



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

NICARAGUA – COUNTRY REPORT

Child population: 2,420,000 (UNICEF, 2009)

Summary of necessary legal reform to achieve full prohibition

Settings where explicit prohibition is necessary

home, alternative care settings

Is there a legal defence for corporal punishment which must be repealed?

Yes – Article 155 of the Penal Code confirms a “right to disciplinary punishment” of children. This article should be amended. The near universal social acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment is acceptable, as well as explicit prohibition of all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults have parental authority.

Other legislative measures necessary

Alternative care – Explicit prohibition should be enacted in legislation applicable to all alternative care settings, including public and private day care, residential institutions, foster care, etc.

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment is lawful in the home. Article 155 of the Penal Code (2008) punishes domestic violence “except in such cases in which the right to disciplinary punishment is exercised”. Provisions against violence and abuse in the Code on Children and Adolescents (1998), the Mother, Father and Child Relations Act, the Constitution (1986), Law No. 230 Reforms and additions to the Criminal Code to prevent and sanction domestic violence (1996), and the Policy on Special Protection of Children and Adolescents (2006) are not interpreted as prohibiting all corporal punishment in childrearing. In 2009, proposals were made to include in the draft Family Code under discussion explicit prohibition of all corporal punishment by parents. As at February 2012, the no new Family Code appears to have been enacted.

Schools

Corporal punishment is prohibited in schools under article 100 of the General Education Law: “Students have the following rights: ... c) to be treated with justice and respect, not be subject to corporal punishment, humiliation and discrimination...”

Penal system

Corporal punishment is unlawful as a **sentence for crime**. There is no provision for judicial corporal punishment in the Penal Code or the Code on Children and Adolescents.

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions. Article 101 of the Code on Children and Adolescents states that adolescents subject to criminal justice have the right to be treated with respect for their dignity and personal integrity. Article 213 establishes the right of adolescents “not to be held incommunicado or placed in solitary confinement, or not to be imposed corporal punishment”. Corporal punishment is also prohibited by article 7 of the Prison and Execution of Sentences Act (2003).

Alternative care

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

Prevalence research

A survey by Save the Children Norway-Nicaragua in 2007 of more than 900 adults in one urban and one rural area found that the vast majority agreed that hitting children is acceptable provided “it is not overdone” (90% in the rural area, 85% in the urban area). An estimated 70% of those surveyed in the rural area and 60% in the urban area stated that children are hit in the home. Half of those interviewed admitted to having recently hit children in their care, most within the previous month. The use of corporal punishment was more common among women and among those who had been physically punished in their own childhood. There was no correlation with work, level of education, marital status, or religious affiliation or practice. (Save the Children Norway-Nicaragua (2007-2008), *Adult attitudes towards the physical punishment of children and related practices in the target municipalities of Nicaragua*. Information provided to the Global Initiative, May 2008)

Surveys carried out in 2002-2004 examined the attitudes of children and adults in Argentina, Brazil, Costa Rica, Nicaragua, Peru and Venezuela towards physical punishment. In Nicaragua, 260 children were surveyed. Nearly a third (33.1%) of the children agreed that children should not be physically punished or that “punishment does not solve anything”, and nearly a quarter (24.6%) agreed that physical punishment is “very bad” or “makes children violent”. Fifty-eight per cent thought that physical punishment is never necessary. (Save the Children Sweden & Instituto de Encuestas y Sondeos de Opinión (2005), *Sistematización de las Encuestas Sobre la Percepción del Castigo Físico en Seis Países de America Latina*, presentation: Managua, 16 May 2005)

According to statistics from UNICEF relating to the period 2001-2007, of girls and women aged 15-49, 17% think that a husband is justified in hitting or beating his wife under certain circumstances. (UNICEF (2009), *Progress for Children: A report card on child protection*, NY: UNICEF)

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(1 October 2010, CRC/C/NIC/CO/4 Advance Unedited Version, Concluding observations on fourth report, paras. 6, 7, 48, 49 and 50)

“The Committee notes with concern that various concerns and recommendations made upon the consideration of the State party’s third periodic report (CRC/C/15/Add.265, 21 September 2005) have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.

“The Committee urges the State party to take all necessary measures to address those recommendations contained in the concluding observations on the third periodic report that have not been sufficiently implemented, including those related to ... corporal punishment....

“The Committee is very concerned that article 155 of the Penal Code, while prohibiting corporal punishment, makes an exception to the offence in order to allow for ‘disciplinary correction’. It is also concerned at the inadequate application of MINED administrative regulations that prohibit physical punishment at school.

“The Committee strongly recommends that the State party amend article 155 of the Penal Code, explicitly stating that all corporal punishment constitutes an offence in the family and in alternative care settings, as well as in the school and in public administration and judicial settings. Furthermore, the Committee urges the State party to ensure that the Education Law and the administrative regulations concerning alternative methods of positive and participatory discipline are enforced, and that abusers are severely punished. With regard to the police and the judiciary, the Committee recommends that appropriate standards are set and enforced preventing and severely sanctioning corporal punishment against children and adolescents while in police custody and during judicial proceedings.

“With reference to the United Nations Study on violence against children (A/61/299), the Committee recommends that the State party take all necessary measures for the implementation of the recommendations contained in the report of the independent expert for the United Nations study on violence against children while taking into account the outcome and recommendations of the regional consultation for Latin America held in Buenos Aires between 30 May and 1 June 2005. In particular, the Committee recommends that the State Party pay particular attention to the following recommendations:

a) prohibit all forms of violence against children in all settings, including all corporal punishment....”

Committee on the Rights of the Child

(21 September 2005, CRC/C/15/Add.265, Concluding observations on third report, paras. 43 and 44)

“While the Committee notes that there is legislation in place prohibiting all forms of violence against children, including corporal punishment, it expresses concern that this legislation does not seem to be interpreted as prohibiting all forms of corporal punishment and that corporal punishment is still widely accepted in society.

“The Committee recommends that the State party introduce – and enforce where applicable – legislation explicitly prohibiting all forms of corporal punishment of children in the home, schools and all other institutions and forms of childcare. The State party should also conduct awareness-raising and public education campaigns against corporal punishment and promote non-violent, participatory forms of discipline.”

Human Rights Committee

(12 December 2008, CCPR/C/NIC/CO/3, Concluding observations on third report, para. 15)

“The Committee is concerned that the corporal punishment of children at school is not forbidden by law, and regrets that no specific information on the subject has been provided (arts. 7 and 24).

National legislation in the State party should ban all corporal punishment of children, at school and in other institutions for children.”

Universal Periodic Review

Nicaragua was examined in the first cycle of the Universal Periodic Review in 2010. The Government accepted the recommendation to prohibit corporal punishment of children in all settings (A/HRC/14/3, Report of the Working Group, para. 90(28)). Examination in the second cycle is scheduled for 2014.

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

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