

# Corporal punishment of children in Mexico: Briefing for the Universal Periodic Review, 17<sup>th</sup> session, 2013

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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 Mexico despite the Government's acceptance of recommendations on the issue made during the UPR in 2009 and repeated recommendations by the Committee on the Rights of the Child.**

**We hope the Working Group will note with concern the legality of corporal punishment in Mexico – and the immediate opportunity to address this by including prohibition in the draft new Law on the Protection of the Rights of the Child currently under discussion. We hope states will raise the issue during the review in 2013 and recommend to Mexico that legislation is enacted to explicitly prohibit corporal punishment of children in all settings including the home as a matter of priority.**

## **1 The initial review of Mexico by the Human Rights Council (2009)**

1.1 Mexico was reviewed in the first cycle of the Universal Periodic Review in 2009 (session 4). The issue of corporal punishment of children was raised in an advance question by Sweden and in the compilation of UN information.<sup>1</sup> The following recommendations were made and were accepted by the Government:<sup>2</sup>

“Curb prevalence of corporal punishment on children, in keeping with Mexico’s international advocacy against such offences (Bangladesh), and take measures to ensure that children are fully protected from corporal punishment and other forms of violence or exploitation (Sweden)”

1.2 Prohibiting and eliminating corporal punishment of children is a key obligation under the Convention on the Rights of the Child and other international human rights instruments. But too often it is an obligation ignored or evaded by governments. We note that in Mexico in 2011, draft amendments to the Federal Criminal Code were under discussion but they did not include prohibition of corporal punishment. In 2012, a draft new Law on the Protection of the Rights of the Child was under discussion.

1.3 We do not know if prohibition has been proposed in the context of the draft new Law on the Protection of the Rights of the Child. However, in terms of legislation currently in force there has been no change in the legality of corporal punishment of children in Mexico since the initial UPR. Today, as in 2009, corporal punishment is lawful in the home, schools, penal institutions and alternative care settings.

## **2 Legality and practice of corporal punishment in Mexico**

2.1 ***Home (lawful)***: The “right to correct” of persons with parental authority is confirmed in article 423 of the Federal Civil Code 2002. Provisions against violence and abuse in the Law for the Protection for the Rights of Children and Adolescents 2000, the Criminal Code 1984 (amended 2003) and the Law on Assistance and Prevention of Domestic Violence 1996 are not interpreted as prohibiting all corporal punishment in childrearing.

2.2 ***Schools (not explicitly prohibited)***: Article 32 of the Law for the Protection for the Rights of Children and Adolescents states that children have a right to an education that respects their dignity and indicates that laws must promote the necessary measures to impede discipline in educational institutions which affects a child’s dignity or physical or mental integrity, but there is no explicit prohibition of corporal punishment. Corporal punishment is not prohibited in military schools.

2.3 ***Penal system (partial prohibition)***: Corporal punishment is unlawful as a sentence for crime under article 22 of the Constitution. There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions, though there are various prohibitions of ill-treatment and abuse, including article 3 of the Law for the Treatment of Juvenile Offenders for the Federal District in common matters and for all the Republic in federal matters 1992 which states that children must receive fair, humane treatment and prohibits “abuse, being held incommunicado, psychological coercion or any other action

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<sup>1</sup> 22 December 2008, A/HRC/WG.6/4/MEX/2, Compilation of UN information, para. 24

<sup>2</sup> 29 May 2009, A/HRC/11/27, Report of the Working Group, para. 93(30)

that threatens their dignity or physical or mental well-being”, and provisions in the Law for the Protection for the Rights of Children and Adolescents.

- 2.4 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment.
- 2.5 A 2012 comparative study of men’s childhood experiences of violence found that in Mexico, of the 982 men who participated, 26% reported having been spanked or slapped by a parent in the home during childhood, 16% threatened with physical punishment in the home and 16% humiliated by someone in their family in front of other people; 67% reported having been beaten or physically punished at school by a teacher. The study found that men who had experienced violence, including corporal punishment, during childhood, were more likely to perpetrate intimate partner violence, hold inequitable gender attitudes, be involved in fights outside the home or robberies, pay for sex and experience low self-esteem and depression, and were less likely to participate in domestic duties, communicate openly with their partners, attend pre-natal visits when their partner is pregnant and/or take paternity leave.<sup>3</sup> A report on institutions including psychiatric hospitals and shelters in Mexico found that children and adults with disabilities are kept in permanent restraints, and that this constitutes cruel, inhuman or degrading treatment or punishment and sometimes torture.<sup>4</sup>

### **3 Recommendations by human rights treaty monitoring bodies**

- 3.1 **CRC:** The Committee on the Rights of the Child has three times recommended that all corporal punishment of children in Mexico be prohibited – in the concluding observations on the second report in 1999<sup>5</sup>, the third report in 2006<sup>6</sup> and the initial report on the Optional Protocol on Children in Armed Conflict in 2011.<sup>7</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>3</sup> Contreras, M. et al (2012), *Bridges to Adulthood: Understanding the Lifelong Influence of Men's Childhood Experiences of Violence, Analyzing Data from the International Men and Gender Equality Survey*, Washington DC: International Center for Research on Women (ICRW) and Rio de Janeiro: Instituto Promundo

<sup>4</sup> Rosenthal, E. et al (2010), *Abandoned & Disappeared: Mexico's Segregation and Abuse of Children and Adults with Disabilities*, Disability Rights International & Comisión Mexicana de Defensa y Promoción de los Derechos Humanos

<sup>5</sup> 10 November 1999, CRC/C/15/Add.112, Concluding observations on second report, para. 25

<sup>6</sup> 2 June 2006, CRC/C/MEX/CO/3 Unedited Version, Concluding observations on third report, paras. 35, 36, 72 and 73

<sup>7</sup> 7 April 2011, CRC/C/OPAC/MEX/CO/1, Concluding observations on initial report (OPAC), para. 18