



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

CHILE

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 5th session, 2008

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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 Chile, despite the recommendations of the Committee on the Rights of the Child and the Committee Against Torture. 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 corporal punishment of children in all settings, including the home.

1 Legality of corporal punishment in Chile

1.1 Corporal punishment is lawful in the **home** under article 234 of the Civil Code, which confirms the right of parents to correct their children. In December 2007, a press release issued by the Ministry of Justice¹ indicated that this article had been amended so as to exclude corporal punishment from permitted methods of correction. But to our knowledge, though as yet unconfirmed, the amendment eventually passed prohibits only physical violence/abuse and falls short of prohibiting all corporal punishment by parents.

1.2 Corporal punishment is lawful in **schools**.

1.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions under the Juvenile Justice Act (2005, in force 2007).

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

2 Recommendations by human rights treaty monitoring bodies

In its concluding observations on the state party's third report in 2007, the **Committee on the Rights of the Child** expressed concern at the authorisation of corporal punishment in the home under article 234 of the Civil Code and at the continued use of corporal punishment in the home, schools and institutions (CRC/C/CHL/CO/3, para. 40). The Committee recommended that the state party amend article 234 of the Civil Code and enforce legislation explicitly prohibiting corporal punishment in other settings (para. 41). The Committee had previously recommended explicit prohibition in the home and other settings following examination of the state party's second report in 2002 (CRC/C/15/Add.173, paras. 31 and 32).

¹ See http://www.minjusticia.cl/Comunicados/2007/dic/18_12_07.htm, accessed 1 November 2008