



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

## **GUATEMALA**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 2<sup>nd</sup> session, 2008**

*From Peter Newell, Coordinator, Global Initiative*

[info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)

**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 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 also 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.**

**This briefing describes the gaps in prohibition in Guatemala, despite repeated recommendations by the Committee on the Rights of the Child.**

**We hope the Review will highlight with concern Guatemala’s inadequate response to treaty body recommendations concerning corporal punishment and strongly recommend that Guatemala introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.**

## **I: Legality of corporal punishment in Guatemala**

### **The 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; article 253 of the Civil Code (1963) recognises the obligation of parents to educate and correct their children. “Excessive” correction is punishable under article 283 of the Criminal Code (1973).

Children have limited 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 the child to be protected from every kind of neglect, abandonment or violence, and not to be subjected to torture, cruel, inhuman or degrading treatment.

### **Schools and other settings**

There is no explicit prohibition of corporal punishment in **schools**, though the child’s right to dignity in the educational system is recognised by article 1 of the National Education Law (1991), Legislative Decree No. 12-91. Corporal punishment is lawful in military schools.

In the **penal system**, corporal punishment is unlawful as a sentence for crime, but there is no explicit prohibition of its use as a disciplinary measure in penal institutions.

There is no explicit prohibition of corporal punishment in **alternative care settings**.

## **II: Recommendations by human rights treaty monitoring bodies**

In June 2007, the **Committee on the Rights of the Child**, in its concluding observations on the state party’s initial report on the Optional Protocol on the involvement of children in armed conflict, expressed concern at the legality and use of corporal punishment in military schools, and recommended prohibition in that setting (CRC/C/OPAC/GTM/CO/1, paras. 16 and 17). The Committee had first expressed concern at corporal punishment in schools, and recommended prohibition, in 1996, following examination of the state party’s initial report on implementation of the Convention (CRC/C/15/Add.58, para. 33).