



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

COSTA RICA – COUNTRY REPORT

Summary of necessary legal reform to achieve full prohibition

Corporal punishment is prohibited in all settings, including the home.

DETAILED COUNTRY REPORT

Current legality of corporal punishment

Home

Corporal punishment is prohibited in the home by Law on the Rights of Children and Adolescents to Discipline Free from Corporal Punishment and Other Forms of Humiliating Treatment (Law No. 8654, 2008). The Law amended article 143 of the Family Code (1974) to state: “Parental authority confers the rights and imposes the duties to orient, educate, care, supervise and discipline the children, which in no case authorises the use of corporal punishment or any other form of degrading treatment against the minors.” The Law also added article 24bis to the Code on Children and Adolescents (1998): “Children and adolescents have a right to receive counselling, education, care and discipline from their mother, father or tutor, as well as from their caretakers or the personnel from educational and health centres, shelters, youth detention or any other type of centres, that in no way represents an authorisation of any sort to these parties for the use of corporal punishment or degrading treatment. The Patronato Nacional de la Infancia shall coordinate with the institutions conforming to the National Integral Protection System and NGOs, for the implementation of educational campaigns and programmes directed to parents and other adults in custodial or caring roles.”

Schools

Corporal punishment is prohibited in schools under article 143 of the Family Code and article 24bis of the Code on Children and Adolescents (see above).

Penal system

Corporal punishment is unlawful as a **sentence for crime**. It is not among the permitted sanctions under article 121 of the Juvenile Criminal Justice Law. Article 138 states that the children who are being sanctioned have the “right to life, dignity and physical and moral integrity” and may not be subject to corporal punishment.

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions under article 24bis of the Code on Children and Adolescents (see above) and Act No. 8649 (2008) on the Application of juvenile criminal penalties.

Alternative care

Corporal punishment is prohibited in alternative care settings under article 143 of the Family Code and article 24bis of the Code on Children and Adolescents (see above).

Prevalence research

In a national survey carried out between November 2009 and January 2010, more than half of those interviewed (57.2%) believed that although physical and humiliating punishment should not be used, in some cases there was no option. Most interviewees (86%) knew about the law; 64.3% agreed with it. Most felt that the law would lead to children growing up to be more undisciplined (65.7%), showing

poorer academic performance (54.6%), and being more impulsive (62.9%) and less respectful (62.5%); they may also show more initiative (59.5%) and more self-assurance (53.9%).¹

In 2003, a survey by the Paniamor Foundation of 1,034 school children aged 9-16 found that nearly half (47.8%) experienced physical punishment occasionally in the home, while 4.2% experienced it frequently, more so for boys than girls in both cases; 11% said they had been punished in the past 15 days. The reasons given for being punished were mainly concerned with correcting behaviour: “they behave badly” (71.5%), “they don’t do as they are told” (22.7%), “to educate” (5.8%). Most punishment was administered by parents (mother 78%, father 77%), but was also given by grandparents (20%), older siblings (20%), uncles (19%), caregivers (16%), teachers (12%), domestic workers (9%), and the school principal (8%). When asked how they feel when they are punished, the most frequent responses were sadness (79.2%), pain (56.7%), fear (42.6%), guilt (39.8%) and loneliness (37.1%). The large majority of children viewed corporal punishment negatively, with almost two out of five children saying it is very bad and almost a third saying that people should not be punished in this way.²

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(17 June 2011, CRC/C/CRI/CO/4 Advance Unedited Version, Concluding observations on fourth report, paras. 4, 43, 44, 45 and 46)

“The Committee welcomes as positive steps the adoption of the following legislative measures: ...

c) Act No. 8654 on the Rights of children and adolescents to be disciplined without physical punishment or degrading treatment, in 2008; ...

“The Committee notes that the National Plan for the Prevention of Violence and the Promotion of Peace (2007) is being evaluated and that a new plan is being drafted to include drug trafficking and consumption. It also welcomes the programme Windows of Peace 2010-2014 including the proclamation of “child-friendly” cantons. However, the Committee notes with concern: ...

a) tendencies in the media and in the legislature promoting zero tolerance or *mano dura* policies to prevent delinquency among children and adolescents in vulnerable situations, in particular children in street situations; and

b) continued allegations of ill-treatment of juveniles in detention and in penal institutions, despite the fact that Act No. 8654 (2008) on the Rights of children and adolescents to be disciplined without physical punishment or degrading treatment and Act No. 8649 (2008) on the Application of juvenile criminal penalties prohibit the use of corporal punishment and degrading treatment by the staff of juvenile detention centres and penal institutions.

“The Committee urges the State party to ensure that plans to prevent violence and promote peace are adequately implemented and evaluated so that they discourage repressive and retrogressive actions against children and adolescents, in particular those in vulnerable situations. It also urges the State party to investigate and prosecute all cases of ill-treatment of children by police officers and prison guards, and bring perpetrators to justice.

¹ Reported in Grillo, M. (2011), “Costa Rica: Ending Physical and Humiliating Punishment in a Central American Country”, in Durrant, J. E. & Smith, A. B. (eds) (2011), *Global Pathways to Abolishing Physical Punishment: Realizing Children’s Rights*, New York: Routledge, pp. 112-121

² Paniamor Foundation/Save the Children Sweden (2004), “National Survey of Children and Adolescents on Physical Punishment”, part of project “Prevencion de la Violencia desde la Familia y la Adolescencia”, presented at Costa Rica, March 2004

“The Committee welcomes the adoption of Act No. 8654 (2008) on the Rights of children and adolescents to be disciplined without physical punishment or degrading treatment, prohibiting corporal punishment and degrading treatment of children or adolescents by parents, guardians, alternative caregivers and the staff of educational, health, day-care and juvenile detention centres. However, it remains concerned that corporal punishment is still perceived as sometimes necessary by a large percentage of the population, that the Office of the Ombudsman has received a high number of complaints and queries from children and adolescents regarding mistreatment by teachers, and that perpetrators are only being held criminally responsible when the corporal punishment has resulted in physical injuries.

“In light of article 28 (2) of the Convention and of General Comment N° 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recommends that the State party:

- a) ensure the full implementation of Act No. 8654 prohibiting corporal punishment, that all cases of corporal punishment are effectively investigated and prosecuted and that perpetrators, including teachers, are being held criminally responsible, irrespective of whether or not such punishment has resulted in physical injuries of the child;
- b) continue to take appropriate measures to raise the awareness of the general public, including children, on the unlawfulness and the negative consequences of corporal punishment and other forms of violence in the upbringing of children; and
- c) sensitize parents, teachers and others working with and for children about alternative, non-violent forms of discipline.”

Committee on the Rights of the Child

(21 September 2005, CRC/C/15/Add.266, Concluding observations on third report, paras. 31 and 32)

“The Committee welcomes the efforts made by the State party to sensitize the different actors involved on the need to eradicate corporal punishment in the family, in school and in other institutions, and the fact that the Legislative Assembly is examining a bill prohibiting corporal punishment. The Committee remains however concerned at the fact that corporal punishment is still not explicitly prohibited in domestic law, as recommended by the Committee in its previous concluding observations, and still perceived as ‘sometimes necessary’ by a large portion of the population (CRC/C/15/Add.117, para. 17).

“The Committee reiterates its recommendation that the State party should incorporate the prohibition of corporal punishment in its legislation and continue to take appropriate measures to raise the awareness of the general public on the negative consequences of corporal punishment and other forms of violence in the upbringing of children, and to sensitize parents, teachers and others working with and for children about the alternative, non-violent means of discipline in the light of article 28 (2) of the Convention.”

Committee on the Rights of the Child

(24 February 2000, CRC/C/15/Add.117, Concluding observations on second report, para. 17)

“The Committee expresses its concern about the inadequate enforcement of the prohibition on the use of corporal punishment in schools and other institutions and in the penal system. In addition, the Committee expresses its concern that the practice of physical punishment of children in the home is not expressly prohibited by law and remains regarded as socially acceptable. The Committee recommends that the State party prohibit the use of corporal punishment in the home and take effective measures to enforce the legal prohibition of corporal punishment in schools and other institutions and in the penal system. The Committee further recommends that the State party undertake educational

campaigns for the development of alternative disciplinary measures for children at home, in schools and other institutions.”

Committee Against Torture

(7 July 2008, CAT/C/CRI/CO/2, Concluding observations on second report, para. 23)

“The Committee notes with satisfaction that corporal punishment is banned in education and in juvenile prisons. However, in the family, article 143 of the Family Code states that parents have the right to correct children in a moderate manner, which has been interpreted as allowing the use of corporal punishment (art. 16).

The Committee takes note of the bill to abolish physical punishment of children and young people submitted to the Legislative Assembly by the Ombudsman, and the setting up of a group to discuss the issue. It encourages the State party to expedite the complete prohibition of corporal punishment of children.

Committee on Economic, Social and Cultural Rights

(4 December 2007, E/C.12/CRI/CO/4 draft, Concluding observations on combined second, third and fourth report, paras. 23 and 44)

“The Committee is concerned about the fact that corporal punishment within the family, in the form of ‘moderate correction’, is still allowed under article 143 of the State party’s Family Code.

“The Committee encourages the State party to expedite the adoption of currently existing proposals to amend article 143 of the Family Code and the law providing for an explicit prohibition of all corporal punishment that is currently under consideration.”

Universal Periodic Review

Costa Rica was examined under the Universal Periodic Review process in 2009. Full prohibition of corporal punishment was achieved in 2008.

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