



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

BOLIVIA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 7th session, 2010

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Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General's Study on Violence against Children, as a highly significant issue, both for asserting children's status as rights holders and for the prevention of all forms of violence.

The Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies, and regional human rights mechanisms, have condemned all corporal punishment. In October 2006, the report of the UN Secretary General's Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment, setting a goal of 2009.

Summary

This briefing describes the legality of corporal punishment of children in Bolivia, despite the repeated concerns and recommendations of the Committee on the Rights of the Child. We hope the Review will highlight the importance of prohibition of corporal punishment of children, and strongly recommend that the government introduce legislation as a matter of urgency to prohibit all corporal punishment of children in all settings, including the home and in traditional justice systems.

1 Legality of corporal punishment in Bolivia

1.1 Corporal punishment is lawful in the **home**. 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.” Article 109 of the Children and Adolescents Code (1999) protects children from corporal punishment which is considered to cause harm but does not prohibit all corporal punishment and is undermined by article 276 of the Criminal Code.

1.2 There is no explicit prohibition in law of corporal punishment in **schools**, though it is reportedly prohibited by regulation.¹ 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” but prohibits only corporal punishment which is considered harmful, not all corporal punishment.

1.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime under the Criminal Code, the Juvenile Code (1992) and the Law on the Public Ministry (2001). However, sentences of corporal punishment may be ordered by community elders in traditional Indian justice systems, still used in much of the country. The Constitution (2009) legitimises punishments ordered by indigenous leaders and tribal communities.

1.4 There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions; article 109 of the Children and Adolescents Code prohibits only corporal punishment which is considered harmful.

1.5 Corporal punishment is lawful in **alternative care settings**. Article 109 of the Children and Adolescents Code prohibits only corporal punishment which is considered harmful.

2 Recommendations by human rights treaty monitoring bodies

2.1 In 2005, following examination of the state party’s second report, the **Committee on the Rights of the Child** expressed concern at the use of corporal punishment in the family, schools and other institutions, and recommended legislative and other measures to address this (CRC/C/15/Add.256, paras. 35 and 36). The Committee made similar recommendations in 1998 (CRC/C/15/Add.95, Concluding observations on initial report, para. 21).

¹ Third report to the Committee on the Rights of the Child, 2004, CRC/C/125/Add.2, pp.41-42