the Education Act (1997) and the Code for Protection System and the Fundamental Rights of Children and Adolescents (articles 48 and 49).

Penal system

Corporal punishment is unlawful as a **sentence for crime**. Article 8 of the Constitution prohibits punishment which violates physical integrity.

There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions. Article 303 of the Criminal Code, as amended by article 1 of the Law Against Domestic Violence, states that any act involving corporal punishment that causes physical or mental harm or suffering constitutes an act of torture or barbarity. We have found no evidence that this effectively prohibits corporal punishment in places of detention for persons under 18 years.

Alternative care

No information.

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(21 February 2001, CRC/C/15/Add.150, Concluding observations on initial report, paras. 33 and 34)

“While the Committee welcomes the adoption of special legislation criminalizing domestic violence, the designation of April as the Month of Child Abuse Prevention and the creation of a hotline for abused children, it expresses its concern that physical and sexual abuse – within and outside the family – widely exist in society. Concern is also expressed at the insufficient allocation of resources, both financial and human, as well as the lack of adequately trained personnel to prevent and combat such abuse. The insufficiency of rehabilitation measures and facilities for victims and their limited access to justice are also matters of concern.

“In the light of articles 19 and 39 of the Convention, the Committee recommends that the State party take effective measures, including reinforcing current multi-disciplinary programmes and rehabilitation measures, to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It suggests that law enforcement should be strengthened with respect to such crimes; adequate procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and to avoid impunity for the offenders. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue....”

ECUADOR

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. Legal protection from violence and abuse is given by the Law against Violence against Women and the Family (1995), the Childhood and Adolescence Code (2003), the Penal Code and the Constitution (1998). The Childhood and Adolescence Code prohibits physical, psychological and sexual mistreatment of children, and defines abuse as acts of violence that harm the child's physical and psychological health and well-being (article 67). Article 76 states that abusive practices suffered by children cannot be justified on the grounds that they are educative methods or traditional cultural practices, but this is not interpreted as prohibiting all forms of corporal punishment of children. The Code recognises the child's right to dignity (articles 41 and 52), physical integrity (article 50) and health (article 67), and provides for the loss of parental authority when ill-treatment is serious or repeated (article 113). The Law against Violence against Women and the Family defines physical violence as "every act of force that may cause harm, pain or physical suffering" (article 4).

Articles 87 and 91 of the Childhood and Adolescence Code prohibit adolescents from working in households whose members have a history of abuse, and establish that employers are required to safeguard the physical, psychological and moral well-being of adolescents in domestic service.

Schools

Corporal punishment is unlawful in schools. Article 41 of the Childhood and Adolescence Code recognises the child's right to dignity in the educational system and prohibits corporal and psychological punishment that threatens the dignity of children and adolescents. Article 76 (see above) also applies.

Penal system

Corporal punishment is unlawful as a **sentence for crime**. Article 23 of the Constitution prohibits all physical, psychological or social violence and article 51 states that children and adolescents have the right to respect for their constitutional safeguards. Legislation provides instead for socio-educational measures in the case of juvenile offenders, and, in exceptional circumstances, deprivation of liberty. However, the judicial system allows indigenous communities that are not served by police forces to apply vigilante justice as a form of "traditional" law, and public humiliation and beatings are reportedly a common form of punishment in isolated Andean villages.

There is no explicit prohibition of corporal punishment as a **disciplinary measure** against children in detention.

Alternative care

Article 41 of the Childhood and Adolescence Code (see above) applies, prohibiting corporal punishment in institutions. There is no explicit prohibition of corporal punishment in other childcare settings but the law which forbids justifying practices that constitute abuse on the grounds that they are cultural practices (article 76, Childhood and Adolescence Code, see above) applies to families and groups such as religious or ethnic groups, and to private institutions that base their education on religious beliefs or traditional practices.

Prevalence research

In survey research in December 2000 on the situation of children in households, 40% of children reported that their parents hit them as a "disciplinary" measure, more commonly for boys than girls, in low-income than in wealthy households, and in rural than in urban areas. Ill-treatment by teachers was reported by 20% of children, with 10% reporting being hit, again more commonly for boys than girls, and in rural areas than in cities. (EMEDINHO/National Statistics and Census Institute/Ministry of Social Welfare/National Institute for Children and the Family/Centre for Population Studies and Social Development, reported in *Children Now*, Ecuador Integrated System of Social Indicators, cited in the second and third combined periodic state party report to the Committee on the Rights of the Child, 2004, CRC/C/65/Add.28, paras.156, 173-176)

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(26 October 1998, CRC/C/15/Add.93, Concluding observations on initial report, para. 21)

"The Committee is deeply concerned at the information provided in the State party's report that 'child abuse is a culturally accepted and justified practice'. In this regard, it expresses its concern at the insufficient awareness regarding the harmful consequences of ill-treatment and abuse, including sexual abuse, both within and outside the family. Concern is also expressed at the insufficient resources, both financial and human, as well as at the lack of adequately trained personnel to prevent and combat such abuse. The insufficiency of rehabilitation measures and facilities for such children and their limited access to justice are also matters of concern. In the light of, inter alia, articles 19 and 39 of the Convention, the Committee recommends that the State party take all appropriate steps, including setting up social programmes and introducing rehabilitation measures to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It suggests that law enforcement should be strengthened with respect to such crimes and that adequate procedures and mechanisms to deal with complaints of child abuse should be developed. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue...."



EL SALVADOR

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. Article 215 of the Family Code (1994) states: “It is the parents’ duty to correct their children appropriately and moderately and, if necessary, to seek assistance from professional specialists or psycho-pedagogical guidance services at schools or agencies for the protection of minors or the family. If the child’s behavior cannot be corrected through these means, the parent can request that a judge arrange for guardianship; in making such a decision, the judge will order any studies of the family group that he or she considers appropriate.” Under article 204 children have an obligation to obey and respect their parents.

The Family Code also states that every child has the right “to be protected from all forms of physical, mental and moral harm or abuse, neglect or negligence, ill-treatment, torture and cruel, inhuman or degrading treatment or punishment” (article 351), and “Everyone has a duty to protect the dignity of minors, safeguarding them from any inhuman, violent, frightening or humiliating treatment that might wound their self-esteem” (article 366). Abuse of the parental “duty of correction” is punishable under article 204 of the Criminal Code (1998).

Children have limited protection from violence and abuse under other provisions in the Family Code, the Criminal Code, the Law Against Domestic Violence (1996, in force from 1997) and the Constitution (1983). Article 35 of the Constitution says that the state must protect the physical, mental and moral health of minors and according to article 36, parents have an obligation to protect their children.

Schools

There is no explicit prohibition in law of corporal punishment in schools. Article 356 of the Family Code states that children “have the right to be respected by their educators”. Article 352 states that the child or adolescent must fulfil the established disciplinary dispositions in the school, but these are not specified. The General Education Act (1990) does not specify disciplinary measures. We have been unable to access the “Ley de Carrera Docente” which regulates teachers’ actions.

Penal system

Corporal punishment is prohibited as a **sentence for crime**. The Juvenile Offenders Act (1995) does not include corporal punishment among permitted sanctions, recognises the right of young offenders to respect for dignity and protection of personal integrity, and establishes that under the law, the minor enjoys the rights and safeguards recognised in the Constitution, treaties, conventions, covenants and other international instruments signed and ratified by the country (article 5).

Corporal punishment is prohibited as a **disciplinary measure** in penal institutions. Article 118 of the Juvenile Offenders Act states that in the context of enforcement of judgements, juvenile offenders have the right not to be subjected to corporal punishment. The General Regulations for Detention Centers for Juvenile Offenders (1995) explicitly prohibit corporal punishment (article 32) and state that “it is the duty of the inmate to: (b) comply with disciplinary sanctions imposed according to the procedure established by these regulations” (article 4), but these sanctions must conform to international standards. Article 26 of the Regulations states that “the staff of the centers, in carrying out their duties, must respect and protect the dignity and basic human rights of all the children,” and emphasises that authorities must not “instigate or tolerate any act of physical, sexual or emotional abuse, punishment or cruel, inhuman or degrading corrective measure or discipline”.

Alternative care

No information.

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(30 June 2004, CRC/C/15/Add.232, Concluding observations on second report, paras. 35, 36 (a), 43 and 44 (a and b))

“The Committee is deeply concerned about the incidence of torture and ill-treatment and the generalized disrespect for fundamental human rights in centres for juvenile offenders in the State party....

“The Committee urges the State party to take immediate and effective measures to bring an end to the occurrence of torture and other cruel, inhuman and degrading treatment, in particular of juvenile offenders. The State party must ensure that:

a) the fundamental rights and guarantees of juveniles who have committed a criminal offence set out in the Juvenile Offenders Act are respected, in particular, the prohibition, under all circumstances, of inhuman or degrading disciplinary measures, including: corporal punishment, detention in dark cells or solitary confinement, reduction of food rations, denial of contact with relatives, collective punishment and punishment more than once for the same disciplinary offence....

“While welcoming the measures taken by the State party to combat domestic violence, the Committee remains concerned at persistent large-scale abuse and violence within the family as well as the prevalence of corporal punishment.

“The Committee recommends that the State party strengthen current efforts to address the problem of domestic violence and child abuse, including through:

- a) ensuring the effective implementation of the Domestic Violence Act, including the elimination of corporal punishment;
- b) public education campaigns about the negative consequences of ill-treatment and preventive programmes, including family development programmes, promoting positive, non-violent forms of discipline....”

GUATEMALA

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. Article 13 of the Integral Protection of Children and Adolescents Act (2003) recognises the rights of parents to guide, educate and correct their child or adolescent by using disciplinary measures, though these should not violate the dignity or personal integrity of the individual. Article 253 of the Civil Code (1963) recognises the obligation of parents to educate and correct their children, using prudent disciplinary measures.

“Excessive” correction is punishable under article 283 of the Criminal Code (1973).

Children have other protection from violence and abuse under the Act to Prevent, Punish and Eradicate Intra-Family Violence (1996) and other provisions in the Criminal Code and the Integral Protection of Children and Adolescents Act. Article 16 of the Integral Protection of Children and Adolescents Act states: “It is the duty of the State and society at large to ensure the dignity of children and adolescents, sparing them from any inhuman, violent, terrorising, humiliating or coercive treatment.” Article 53 recognises the right of children to be treated without violence and to be protected from all kinds of ill-treatment. Article 11 states the right of every boy, girl and adolescent to be protected from every kind of neglect, abandonment or violence, and not to be subjected to torture, cruel, inhuman or degrading treatment.

Article 2 of the Act to Prevent, Punish and Eradicate Intra-Family Violence states that “the application of protective measures to guarantee the life, integrity, safety and dignity of the victims of intra-family violence includes special protection for women, children, older and disabled persons”. The Act defines domestic violence as every action or omission which directly or indirectly causes harm or physical, sexual or psychological suffering to a person within the family group.

Schools

There is no explicit prohibition of corporal punishment in schools. Article 1 of the National Education Law (1991), Legislative Decree No. 12-91, recognises the child’s right to dignity in the educational system.

Penal system

Corporal punishment is unlawful as a **sentence for crime**. Physical punishment is also prohibited by the Constitution (1985), article 20 of which states that the treatment of minors who infringe the law must be aimed at holistic education appropriate for children and youth. Article 19 prohibits cruel treatment, torture and actions degrading to dignity.

There is no explicit prohibition of corporal punishment as a **disciplinary measure** against young persons under the age of 18 in penal institutions.

Alternative care

There is no explicit prohibition of corporal punishment in other institutions and forms of childcare. The provisions against violence and abuse in the Integral Protection of Children and Adolescents Act (see above) apply.

Prevalence research

Unofficial visits to the Observation Centre for Boys and the Observation Centre for Girls, together with interviews with previously detained children, carried out by Human Rights Watch and published in 1997, revealed persistent and widespread use of corporal punishment and abuse of children in detention, particularly at the hands of the Spanish organisation Rehabilitacion de los Marginados (REMAR) governing the boys’ detention facility for serious or repeat offenders. (Human Rights Watch, 1997, *Guatemala’s Forgotten Children: Police violence and abuses in detention*, New York: Human Rights Watch)

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(9 July 2001, CRC/C/15/Add.154, Concluding observations on second report, paras. 30, 31, 36 and 37)

“The Committee is deeply concerned about the information that violence against children is increasing. In particular, it notes with great concern that many children fear for their lives because they are continually threatened and are victims of violence, notably when they are living and/or working in the street but also when they are at home....”



“The Committee recommends that the State party take, as a matter of the highest priority, all the necessary steps to prevent these serious violations of children’s rights and to ensure that they are properly investigated and that those responsible are brought to justice....”

“The adoption of the Act on the Prevention, Punishment and Eradication of Domestic Violence in 1996, the creation of CONACMI and the conducting of national campaigns against child abuse are positive measures in line with the Committee’s recommendation (CRC/C/15/Add.58, para. 33). However, concern is expressed at the lack of data and appropriate measures, mechanisms and resources to prevent and combat domestic violence, including child physical and sexual abuse, and neglect and at the limited number of services for abused children, in particular in rural areas.

“In light of article 19 of the Convention, the Committee recommends that the State party undertake studies on domestic violence, ill-treatment and abuse, including sexual abuse, in order to understand the extent, scope and nature of these practices, adopt and effectively implement adequate measures and policies, and encourage changes in attitudes. The Committee also recommends that cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, be properly investigated within a child-sensitive inquiry and judicial procedure in order to ensure better protection of child victims, including the protection of their right to privacy....”

Committee on the Rights of the Child

(7 June 1996, CRC/C/15/Add.58, Concluding observations on initial report, paras. 8 and 33)

“The decades of conflict affecting society have resulted in the frequent use of violence, including within the family.

“The Committee recommends that a comprehensive public information campaign be developed and implemented urgently to combat the abuse of children in the family and within society as well as the use of corporal punishment in schools.”

HONDURAS

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. The Civil Code (1906) states (article 231): “Parents are authorised to reprimand and adequately and moderately correct their children.” The Family Code (1984) states (article 191): “Parents have the authority to reprimand and adequately and moderately correct their children under their guardianship.”

The main child protection law is the Code on Children and Adolescents (1996). Article 24 of this Code states: “Dignity is part of the child’s personality. It is everyone’s duty to safeguard this right and to protect children from all inhuman, violent, terrorizing, humiliating or destructive treatment, even when it is supposedly done for disciplinary or corrective measures, regardless of who commits it.” But article 57 states that paternal relationships are governed by the Family Code, which permits corporal punishment. Other protection from violence and abuse is given by the Criminal Code (1983), the Law Against Domestic Violence (1997) and the Constitution (1982).

Schools

Corporal punishment is explicitly prohibited in schools by article 134 of the Public Education Code (1923) and the General Public Education Act. These prohibitions are not reiterated in more recent laws. Article 24 of the Code on Children and Adolescents (see above) applies, and the Code stipulates that the reciprocal respect and dignified treatment between educator and student must be ensured at every level of education (article 35). In the Statute of the Honduran Teacher (1997), educators’ obligations include respect for dignity, physical, psychological and moral integrity of the students (article 9).

Penal system

Corporal punishment is unlawful as a **sentence for crime**. Article 68 of the Constitution prohibits cruel, inhuman and degrading treatment or punishment.

There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions. Article 24 of the Code on Children and Adolescents (see above) applies, and article 199 states that children in detention centres have the right to “receive an appropriate treatment on the part of authorities responsible for their custody, who will seek to avoid the use of force or any type of weapon in carrying out their responsibilities”. Article 261 states that judges will punish public officials who violate the rights of juvenile offenders. Article 68 of the Constitution protects the human dignity of persons deprived of their liberty.

Alternative care

There is no explicit prohibition of corporal punishment in other institutions and forms of childcare. Children are protected from abuse perpetrated by persons when under the care or protection of a public or private institution by article 173 of the Code on Children and Adolescents.

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(24 August 1999, CRC/C/15/Add.105, Concluding observations on second report, para. 25)

“While the Committee takes note of the State party’s efforts to implement the Committee’s recommendation (see CRC/C/15/Add.24, para. 33) regarding the need to take all available measures to prevent and combat cases of abuse and ill-treatment of children, it is of the opinion that these measures need to be reinforced. Concern is also expressed at the insufficient awareness regarding the harmful consequences of ill-treatment and abuse, including sexual abuse, both within and outside the family. Concern is also expressed at the insufficient resources, both financial and human, as well as at the lack of adequately trained personnel to prevent and combat such abuse. The insufficiency of rehabilitation measures and facilities for such children and their limited access to justice are also matters of concern. In light of, inter alia, articles 19 and 39 of the Convention, the Committee recommends that the State party take all appropriate measures, including setting up multidisciplinary programmes and rehabilitation measures, to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It suggests, inter alia, that law enforcement should be strengthened with respect to such crimes and that adequate procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice to avoid impunity for the offenders. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue...”

Committee on the Rights of the Child

(24 October 1994, CRC/C/15/Add.24, Concluding observations on initial report, paras. 27 and 33)

“The Committee urges the State party to further strengthen family education programmes which should provide information on parental responsibilities in the upbringing of a child, including the importance of avoiding the physical punishment of children...”

“To prevent further abuses being committed against children, the Committee strongly recommends that allegations of abuses against children and the ill-treatment of children be promptly investigated through an adequately established system and that persons committing such abuses do not benefit from impunity.”

MEXICO

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. The Civil Code (2002) allows correction of children by those exercising guardianship over them, though this should not include measures which affect the physical or psychological integrity of the child (article 423).

Children have limited protection from violence and abuse under the Law for the Protection of the Rights of Children and Adolescents (2000), the Criminal Code (1984) provisions on ill-treatment of children (article 295), the Law on Assistance and Prevention of Domestic Violence (1996), in which abuse is defined as acts of violence that harm the child’s physical and psychological health and well-being (article 3), and the Civil Code prohibition of abuse which compromises the child’s health, safety or morals (article 4224). Most states have state-level legislation against domestic violence and child abuse.

Schools

There is no explicit prohibition at the federal level of corporal punishment in schools. Article 32 of the Law for the Protection of the Rights of Children and Adolescents states that children have a right to an education that respects their dignity and indicates that laws must promote the necessary measures to impede discipline in educational institutions which affects a child’s dignity or physical or mental integrity. The General Education Act (1993) does not refer to violence or provide for sanctions in schools. In Sonora, the State Education Act (amended 1998) prohibits persons providing educational services from violating students’ physical, mental or moral integrity.

Penal system

Corporal punishment is unlawful as a **sentence for crime**. The Constitution states (article 22): “Punishment by mutilation and infamy, branding, flogging, beating with sticks, torture of any kind, excessive fines, confiscation of property and any other unusual or extreme penalties are prohibited.”

There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions. Article 3 of the Law for the Treatment of Juvenile Offenders for the Federal District in common matters and for all the Republic in federal matters (1992) states that children must receive fair, humane treatment and prohibits “abuse, being held incommunicado, psychological coercion or any other action that threatens their dignity or physical or mental well-being”. According to legal opinion, this is inadequate as a prohibition against corporal punishment.

Alternative care

Corporal punishment is lawful in other institutions and forms of childcare. The general provisions against violence and abuse in the Law for the Protection of the Rights of Children and Adolescents and the Criminal Code (see above) apply.

Prevalence research

Research in 1983 looked at two indigenous Zapotec communities in Oaxaca, one characterised as “peaceful”, the other as “aggressive”, and their disciplinary practices, using structured interviews with fathers and ethnographic and ethological observations, mostly within family compounds, of 48 children aged 3-8 years (24 girls, 24 boys). Structured interviews revealed that fathers advocated physical punishment of their children for various behaviours on average in around 50% of cases for the “aggressive” community, with 71% recommending its use for disobedience by sons, compared with 22% for the “peaceful” community, with 39% recommending it for disobedience by daughters. Ethnographic observations revealed the use of “minor” forms of punishment (knuckle raps, slaps, pulls, pushes) in both communities, and severe forms only in the “aggressive” community (beatings with sticks, ropes and belts, throwing rocks, kicking, and striking forcefully with the hand). (Fry, D. P., 1993, “The intergenerational transmission of disciplinary practices and approaches to conflict”, *Human Organization*, vol.52, no.2, pp.176-185)

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(10 November 1999, CRC/C/15/Add.112, Concluding observations on second report, para. 25)

“... Concern is also expressed that domestic legislation, at both the federal and state levels, does not explicitly prohibit the use of corporal punishment in schools. In the light of, inter alia, articles 19 and 39 of the Convention, the Committee recommends that the State party continue taking effective measures, including setting up multidisciplinary treatment and rehabilitation programmes, to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It suggests that law enforcement should be strengthened with respect to such crimes, that adequate procedures and mechanisms to deal effectively with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and that the use of corporal punishment at home, in schools and other institutions, be explicitly prohibited by law. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue. The Committee encourages the State party to consider seeking international cooperation to this effect from, inter alia, UNICEF and international non-governmental organizations.”

Committee on the Rights of the Child

(7 February 1994, CRC/C/15/Add.13, Concluding observations on initial report, paras. 10 and 18)

“... The Committee is also preoccupied by the existence on a large scale of child abuse and violence within the family. “The Committee recommends that urgent measures be adopted to combat discrimination against children belonging to the most vulnerable groups, in particular children subject to abuse or violence within the family, children living and/or working in the streets and children belonging to indigenous communities, including measures to eliminate and prevent discriminatory attitudes and prejudices such as those based on gender...”

NICARAGUA

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. Article 5 of the Code on Children and Adolescents (1998) states: “Children or adolescents will not be subjected to any form of discrimination, exploitation, illicit transfer within or outside the country, violence, physical, psychological and sexual abuse or maltreatment, inhuman, terrifying, humiliating, oppressive, and cruel treatment, an intentional, reckless or negligent action or omission that infringes upon their rights and freedoms. It is everybody’s duty to safeguard the dignity of the child and adolescent by protecting them against any of the aforementioned circumstances. The child and adolescent have the right to legal protection against such interventions or attacks. Any individuals involved in such acts shall become civilly and criminally liable.” This is not interpreted as prohibiting all forms of corporal punishment of children within the home. Article 85 states: “Those who by action or omission commit maltreatment, violence or physical, psychological or sexual abuse, will be subjected to criminal sanctions as provided by law...” Other protection from abuse is provided by the Mother, Father and Child Relations Act.

Parents have an obligation to protect, educate and care for their children under the Code on Children and Adolescents (article 6), and under the Constitution (1986) the state must protect children from violence in the family (articles 71 and 76). Under the Code on Children and Adolescents, the child has the right to grow up in a family environment conducive to his or her holistic development (article 26). Other protection is given by Law No. 230 Reforms and additions to the Criminal Code to prevent and sanction domestic violence (1996).

Schools

Corporal punishment is lawful in schools. Article 43 of the Code on Children and Adolescents states that children have the right to enjoy the respect of their educators, and article 49 prohibits the use of “abusive measures or sanctions that

result in physical, moral and psychological harm” but there is no explicit prohibition of corporal punishment. Article 85 (see above) also applies.

Penal system

Corporal punishment is unlawful as a **sentence for crime** and as a **disciplinary measure** in penal institutions. Article 101 of the Code on Children and Adolescents states that adolescents subject to criminal justice have the right to be treated with respect for their dignity and personal integrity. Article 213 establishes the right of adolescents “not to be held incommunicado or placed in solitary confinement, or not to be imposed corporal punishment”. Corporal punishment is also prohibited by article 7 of the Prison and Execution of Sentences Act (2003).

Alternative care

There is no explicit prohibition of corporal punishment in other institutions and forms of childcare. Children are legally protected from abuse by persons in public and private institutions under articles 49 and 85 of the Code on Children and Adolescents (see above).

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(24 August 1999, CRC/C/15/Add.108, Concluding observations on second report, para. 33)

“With regard to the implementation of its recommendation (see CRC/C/15/Add.36, para. 35) concerning the need to take all available measures to prevent and combat cases of abuse and ill-treatment of children, the Committee welcomes the enactment of the law against domestic violence (1996). Nevertheless, the Committee is of the opinion that these measures need to be reinforced. Concern is expressed at the insufficient public awareness regarding the harmful consequences of ill-treatment and abuse, including sexual abuse, both within and outside the family. Concern is also expressed at the insufficient resources, both financial and human, as well as at the lack of adequately trained personnel, to prevent and combat such abuse. The insufficiency of rehabilitation measures and facilities for such children and their limited access to justice are also matters of concern. In light of, inter alia, articles 19 and 39 of the Convention, the Committee recommends that the State party take all appropriate measures, including setting up multidisciplinary programmes and rehabilitation measures to prevent and combat child abuse and ill-treatment of children within the family, at school and other institutions, including the juvenile justice system, and in society at large. It suggests, inter alia, that law enforcement should be strengthened with respect to such crimes; adequate child-friendly procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice to avoid impunity for the offenders. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue...”

Committee on the Rights of the Child

(20 June 1995, CRC/C/15/Add.36, Concluding observations on initial report, paras. 22, 30 and 35)

“The Committee is deeply concerned about the problems of abuse and violence which persist in the family and society in general. In view of this reality, the adequacy of measures to prevent such abuse and violence, to respond to children’s reports of their abuse, to safeguard children who report abuse and to prevent the impunity of those who have committed abuse against children, remain a matter of considerable concern to the Committee.

“The Committee recommends that the State party consider using the Convention as a tool for the prevention of violence and abuse. One way to achieve this, the Committee suggests, is by teaching children to defend their rights and for trained individuals working with and for children to transmit the values of the Convention to children...”

“The Committee recommends that the State party consider the possibility of focusing its attention on the organization of a more comprehensive and coordinated campaign in order to address the interrelated family and social-related problems of: the high number of family separations, the relatively high maternal mortality rate and teenage pregnancies, the number of children who are victims of violence or abuse, and the rising number of children living or begging on the street who are at risk of sexual exploitation.”

PANAMA

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. Under article 319 of the Family Code (1994, revised 2001) one of the duties associated with paternal authority over children is “to reasonably and moderately correct them”. Article 317 states that a child has an obligation to obey and respect his parents. The Civil Code also recognises the right of guardians to “reasonably and moderately” correct the child or adolescent in their care (article 188).

Children’s main protection against violence and abuse is under the Family Code. It states in article 489 that all minors have the right to “good treatment, with the obligation of parents or guardians to offer them the care and attention that ensure their optimum development”, “to be protected against all forms of abandonment, violence, neglect or negligent treatment” and “to be respected in their integrity and therefore not submitted to torture, cruel or degrading treatment”.



Minors are considered to be victims of abuse “when their physical or mental health or well-being is harmed or at risk of being harmed, due to actions or omissions of parents, guardians, caregivers, officials or institutions responsible for their care and attention” (article 500) or “when they suffer or another person causes them, in a non accidental manner, physical, mental or emotional damage, including physical injuries caused by corporal punishment” (article 501). Other protective laws include Law No. 38 on Domestic Violence and Abuse of Children and Adolescents (2001), the Criminal Code and the Constitution (1972). Law No. 38 modified the Criminal Code so as to make the causing of physical injuries by corporal punishment an offence punishable by imprisonment and/or a security measure (article 215D).

Schools

Corporal punishment is lawful in schools. Article 443 of the Family Code states: “The pupil must respect and obey the tutor. The tutor can moderately correct them.” Corporal punishment resulting in injuries is punishable under the Criminal Code (see above).

Penal system

Corporal punishment is unlawful as a **sentence for crime** and as a **disciplinary measure** in penal institutions. Law No. 40 on the Special regime of criminal responsibility regarding adolescents (1999) states in article 144: “During the fulfilment of the sanction or cautionary measure the adolescent has the right to ... 11. Prohibition of measures that harm their integrity or dignity. In no case can they be submitted to corporal punishment measures.” The Constitution prohibits the use of measures that could harm the physical, mental or moral integrity of prisoners or detainees (article 28). Article 489 of the Family Law (see above) applies.

Alternative care

There is no explicit prohibition of corporal punishment in other institutions and forms of childcare. The provisions against violence and abuse and protecting the personal integrity of the child in the Family Code and the Criminal Code (see above) apply.

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(30 June 2004, CRC/C/15/Add.233, Concluding observations on second report, paras. 33, 34 (a, b and c) and 40 (a))
“While welcoming the prohibition of corporal punishment and other forms of violence against children by the adoption of the Law 38 on domestic violence and mistreatment of children and adolescents, which allows for the removal of the alleged perpetrator of violence against the child from the home, the Committee is concerned at the lack of specific measures for its full implementation.

“The Committee recommends that the State party takes the necessary measures:

- a) for the full implementation of the Law 38, inter alia, through public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes about corporal punishment, and promote positive, non-violent forms of discipline in the family, the schools and other institutions as an alternative to such punishment;
- b) to strengthen complaints mechanisms for children in institutions to ensure that complaints of ill-treatment are dealt with effectively and in a child-sensitive manner by an independent body;
- c) to ensure sufficient financial and other resources for the effective implementation of this law.

“The Committee reiterates the following recommendation to the State party:

- a) that effective public awareness campaigns be developed and that measures be adopted to provide information, parental guidance and counselling with a view, inter alia, to preventing violence against their children, including the use of corporal punishment.”

Committee on the Rights of the Child

(24 January 1997, CRC/C/15/Add.68, Concluding observations on initial report, paras. 16 and 30)

“The Committee is concerned by the persistence of violence against children within the family, including the use of corporal punishment. In the light of article 17 of the Convention, the Committee is also concerned about the need for further measures to protect children from media information and material injurious to their well-being.

“The Committee recommends that effective public awareness campaigns be developed and that measures be adopted by the State party to provide appropriate assistance to the family in the performance of its child-rearing responsibilities, including parental guidance and counselling, with a view, inter alia, to preventing domestic violence and to prohibiting the use of corporal punishment as well as to preventing early pregnancies. It also recommends that the State party reinforce existing measures to protect children from harmful information.”

PARAGUAY

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home.

The Constitution (1992) states (article 54): “The family, society and the State shall have the duty to guarantee the child full and harmonious development and full enjoyment of his rights, and shall protect him against neglect, malnutrition, violence, abuse, trafficking and exploitation...” Article 60 states: “The State will promote policies that aim at preventing violence within the family and other causes that undermine family solidarity.” According to the Children and Adolescents Code (2001), children have the right to grow up in a family environment that fosters their integral development (article 92). Children must obey and respect their parents (article 30) and parents have an obligation to protect, educate and care for their children (article 4).

The Criminal Code (1998) punishes abuse leading to “serious” and “severe” harm and physical injury, and “grievous maltreatment” (article 112) and any person responsible for the “education, guardianship or care” of a child under 16 years of age “who subjects this child to severe mental suffering and repeated maltreatment, or damages his health” (article 134). Violence resulting in harm to the physical or mental health or safety of the child can lead to loss of guardianship under the Children and Adolescents Code (article 73).

Schools

There is no explicit prohibition of corporal punishment in schools, though there are a number of legal provisions relating to the protection of a student’s dignity. The Children and Adolescents Code recognises the child’s right to dignity in the educational system (articles 21, 22 and 114) and states that the goal of education is the person’s development, and that his or her dignity and fundamental rights and freedoms must be respected (article 21). The General Education Law (1998) confirms the student’s right to respect for their dignity and integrity (articles 125 and 136). According to the second state party report to the Committee on the Rights of the Child in 1998 (CRC/C/65/Add.12, para 592), the Primary School Regulations state that pupils should be treated “with care and understanding” and they “must not be harmed by word or deed” (article 48).

Penal system

Corporal punishment is unlawful as a **sentence for crime**. The Constitution prohibits cruel, inhuman and degrading treatment (article 5).

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions under the Children and Adolescents Code, article 245 of which states: “During the execution of measures, the adolescent has the right to ... h) not be incommunicado in any case, nor submitted to isolation or the imposition of physical/corporal punishment.”

Alternative care

There is no explicit prohibition of corporal punishment in other institutions and forms of childcare. The Minors Code explicitly prohibited corporal punishment in institutions for children who have been abandoned or are in danger, but this Code was revoked by the Children and Adolescents Code without reiterating the prohibition. The provisions against violence and abuse in the Criminal Code and the Children and Adolescents Code (see above) apply.

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

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

“The Committee is concerned that corporal punishment of children remains socially acceptable in Paraguay and that it is still practised in families, schools and other institutions.

“In light of articles 3, 19, and 28 (2) of the Convention, the Committee encourages the State party to:

a) develop measures to raise awareness about the harmful effects of corporal punishment and encourage use of alternative forms of discipline in families to be administered in a manner consistent with the child’s dignity and in conformity with the Convention; and

b) explicitly prohibit corporal punishment in the family, in schools and in other institutions.”

Committee on the Rights of the Child

(18 June 1997, CRC/C/15/Add.75, Concluding observations on initial report, paras. 27 and 40)

“The Committee is concerned that the State party does not have a clear strategy to combat the abuse and sexual exploitation of children.

“Following the Government’s national campaign to prevent abuse and ill-treatment of children, the Committee suggests that the State party continue to raise awareness about this issue and systematically monitor all types of child abuse, including in institutions.”



PERU

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. The Code on Children and Adolescents (1993, updated 2000) states (article 74): “The duties and rights of parents who exercise custody include: ... (d) Providing [children] with good examples and correcting them moderately. When this action is not sufficient, they can turn to the competent authority.” A similar provision in the Civil Code (1984, as modified by the Code on Children and Adolescents) states (article 423): “Duties and rights of parents who have custody include (3) Moderately correcting their children, and, when this is not sufficient, seeking assistance from judicial authorities, requesting that the child be placed in an establishment dedicated to the reeducation of children and adolescents.” Children must respect and obey their parents under the Code on Children and Adolescents (article 24), the Civil Code (article 454) and the Constitution (1993) (article 6). The same laws place an obligation on parents to protect, educate and care for their children (article 8, articles 235 and 418, and article 6 respectively).

Misuse of the means of correction or discipline is punishable under article 128 of the Criminal Code (1991). Other protection against violence and abuse is provided by other provisions in the Criminal Code (articles 121, 122 and 441) and the Code on Children and Adolescents, and the recognition of the right to physical integrity in the Constitution. Article 2 of the Law on Protection against Domestic Violence (2000) includes “abuse without injury” in its definition of domestic violence, punishable under article 441 of the Criminal Code.

Schools

Corporal punishment is forbidden in schools by Supreme Decree No. 007-2001-ED, Approval of Norms for the Management and Development of Activities in Educational Centres and Programmes (2001), but there is no explicit prohibition in law. Under the Code on Children and Adolescents the goal of education is the person’s development and his or her dignity and fundamental rights and freedoms must be respected (article 15), and children must be respected by their teachers (article 16). The child’s dignity and physical well-being is also provided for in the General Education Law (2003) (article 53) and the Constitution (article 15). Article 128 of the Criminal Code (see above) applies.

Penal system

Corporal punishment is not among the permitted **sentences for crime** in the Code on Children and Adolescents (4th Chapter). Article 2 of the Constitution prohibits torture and inhuman or humiliating treatment.

There is no explicit prohibition of corporal punishment of children and young persons as a **disciplinary measure** in penal institutions. Article 240 of the Code on Children and Adolescents states: “During detention, the adolescent has the right ... a) to decent treatment; l) to challenge disciplinary measures taken by authorities of the institution.” There is no provision for corporal punishment in the Penal Execution Code, which allows for re-education, reincorporation and treatment of the prisoner (article 2). Article 128 of the Criminal Code (see above) applies.

Alternative care

There is no explicit prohibition of corporal punishment in other institutions and forms of childcare. Provisions against violence in the Code on Children and Adolescents and article 128 of the Criminal Code (see above) apply.

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(22 February 2000, CRC/C/15/Add.120, Concluding observations on second report, para. 22)

“The Committee welcomes the legislative reforms aiming at preventing and combating domestic violence, but it remains concerned that physical and sexual abuse of children – within and outside the family – is a widespread phenomenon in the State party. In light of, inter alia, articles 3, 6, 19, 28 (2) and 39 of the Convention, the Committee recommends that the State party continue taking effective measures to prevent and combat abuse and ill-treatment of children within the family, at school and in society at large, including through setting up multidisciplinary treatment and rehabilitation programmes. It suggests, inter alia, that law enforcement should be strengthened with respect to such crimes; that adequate procedures and mechanisms to deal effectively with complaints of child abuse should be reinforced in order to provide children with prompt access to justice; and that the use of corporal punishment at home, in schools and other institutions be explicitly prohibited by law. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue...”

URUGUAY

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. Article 261 of the Civil Code (1868) gives parents the right to “moderately correct” their children and, if this is insufficient, to request that a judge order their detention in a correctional facility. Guardians have the same rights. Article 16 of the Children and Adolescents Code (2004) states that it is the parents’ duty to “adequately correct” their children or wards.

Children have some protection from violence and abuse under other provisions in the Civil Code and the Children and Adolescents Code, as well as under the Criminal Code (1934), the Domestic Violence Law (2002) and the Constitution (1967). The Children and Adolescents Code recognises the right to dignity and integrity (article 9) and protection from all forms of cruel, inhumane or degrading treatment (article 15). According to the Constitution, parents have an obligation to protect, educate and care for their children (article 41) and the state has a specific obligation to protect children from violence in the family (articles 40 and 41).

Schools

Corporal punishment is lawful in schools. The Children and Adolescents Code authorises judges to act on filed complaints on ill-treatment and “exaggerated punishments” carried out by those responsible for children in educational institutions, indicating it is lawful to carry out corporal punishments that are not considered exaggerated.

Penal system

Corporal punishment is unlawful as a **sentence for crime**.

There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions. The regulations of the Institute of Juvenile Rehabilitation have long been under revision. They make no provision for corporal punishment.

Alternative care

There is no explicit prohibition of corporal punishment in other institutions and forms of childcare. Under the Civil Code, the infliction of ill-treatment and exaggerated punishment on children under care and protection is prohibited. Guardians have a right of “moderate correction” as for parents (see above). The provisions against violence and abuse in the Children and Adolescents Code (see above) apply.

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(30 October 1996, CRC/C/15/Add.62, Concluding observations on initial report, paras. 13 and 21)

“The Committee is deeply concerned about the increasing incidence of abuse and violence within the family and the inadequacy of measures to prevent and combat such abuse and violence, and to rehabilitate the child victims.

“The Committee suggests that measures be adopted by the State party to provide appropriate assistance to the family in the performance of its child-rearing responsibilities, with a view, inter alia, to preventing domestic violence and abuse, abandonment and institutionalization of children, and to promoting research in these areas.”

VENEZUELA

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. Under article 93 of the Law for the Protection of Children and Adolescents (1998, in force 2000), children have an obligation to obey and respect their parents. Parents have an obligation to protect, educate and care for their children (articles 5, 7, 32, 254 and 347). The Civil Code (1982) recognises the imposition of “adequate/moderate correction” by parents, guardians and tutors (articles 265 and 349) and by people or entities temporarily responsible for the care of the child or adolescent (article 396).

Article 32 of the Law for the Protection of Children and Adolescents states that “the State ... should protect children and adolescents against any type of exploitation, ill-treatment, torture, abuse or negligence that affects their personal integrity”. Abuse of the means of discipline is an offence under the Criminal Code (2000) which states (article 441):

“Anyone who, by abusing means of correction or discipline, causes harm to or endangers the health of a person who is under his or her authority, education, instruction, care, oversight or custody, or who is under his or her direction because of his or her art or profession, will be punished with one to twelve months in prison, depending on the severity of the harm.”



Other protection from violence and abuse is given by article 254 of the Law for the Protection of Children and Adolescents, the Law on Violence Against Women and the Family (1998), the Constitution (1999) and the Criminal Code (article 443). The child's right to physical integrity is recognised in the Constitution and in the Law for the Protection of Children and Adolescents (article 32), and the right to dignity in the latter (articles 79, 89, 183, 538 and 625). The Law for the Protection of Children and Adolescents states (article 10): "all children and adolescents are subject to rights; therefore they enjoy all rights and guarantees regarding legal recognition, especially those enshrined in the Convention on the Rights of the Child."

Schools

Corporal punishment is unlawful in schools under article 57 of the Law for the Protection of Children and Adolescents.

Penal system

Corporal punishment is unlawful as a **sentence for crime**. It is not a permitted sanction under the Law for the Protection of Children and Adolescents (article 621), which allows only protection measures for children below 12 years and for those between 12 and 18 years reprimands, imposition of rules of behaviour, community service, parole, semi-liberty and detention. The Constitution (article 60) prohibits cruel, inhuman or degrading treatment or punishment.

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions. Article 630 of the Law for the Protection of Children and Adolescents states that in the application of sanctions the adolescent has the right to receive dignified and humanitarian treatment. Article 631 states that a child deprived of liberty has the right to "not be, in any case ... submitted to corporal punishment". Article 638 states that the internal regulations of each detention centre must include as a minimum: "A strict regulation of sanctions that can be imposed on the adolescent, during the fulfilment of the measure. In no case can cruel, inhumane or degrading measures be applied, including corporal punishment..."

Alternative care

Corporal punishment is lawful in other institutions and forms of childcare. Article 396 of the Civil Code (see above) allows "moderate correction" by those caring for a child. Provisions against violence and abuse in the Law for the Protection of Children and Adolescents and article 441 of the Criminal Code (see above) apply.

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(2 November 1999, CRC/C/15/Add.109, Concluding observations on initial report, para. 25)

"The Committee is concerned that child abuse and neglect are reported to be widespread in the State party. In this regard, concern is expressed at the insufficient awareness of the harmful consequences of neglect and abuse, including sexual abuse, both within and outside the family; at the insufficient financial and trained human resources allocated to prevent abuse and neglect, and at the insufficient rehabilitation measures and facilities available for victims. In the light of, inter alia, articles 19 and 39 of the Convention, the Committee recommends that the State party continue taking all appropriate measures to prevent and combat child abuse and neglect of children within the family, at school and in society at large, including setting up multidisciplinary treatment and rehabilitation programmes. It suggests that law enforcement should be strengthened with respect to such crimes and that procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice, in order to avoid impunity of the offenders. Furthermore, educational programmes should be established to combat traditional attitudes in society regarding this issue. The Committee encourages the State party to consider seeking international cooperation to this effect from, inter alia, UNICEF and international non-governmental organizations."

DEPENDENT TERRITORIES

FALKLAND ISLANDS (territory under international dispute)

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home. Parents have a right to “reasonably chastise” their children. Children have limited protection from violence and abuse under the Children Ordinance (1994), modelled on the Children Act (1989) applicable in the United Kingdom, and the Children and Young Persons Act (1933).

Schools

Corporal punishment is prohibited in state schools by the Education (Amendment) Ordinance (2002). It was previously lawful for boys under the age of 11 and only with parental consent under the Education Ordinance (1989). As at January 2005, there were no private schools on the Islands.

Penal system

Corporal punishment is unlawful as a **sentence for crime**. Chapter 1 of the Constitution prohibits inhuman or degrading treatment of any person by any public officer or authority, and corporal punishment is not an available sentence for crime under the Criminal Justice Ordinance (1989) and the Criminal Justice (Amendment) Ordinance (1996). However, as at April 2005, Rule 6 of the Prison Regulations (1966), permitting the use of force “in the carrying out of a sentence of corporal punishment”, had yet to be amended.

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions. The provisions of the Prison Rules which permitted corporal punishment of prisoners for certain offences against prison discipline were formally revoked in 1989.

Alternative care

There is no prohibition in law of corporal punishment in day care centres, residential children’s homes or foster care.

Prevalence research

None identified.

FRANCE – FRENCH GUIANA

We have been informed that French law applies in the overseas departments, including the Penal and Civil Codes, but we have been unable to confirm this in the specific case of French Guiana. The following information is based on the assumption of the application of French law.

Lawfulness of corporal punishment

Home

Corporal punishment is lawful in the home, under the parental “right of correction” in customary law. Children are protected from severe corporal punishment by articles 222-8 to 222-14 of the Criminal Code, which prohibit violence or ill treatment that endangers a child or damages his or her physical integrity. Under article 375 of the Civil Code, a child may be taken into public care if his or her health, security or morality is in danger, or if the conditions of the child’s education are gravely compromised.

Schools

Corporal punishment is prohibited in schools.

Penal system

Corporal punishment is unlawful in the penal system.

Alternative care

Corporal punishment is not explicitly prohibited in other institutions and forms of care but prosecution is possible under the Criminal Code (see above).

Prevalence research

None identified.



PUERTO RICO (commonwealth associated with the United States)

Lawfulness of corporal punishment

Home

There is no explicit prohibition of corporal punishment in the home. Children are protected from violence and abuse by the Welfare and Integral Protection of Childhood Act (2003).

Schools

Corporal punishment is prohibited in schools. The Welfare and Integral Protection of Childhood Act (see above) applies to education institutions.

Penal system

Corporal punishment is prohibited as a **sentence for crime** under the Constitutions of Puerto Rico and of the USA, which prohibit cruel and unusual punishment, and the Penal Code.

Corporal punishment is explicitly prohibited as a **disciplinary measure** in penal institutions under the regulations of the Corrections Administration (section 1255, "Rights of Inmates, Women Prisoners and Minors"). The Welfare and Integral Protection of Children Act applies to detention institutions.

Alternative care

There is no explicit prohibition of all forms of corporal punishment in all alternative care settings. The provisions against abuse in the Welfare and Integral Protection of Childhood Act apply to residential homes, foster care, day care centres and any other institutions.

Prevalence research

None identified.

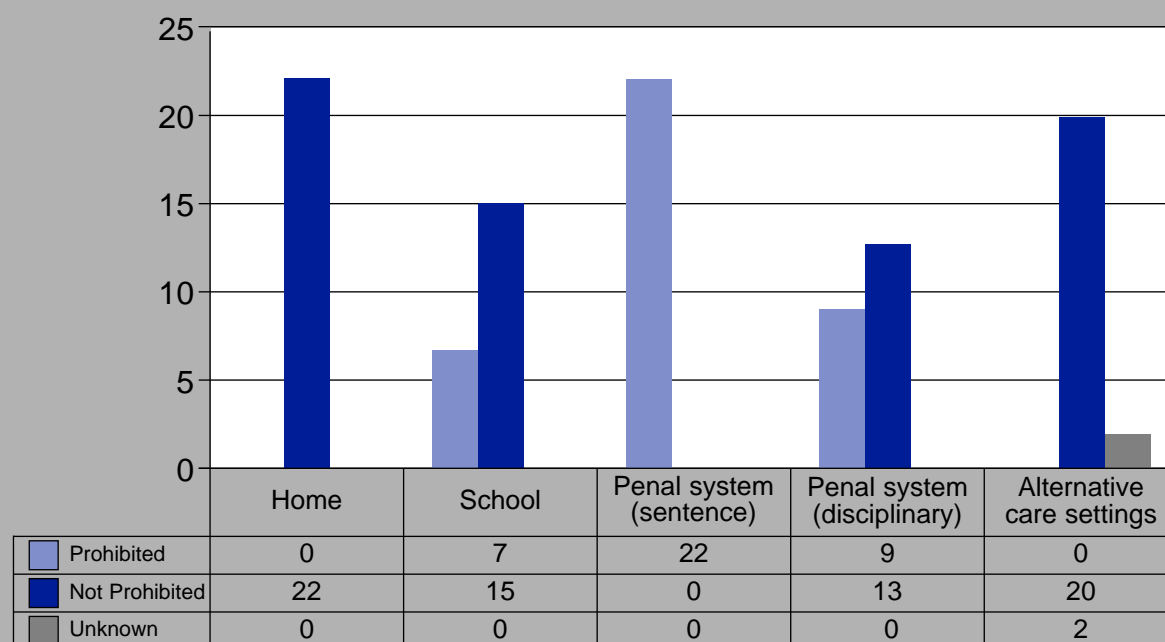
Recommendations by human rights treaty bodies

The US has signed but not ratified the Convention on the Rights of the Child.

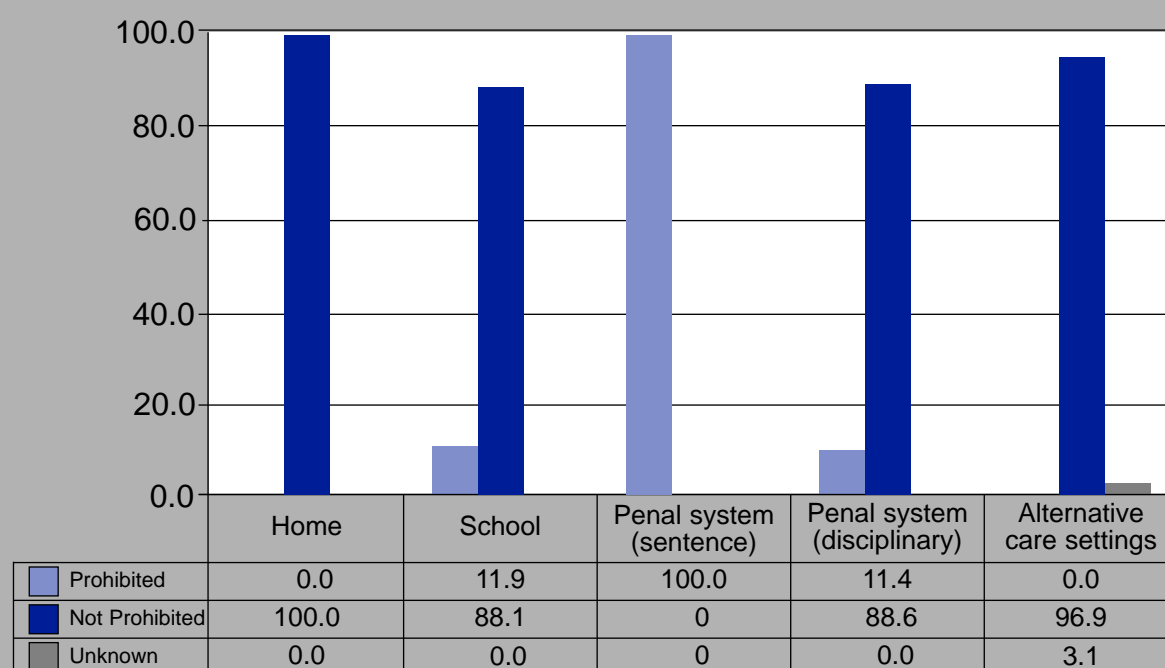
SUMMARY TABLE LEGAL STATUS OF CORPORAL PUNISHMENT OF CHILDREN					
	Prohibited in the home	Prohibited in schools	Prohibited in the penal system	Prohibited in alternative care	
			As a sentence for crime	As a disciplinary measure in penal institutions	
Argentina	NO	NO	YES	NO	NO
Bolivia	NO	NO ¹	YES	NO	NO
Brazil	NO ²	NO ³	YES	NO ⁴	NO ⁵
Chile	NO	NO	YES	NO	NO
Colombia	NO ⁶	NO ⁷	YES ⁸	NO ⁹	NO ¹⁰
Costa Rica	NO ¹¹	NO ¹²	YES	YES	NO ¹³
Cuba	NO	NO	YES	NO	NO
Dominican Republic	NO	YES	YES	NO	?
Ecuador	NO	YES	YES ¹⁴	NO	SOME ¹⁵
El Salvador	NO	NO	YES	YES	?
Guatemala	NO	NO	YES	NO	NO
Honduras	NO	YES	YES	NO	NO
Mexico	NO	NO	YES	NO	NO
Nicaragua	NO	NO	YES	YES	NO
Panama	NO	NO	YES	YES	NO
Paraguay	NO	NO	YES	YES	NO
Peru	NO	NO ¹⁶	YES	NO	NO
Uruguay	NO	NO	YES	NO	NO
Venezuela	NO	YES	YES	YES	NO
Falkland Islands	NO	YES	YES	YES	NO
France – French	NO	YES ¹⁷	YES ¹⁸	YES ¹⁹	NO ²⁰
US – Puerto Rico	NO	YES	YES	YES	NO

¹Prohibited by regulation. ²2003 Bill No. 2,654 proposes explicit prohibition. ³2003 Bill No. 2,654 proposes explicit prohibition. ⁴2003 Bill No. 2,654 proposes explicit prohibition. ⁵2003 Bill No. 2,654 proposes explicit prohibition. ⁶Bill 32 (2004) proposes explicit prohibition. ⁷Possibly prohibited by Law No. 509. Bill 32 (2004) proposes explicit prohibition. ⁸Prohibited in the laws of the Republic but Constitutional case law permits its use among indigenous Indian communities. ⁹Bill 32 (2004) proposes explicit prohibition. ¹⁰Bill 32 (2004) proposes explicit prohibition. ¹¹2004 draft Law on the Abolition of Corporal Punishment Against Minors proposes explicit prohibition. ¹²2004 draft Law on the Abolition of Corporal Punishment Against Minors proposes explicit prohibition. ¹³Possibly prohibited in institutions; 2004 draft Law on the Abolition of Corporal Punishment Against Minors proposes explicit prohibition in all settings. ¹⁴But possibly used under vigilante justice among indigenous communities. ¹⁵Prohibited in institutions but possibly lawful in other care settings. ¹⁶Prohibited by Decree, but not in law. ¹⁷Information unconfirmed. ¹⁸Information unconfirmed. ¹⁹Information unconfirmed. ²⁰Information unconfirmed.

Latin American states and dependent territories prohibiting corporal punishment of children



Percentage of child population legally protected from corporal punishment



Photography by Marcello Valle (cover) and Aldo Arozena (pages 6 and 15).

This report is published by

The Global Initiative to End All Corporal Punishment of Children which is administered by the Association for the Protection of All Children, APPROACH Ltd, a registered charity No. 328132. Registered office 94 White Lion Street, LONDON N1 9PF, UK.

Save the Children Sweden Regional Programme for Latin America and the Caribbean www.scslat.org postmaster@scslat.org

THE GLOBAL INITIATIVE to End All Corporal Punishment of Children was launched during the Commission on Human Rights in Geneva in 2001. It aims to act as a catalyst to encourage more action and progress towards ending all corporal punishment in all continents; to encourage governments and other organisations to “own” the issue and work actively on it; and to support national campaigns with relevant information and assistance. The context for all its work is implementation of the Convention on the Rights of the Child. We believe ending all corporal punishment is fundamental to improving the status of children and realising their rights to respect for their human dignity and physical integrity and to equal protection under the law.



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

Global Initiative to End All Corporal Punishment of Children

www.endcorporalpunishment.org

Contact: info@endcorporalpunishment.org

SAVE THE CHILDREN SWEDEN is a non-profit organisation without religious or political affiliation. Founded in Sweden in November 1919, the organisation has always focused on promoting and defending children's rights.

Save the Children Sweden opposes all forms of corporal punishment of children. This position is based on our high commitment to defend children's human rights. We believe states should explicitly prohibit all corporal punishment of children. Legal reform should be accompanied by public education campaigns, combined with professional training on positive behaviour management of children for parents, carers, teachers, and others.



Save the Children
Sweden

Save the Children Sweden

Regional Programme for Latin America and the Caribbean

www.scslat.org

Contact: postmaster@scslat.org

For information about the
UN Secretary General's Study on Violence against Children, contact:
Secretariat
PO Box 48
1211 Geneva 20 CIC
Switzerland
Phone: +41 22 909 5633
<http://www.violencestudy.org>