



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

BRAZIL

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 1st session, 2007

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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 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 lack of prohibition in Brazil, despite recommendations by the Committee on the Rights of the Child. It notes that efforts at law reform made considerable progress before resistance prevented its completion through parliament.

We hope the Review will highlight the importance of Brazil implementing treaty body recommendations and strongly recommend that Brazil 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 Brazil

The home

Corporal punishment is lawful in the **home**. According to article 1634 of the Civil Code (2002), children have an obligation to obey and respect their parents; article 1638 allows “moderate” punishment of children by parents.

Children have some protection from violence and abuse under the Criminal Code (1940, amended 2005), the Code on Children and Adolescents (1990, amended 2005), the Law on Domestic and Family Violence against Women (2006) and the Constitution (1988, amended 2005). Article 136 of the Criminal Code punishes actions that endanger the life or health of a person under the authority or custody of the one who commits the action, including abusing corrective or disciplinary measures.

Bill No. 2,654 (2003) proposes amendments to the Code on Children and Adolescents and the Civil Code which would prohibit corporal punishment in all settings, including the home, schools and places of detention. The Bill was formally approved without amendments by three commissions in the House of Representatives in January 2006, but an appeal introduced by the Evangelical Group prevented it from moving to the Senate. As at September 2007, consideration was being given to re-submitting the Bill in 2008.

Research by the Child Studies Laboratory (LACRI), University of Sao Paulo, has revealed a high prevalence of corporal punishment in the home. The most common forms of punishment of children aged 7-9 were smacking, spanking and ear/hair pulling (42%, 42% and 37% respectively for boys; 33%, 24% and 28% for girls); of those aged 10-12 years, between a quarter and just over a half of those who reported having received corporal punishment were still being beaten, and among those aged 13-15 who experienced corporal punishment, there was no form of punishment that had not been experienced by at least one child.¹

Schools and other settings

Corporal punishment is lawful in **schools**. The Code on Children and Adolescents refers to the right of children and adolescents to be respected by their tutors, but there is no explicit prohibition of corporal punishment.

In the **penal system**, corporal punishment is prohibited as a sentence for crime, but it is lawful as a disciplinary measure in penal institutions. The Code on Children and Adolescents recognises the right of adolescents deprived of their liberty to be treated with respect and dignity (article 124) and charges the state with responsibility for ensuring their physical and mental integrity (article 125), but there is no explicit prohibition of physical punishment in detention centres. Research has repeatedly found that children in conflict with the law are routinely beaten.²

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

II: Recommendations by human rights treaty monitoring bodies

In 2004, following examination of the state party’s initial report, the **Committee on the Rights of the Child** expressed concern about the legality of corporal punishment in Brazil and recommended its prohibition, stating (CRC/C/15/Add.241, paras. 42 and 43):

“The Committee expresses its concern that corporal punishment is widely practised in the State party and that no explicit legislation exists in the State party to prohibit it. Corporal punishment

¹ Azevedo, M. A. & de Azevedo Guerra, V. N., 2001, *Hitting Mania: Domestic corporal punishment of children and adolescents in Brazil*, Sao Paulo: IGLU Editora

² Human Rights Watch, 2003, *Cruel Confinement: Abuses against detained children in Northern Brazil*; Human Rights Watch, 2004, “*Real dungeons*”: *Juvenile Detention in the State of Rio de Janeiro*, vol.16, no.7

is used as a disciplinary measure in penal institutions, 'reasonable' punishment is carried out in schools and 'moderate punishment' is lawful in the family.

"The Committee recommends that the State party explicitly prohibit corporal punishment in the family, school and penal institutions, and to undertake education campaigns that educate parents on alternative forms of discipline."