



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

EL SALVADOR

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 El Salvador. We hope the Review will examine the extent to which recent law reform prohibits all corporal punishment, however light, and – where necessary – recommend that the government introduce legislation as a matter of urgency to achieve prohibition in all settings, without exception.

1 Legality of corporal punishment in El Salvador

1.1 As at September 2009, we are still trying to establish whether recent legal reform effectively prohibits all corporal punishment in the **home**. Article 204 of the Penal Code confirms a “right of correction” (*derecho de corrección*), and article 215 of the Family Code states that parents have a duty “to correct [their children] appropriately and moderately” (*corregir adecuada y moderadamente*). In April 2009, a new Law on Integral Protection of Children and Adolescents was passed which prohibits corporal punishment in article 38: *Las niñas, niños y adolescentes deben ser tratados con respeto a su persona e individualidad y no pueden ser sometidos a castigos corporales, psicológicos o a cualquier otro trato ofensivo que atente contra su dignidad, sin perjuicio del derecho de la madre y padre de dirigirlos, orientarlos y corregirlos moderada y adecuadamente*. We have yet to confirm that this means that the right of correction now excludes all corporal punishment, however light. The Domestic Violence Act (1996, revised 2004) does not explicitly prohibit corporal punishment of children.

1.2 Corporal punishment is prohibited in **schools** by article 90 of the General Law on Education and article 89 of the Law on Integral Protection of Children and Adolescents.

1.3 In the **penal system**, corporal punishment is prohibited as a sentence for crime and as a disciplinary measure in penal institutions.

1.4 Corporal punishment is prohibited in **alternative care settings** under the Law on Integral Protection of Children and Adolescents, though we have yet to confirm that the right of correction no longer allows corporal punishment (see above).

2 Recommendations by human rights treaty monitoring bodies

2.1 In 2004, in its concluding observations on the state party’s second report, the **Committee on the Rights of the Child** referred to the Domestic Violence Act in relation to corporal punishment (CRC/C/15/Add.232, para. 44). In fact, this does not prohibit corporal punishment of children.