

**BRIEFING ON THE DOMINICAN REPUBLIC FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 119th session (March 2017)**

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**This briefing describes the legality of corporal punishment of children in the Dominican Republic. In light of the obligation under international human rights treaties to prohibit all corporal punishment of children, the global commitment to ending violence against children – including corporal punishment – in the context of the 2030 Agenda for Sustainable Development, the recommendations of the UN Secretary General’s Study on Violence against Children, the recommendations made to the Dominican Republic by the Committee on the Rights of the Child (in 2008 and 2015) and during the UPR in 2009 (which the Government accepted), and the Government’s commitment to prohibiting all corporal punishment of children, we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues for the Dominican Republic, in particular asking what progress has been made to ensure legislation is enacted which clearly prohibits all corporal punishment of children, including in the home and all day care and alternative care settings, and**
* **in its concluding observations on the Dominican Republic’s sixth report, welcome the state party’s commitment to prohibit all corporal punishment, and recommend that this commitment be fulfilled by immediately enacting legislation explicitly prohibiting all corporal punishment of children including in the home and in all day care and alternative care settings.**

**1 The report of the Dominican Republic to the Human Rights Committee**

1.1 The Dominican Republic’s sixth state party report to the Human Rights Committee (CCPR/C/DOM/6) details the legislative context regarding violence against women and children but does not address the issue of corporal punishment. The Dominican Republic has in fact committed to prohibiting all corporal punishment of children and has taken some steps towards the fulfilment of this commitment. We provide details below.

**1.2 We hope the Committee will raise the issue of corporal punishment of children in its review of the Dominican Republic and recommend that legislation be immediately enacted to explicitly prohibit corporal punishment of children in all settings, including the home.**

**2 The legality of corporal punishment of children in the Dominican Republic**

2.1 ***Summary:*** In the Dominican Republic, corporal punishment is unlawful in the penal system and in schools, but it is not fully prohibited in the home and in all forms of alternative care and day care.

2.2 ***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. The Code on Protection of Children and Adolescents 1994, which the 2003 Code repealed, included in its definition of maltreatment “personal injury caused by corporal punishment” (art. 126): this definition is not reiterated in the 2003 Code but there is nothing in the latter to suggest that it is intended to prohibit all corporal punishment of children, however light. Provisions against violence and abuse in the Law Against Domestic Violence 1997 do not include prohibition of all corporal punishment.

2.3 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”. These provisions are not interpreted as prohibiting all corporal punishment of children by parents.

2.4 Research conducted in 2014 as part of UNICEF’s Multiple Indicator Cluster Surveys (MICS) programme, found on average 63% of 1-14 year-old children experienced some form of violent discipline (psychological aggression and/or physical punishment) in the month prior to the survey. On average 54% of children experienced psychological aggression, 42% physical punishment and 3% severe physical punishment (hit or slapped on the face, head or ears, or hit repeatedly). Physical punishment of children was most common in the poorest households (45%) and least in the richest (37%), and more common for children aged 1-9 (47%) than those aged 10-14 (35%). Only 20% of children experienced only non-violent forms of discipline.[[1]](#footnote-1)

2.5 ***Alternative care settings (lawful):***There is no explicit prohibition of corporal punishment in alternative care settings (formal foster care, institutions, orphanages, children’s homes, places of safety, emergency care, etc). Legal provisions against violence and abuse in the Constitution and other laws protect children from some but not all corporal punishment.

2.6 ***Day care (lawful):***There is no explicit prohibition of corporal punishment in formal early childhood care (nurseries, crèches, children’s centres, etc) and formal day care for older children (after-school childcare, childminding, day centres, etc). Legal provisions against violence and abuse in the Constitution and other laws protect children from some but not all corporal punishment.

2.7 ***Schools (unlawful):***Article 48 of the Code on the Protection of the Rights of Children and Adolescents 2003 explicitly prohibits corporal punishment in schools.

2.8 ***Penal institutions (unlawful):***Article 349 of the Code for the Protection of the Rights of Children and Adolescents 2003 explicitly prohibits corporal punishment of children in conflict with the law.

2.9 ***Sentence for crime (unlawful):*** There is no provision for judicial corporal punishment in criminal law.

**3 The Dominican Republic’s commitment to prohibiting all corporal punishment and progress to date**

3.1 The Government has signalled its commitment to prohibiting all corporal punishment of children. In 2009, the Government accepted the recommendation to prohibit corporal punishment in all settings made during the Universal Periodic Review (UPR).[[2]](#footnote-2) In reporting to the UPR in 2014, the Government stated that work was under way “on drafting a provision to combat child abuse that covers corporal or physical punishment based on the Guide on Comprehensive Health Care for Children and Adolescent Victims of Violence and Abuse”.[[3]](#footnote-3) The Government reported to the Committee on the Rights of the Child in 2015 that it had adopted a national roadmap on the prevention and elimination of violence against children;[[4]](#footnote-4) this was officially launched on 30 April 2015.[[5]](#footnote-5) It follows the adoption in 2011 of the Regional Roadmap on Violence against Children by the Central American Governments of Cuba, Mexico and the Dominican Republic, which includes a recommendation to adopt national legislation to explicitly prohibit all corporal punishment and to repeal provisions allowing for “moderate” punishment/correction.[[6]](#footnote-6)

3.2 Current law reform includes the reform of the Penal and Civil Codes, including to ensure compliance with the new Constitution. The Government has also indicated that a Family Code was in the process of being drafted, in order to bring legislation in line with the state’s international obligations.[[7]](#footnote-7) However, to our knowledge legislation to prohibit corporal punishment has not yet been drafted.

**4 Recommendations by human rights treaty bodies and during the UPR**

4.1 ***CRC:*** The Committee on the Rights of the Child has twice recommended to the Dominican Republic that legislation be enacted to explicitly prohibit corporal punishment in all settings, including the home – in its concluding observations on the state party’s second report in 2008[[8]](#footnote-8) and on the third-fifth report in 2015.[[9]](#footnote-9)

4.2 ***UPR:*** At the first cycle Universal Periodic Review of the Dominican Republic in 2009, the Government accepted the recommendation to prohibit corporal punishment of children in all settings.[[10]](#footnote-10)

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1. Oficina Nacional de Estadística & UNICEF (2016), *Encuesta Nacional de Hogares de Propósitos Múltiples - Encuesta de Indicadores Múltiples por Conglomerados 2014*, Informe Final, Santo Domingo, República Dominicana: Oficina Nacional de Estadística [↑](#footnote-ref-1)
2. 4 January 2010, A/HRC/13/3, Report of the working group, para. 87(14) [↑](#footnote-ref-2)
3. 8 November 2013, A/HRC/WG.6/18/DOM/1, National report to the UPR, para. 21 [↑](#footnote-ref-3)
4. 15 January 2015, CRC/C/SR.1932, Summary record of 1932nd meeting, para. 31 [↑](#footnote-ref-4)
5. NGO Coalition for Children, correspondence with the Global Initiative, 6 May 2015; see also <http://www.listindiario.com/la-republica/2015/5/5/366053/Castigaran-a-adultos-que-les-den-pelas-a-los-ninos>, accessed 12 May 2015 [↑](#footnote-ref-5)
6. Regional Road Map on Violence against Children, adopted in 2011, 1 and 2 December in Santo Domingo, as a follow-up to the recommendations of the UN Study on Violence against Children, available at <http://srsg.violenceagainstchildren.org/sites/default/files/political_declarations/Hoja%20de%20Ruta%20Final%20EVCN%20Centroamericano%20Dic%202012.pdf>, accessed 21 February 2015 [↑](#footnote-ref-6)
7. 27 July 2016, CCPR/C/DOM/6, Sixth periodic report of the Dominican Republic, para. 125 and 126 [↑](#footnote-ref-7)
8. 11 February 2008, CRC/C/DOM/CO/2, Concluding observations on second report, paras. 45 and 46 [↑](#footnote-ref-8)
9. 4 February 2015, CRC/C/DOM/CO/3-5, Concluding observations on third-fifth report, paras. 31 and 32 [↑](#footnote-ref-9)
10. 4 January 2010, A/HRC/13/3, Report of the working group, para. 87(14) [↑](#footnote-ref-10)