

DOMINICAN REPUBLIC

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 18th session, 2014

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

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In the Dominican Republic, corporal punishment of children is lawful, despite the Government’s acceptance of recommendations to prohibit it in all settings made during the UPR in 2009 and the recommendations of the Committee on the Rights of the Child.

We hope the Working Group will note with concern the legality of corporal punishment in the Dominican Republic. We hope states will raise the issue during the review in 2014 and make a specific recommendation that legislation is enacted in the Dominican Republic to explicitly prohibit corporal punishment of children in the home and all alternative care settings as a matter of priority.

1 The initial review of the Dominican Republic by the Human Rights Council (2009)

1.1 The Dominican Republic was examined in the first cycle of the Universal Periodic Review in 2009 (session 6). The issue of corporal punishment of children was raised in the compilation of UN information¹ and the summary of stakeholders’ information.² The following recommendation was made and was accepted by the Government:³

“Prohibit corporal punishment of children in all settings (Slovenia).”

1.2 Despite the Government’s acceptance of the recommendation, there has been no change in the legality of corporal punishment since the initial review in 2009: corporal punishment is unlawful in schools and in the penal system; children are legally protected in the home and in alternative care settings from some but not all corporal punishment. The new Constitution does not explicitly prohibit all corporal punishment.

¹ 11 August 2009, A/HRC/WG.6/6/DOM/2, Compilation of UN information, para. 22

² [n.d.], A/HRC/WG.6/6/DOM/3, Summary of stakeholders’ information, para. 20

³ 4 January 2010, A/HRC/13/3, Report of the working group, para. 87(14)

1.3 The near universal acceptance of a degree of violent punishment in childhood and deeply held views that parents and other adults have a “right” to physically punish children can challenge efforts to achieve prohibition. This situation also means that corporal punishment – at least to some degree – is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence: prohibiting laws, as well as recommendations to enact them, are effective only when they explicitly refer to corporal punishment. **It is for these reasons that we respectfully urge members of the Working Group to specifically recommend prohibition of corporal punishment in the review of the Dominican Republic.**

2 Legality of corporal punishment in the Dominican Republic

- 2.1 ***Home (lawful)***: Article 12 of the Code for the Protection of the Rights of Children and Adolescents 2003 confirms the right of all children and adolescents to personal integrity and to respect for their dignity and states that it is the responsibility of the family, the state and society to protect children “against all forms of exploitation, maltreatment, torture, abuse or neglect that may affect their personal integrity” (unofficial translation) – but it does not explicitly prohibit all forms of corporal punishment in childrearing. Provisions against violence and abuse in the Law Against Domestic Violence 1997 and the Criminal Code 2007 are not interpreted as prohibiting corporal punishment in childrearing.
- 2.2 Article 42 of the Constitution 2010 confirms the right of every person to personal integrity and “to live without violence”, stating also that “no one shall be subjected to punishment, torture or degrading treatment involving loss or decline in health or physical or mental integrity” and that “domestic and gender violence in any form is condemned”; article 56 confirms the right of children to protection from “all forms of abuse and violence” (article 56). There is no evidence that these provisions are interpreted as prohibiting all corporal punishment of children by parents.
- 2.3 ***Schools (unlawful)***: Article 48 of the Code on the Protection of the Rights of Children and Adolescents 2003 prohibits corporal punishment in schools.
- 2.4 ***Penal system – sentence for crime (unlawful)***: There is no provision for judicial corporal punishment in criminal law.
- 2.5 ***Penal system – disciplinary measure in penal institutions (unlawful)***: Corporal punishment is unlawful under articles 246 and 349 of the Code for the Protection of the Rights of Children and Adolescents 2003.
- 2.6 ***Alternative care settings (lawful)***: There is no explicit prohibition of corporal punishment.

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children

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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.