

PERU

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 14th session, 2012

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

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.

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 as a matter of priority.

The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities. There is growing progress across all regions in challenging this common form of violence against children. But many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope the Working Group of the UPR will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies on this issue, as well as to the recommendations made during the first cycle of the UPR.

Corporal punishment of children is lawful in Peru, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and the support of Congress for law reform expressed in 2007.

We hope the Human Rights Council will note with concern the repeated and unfulfilled treaty body recommendations, despite the support for law reform. We hope states will raise the issue during the review in 2012 and recommend to Peru that legislation be enacted to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of priority.

1 The initial review of Peru by the Human Rights Council (2008)

1.1 Peru was reviewed in the first cycle of the Universal Periodic Review process in 2008 (session 2). No recommendations were made concerning corporal punishment of children, though the issue was raised in an advance question by Sweden and was included in the compilation of UN information¹ and the summary of stakeholders' information.²

1.2 Prohibiting corporal punishment is a key obligation under the Convention on the Rights of the Child and other international human rights instruments, though it is an obligation frequently ignored or evaded by governments. Specifically challenging Peru on this issue during its second UPR would reflect the seriousness with which the Human Rights Council views violations of the rights of all persons, including children.

1.3 There have been moves towards enacting legislation to prohibit all corporal punishment in Peru. In December 2007, Congress gave all-party support to law reform to prohibit corporal punishment in all settings and in 2010 legislation which would achieve this was under discussion. However, the necessary law reform has still not occurred. Corporal punishment of children is unlawful as a sentence for crime but it is lawful in the home, schools, penal institutions and alternative care settings.

2 Legality of corporal punishment in Peru

2.1 Corporal punishment is lawful in the **home**. The Code on Children and Adolescents (2000) states in 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 in 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." Provisions against violence and abuse in the Criminal Code (1991), the Code on Children and Adolescents, the Constitution and the Law on Protection against Domestic Violence (2000) are not interpreted as prohibiting all corporal punishment in childrearing.

2.2 With regard to **schools**, Supreme Decree No 007-2001-ED, Approval of Norms for the Management and Development of Activities in Educational Centres and Programmes (2001) states that corporal punishment should not be used, 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).

2.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime: it is not among permitted measures in the Code on Children and Adolescents or the Criminal Code. 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

¹ 9 April 2008, A/HRC/WG.6/2/PER/2, Compilation of UN information, para. 19

² 2 April 2008, A/HRC/WG.6/2/PER/3, Summary of stakeholders' information, para. 15

Adolescents states that during detention “the adolescent has the right ... a) to decent treatment; ... l) to challenge disciplinary measures taken by authorities of the institution” but it does not prohibit corporal punishment.

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

2.5 Research has revealed the prevalence of, and support for, corporal punishment of children in Peru. For example, in a survey in 2002 of 1,555 children and adolescents, 48.2% reported being “occasionally” punished in the home, 5.1% “frequently”, 30.4% “never”.³ In 2004, interviews with 870 female carers of children under 10 from six communities found that 80% believed corporal punishment necessary to educate their children; 52% believed ear pulling, slapping, or hitting with a belt or stick acceptable; and 20% believed corporal punishment helps children learn to obey. In interviews with young children (aged 4-5 years), 96% reported having been physically punished for “bad behaviour”.⁴ In a survey of 1,000 adults in 15 cities, 42% agreed with using corporal punishment “occasionally” to discipline children; 56% were against the use of physical punishment.⁵

3 Recommendations by human rights treaty monitoring bodies

3.1 The **Committee on the Rights of the Child** has twice recommended prohibition of corporal punishment of children in all settings including the home in Peru – in 2000 and again in 2006.⁶

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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³ Reported in International Save the Children Alliance (2005), *Ending Physical and Humiliating Punishment of Children – Making it Happen: Global Submission to the UN Study on Violence against Children*, Save the Children Sweden

⁴ Base line project sponsored by Save the Children Canada and Save the Children UK in San Juan de Lurigancho – Lima, reported in International Save the Children Alliance (2005), *Ending Physical and Humiliating Punishment of Children – Making it Happen: Global Submission to the UN Study on Violence against Children*, Save the Children Sweden

⁵ Survey by Ipsos Apoyo, published by El Comercio, reported in *Living in Peru*, 27 September 2009

⁶ 22 February 2000, CRC/C/15/Add.120, Concluding observations on second report, para. 22; 14 March 2006, CRC/C/PER/CO/3, Concluding observations on third report, paras. 42 and 43