



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

PERU

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 2nd 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 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 gaps in prohibition in Peru, despite repeated recommendations by the Committee on the Rights of the Child. It also notes the legal reform under way to introduce prohibition.

We hope the Review will highlight with concern the continued legality of corporal punishment of children in Peru and strongly recommend that Peru enact 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 Peru

The home

Corporal punishment is lawful in the **home**. The Code on Children and Adolescents (2000, amended 2007) states (article 74): “The duties and rights of parents who exercise custody include: ... (d) Providing [children] with good examples and correcting them moderately....” A similar provision in the Civil Code (1984, as modified by the Code on Children and Adolescents) states (article 423): “Duties and rights of parents who have custody include (3) Moderately correcting their children....” Misuse of the means of correction or discipline is punishable under article 128 of the Criminal Code (1991).

As at February 2007, legislation to prohibit all corporal punishment, including in the family, had been drafted by the Andean Commission of Jurists and reviewed and approved by a group of national and international NGOs which agreed to support its introduction into parliament. The People’s Ombudswoman has given her full support to the initiative.

Schools and other settings

Corporal punishment is forbidden in **schools** by Supreme Decree No 007-2001-ED, Approval of Norms for the Management and Development of Activities in Educational Centres and Programmes (2001), but there is no explicit prohibition in law. The Code on Children and Adolescents recognises the child’s right to respect for his/her dignity by teachers (articles 15 and 16). There is a similar provision in the General Education Law (2003) (article 53).

In the **penal system**, corporal punishment is unlawful as a sentence for crime but is not explicitly prohibited as a disciplinary measure in penal institutions.

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

II: Recommendations by human rights treaty monitoring bodies

In 2006, following examination of the state party’s third report, the **Committee on the Rights of the Child** expressed concern at the legality of corporal punishment in the home and recommended explicit prohibition in all settings, stating (CRC/C/PER/CO/3, paras. 42 and 43):

“ While the Committee welcomes the legal provisions in place to prohibit corporal punishment both in the Penal Code and in Law No. 26260, it expresses concern that corporal punishment is lawful at home and is still widely practiced in the society as an accepted measure of discipline, both within the family and at school. Furthermore, the Committee is concerned that a recent survey showed that children themselves regard this practice as a natural means of discipline and education.

“The Committee recommends that the State party introduce and enforce legislation explicitly prohibiting all forms of corporal punishment of children in all settings, including in the home. The State party should also conduct awareness raising and public education campaigns against corporal punishment and promote non-violent, participatory methods of childrearing and education.”

The Committee had expressed similar concerns following examination of the state party’s second report in 2000 and had recommended “that the use of corporal punishment at home, in schools and other institutions be explicitly prohibited by law” (CRC/C/15/Add.120, para. 22).