The human rights obligation to prohibit corporal punishment

The legality and practice of corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity and to equal protection under the law, and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment – rights guaranteed in the International Covenant on Civil and Political Rights and other international human rights instruments. This briefing describes the legality of corporal punishment of children in Paraguay and urges the Human Rights Committee to include the issue in its examination of the implementation of the Covenant.

The third state party report to the Human Rights Committee

The third report of Paraguay to the Human Rights Committee (CCPR/C/PRY/3) describes legislative and other measures to address domestic violence but does not refer to corporal punishment, violence that may lawfully be inflicted on children in the name of discipline.

Corporal punishment of children in Paraguay

Corporal punishment of children in Paraguay is unlawful in the penal system but it is lawful in the home, schools and alternative care settings.

There appears to be no confirmation in legislation of a right of correction for parents in the home but provisions against violence and abuse in the Constitution (1992), the Children and Adolescents Code (2001), the Criminal Code (1998) and the Law Against Domestic Violence (2000) are not interpreted as prohibiting all corporal punishment in childrearing. Children are legally protected only from corporal punishment which is considered to cause harm or injury (Children and Adolescents Code, articles 72 and 73; Penal Code, articles 112 and 134).

A 2010 UNICEF study found that 61% of respondents had experienced violence or other kinds of mistreatment from their closest family members. The study, the first of its kind in Paraguay, involved over 800 children and young people aged 10-18, attending 54 private and public schools in different areas of the country. One in three (35%) had experienced severe physical violence (being hit with objects, kicked, burned or suffocated) in their families; 13% had experienced “light” physical violence (including slaps, having their hair pulled and being forced to stay in uncomfortable positions); 13% psychological violence such as insults and threats of abandonment; 13% being hit until they bled, 7.7% needing medical attention.¹

There is no explicit prohibition of corporal punishment in schools. A number of laws protect students’ dignity, including the Children and Adolescents Code (articles 21, 22 and 114) and the General Education Law (1998) (article 125), but they do not prohibit corporal punishment.

In the penal system, corporal punishment is unlawful as a sentence for crime under the Constitution, the Criminal Code and the Code of Criminal Procedure (1998). It is explicitly prohibited as a disciplinary measure in penal institutions in article 245 of the Children and Adolescents Code.

¹ UNICEF (2010), Resumen Para Prensa: Estudio sobre maltrato infantil en el ámbito familiar, Paraguay 2010
With regard to alternative care settings, corporal punishment is prohibited in shelter homes under articles 21 and 28 of the Enabling Regulations under the Children and Adolescents Code for the operation of shelter homes for children and adolescents in the special protection system (2006). There is no explicit prohibition of corporal punishment in other forms of care.

Opportunities for achieving law reform to prohibit corporal punishment

A bill has been drafted which would prohibit corporal punishment in all settings, and is being promoted by representatives from civil society and public institutions in a national working group established for the purpose in 2011. As at December 2011, the draft was being reviewed and plans were being made with the aim of ensuring adoption of the law in 2012.

Recommendations by human rights treaty monitoring bodies

The Committee on the Rights of the Child has twice recommended that all corporal punishment of children be prohibited in Paraguay – in its concluding observations on the second report in 2001 (CRC/C/15/Add.166, para. 32) and again on the third report in 2010 (CRC/C/PRY/CO/3, para. 38). In 2011, the Committee Against Torture recommended prohibition of corporal punishment in all settings including the home (CAT/C/PRY/CO/4-6, Advance Unedited Version, Concluding observations on fourth-sixth report, para. 26).

We hope the Human Rights Committee will raise the issue of corporal punishment of children in its List of Issues for Paraguay, in particular asking:

- What measures have been taken to ensure that corporal punishment of children is explicitly prohibited, by law, in all settings including the home?

We hope the Committee will subsequently recommend that the state party expedite the passage of the bill against corporal punishment of children and adopt legislation explicitly prohibiting all corporal punishment in all settings, including the home, as a matter of priority.

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

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