

Corporal punishment of children in Brazil

LAST UPDATED July 2018

Also available online at

www.endcorporalpunishment.org

Child population 58,433,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Law reform has been achieved. Corporal punishment is unlawful in all settings, including the home.

Prohibition of corporal punishment

Home

In 2014, the Code on Children and Adolescents 1990 was amended to prohibit all corporal punishment of children. Law No. 7,672/2010 inserts a new article 18-A into the Code which states (unofficial translation): “Children and adolescents are entitled to be educated and cared for without the use of physical punishment or cruel or degrading treatment as forms of correction, discipline, education or any other pretext, by their parents, by the members of their extended family, by persons responsible for them, by public officials implementing social and educational measures or by any other person entrusted with taking care of them or treating, educating or protecting them...” Other amendments to the Code provide for a range of measures to ensure implementation of the prohibition, including referral to a family protection programme, warning and referral for guidance courses, without prejudice to any other legal measures that may be taken, and for the promotion of permanent educational campaigns, ongoing professional education and training and a range of other actions to support non-violent parenting, education and conflict resolution (art. 18-B). The Law came into force on the date of publication, 27 June 2014.

The Government reported to the Committee on the Rights of the Child in 2015 that it is preparing a campaign to publicise the prohibiting law and promoting debates with federal Government agencies to establish actions aimed at implementing the prohibition.¹ Also being developed are policies and other measures concerned with responding to families and children where corporal punishment is being used, and educational materials for professionals involved in caring for children and families.

Brazil became a Pathfinder country with the Global Partnership to End Violence Against Children in 2018. This commits the Government to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals.

¹ 4 September 2015, CRC/C/BRA/Q/2-4/Add.1, Reply to list of issues, para. 23

Alternative care settings

Corporal punishment is prohibited in all alternative care settings (foster care, institutions, places of safety, emergency care, etc) under the Code of Children and Adolescents 1990 as amended in 2014 (see under “Home”).

Day care

Corporal punishment is prohibited in all early childhood care (nurseries, crèches, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc) under the Code of Children and Adolescents 1990 as amended in 2014 (see under “Home”).

Schools

Corporal punishment is prohibited in schools under the Code of Children and Adolescents 1990 as amended in 2014 (see under “Home”). In addition to amending the Code to explicitly prohibit corporal punishment, the 2014 law amended article 26 of Law No. 9,394 of 1996, which establishes the foundations and guidelines of the national education system, to state that “content relating to human rights and the prevention of all forms of violence against children and adolescents shall be included, as cross-cutting themes, in the school curricula”.

Penal institutions

Corporal punishment is prohibited as a disciplinary measure in penal institutions under article 18 of the Code of Children and Adolescents 1990 as amended in 2014 (see under “Home”). The Code recognises the right of adolescents deprived of their liberty to be treated with respect and dignity (art. 124) and charges the state with responsibility for ensuring their physical and mental integrity (art.125).

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in the Criminal Code 1940 or the Code on Children and Adolescents 1990.

Universal Periodic Review of Brazil’s human rights record

Brazil was examined in the first cycle of the Universal Periodic Review process in 2008 (session 1). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendation was made and was accepted by the Government:²

“Continue its commitment to resolving the issue of abuse of power and excessive use of force (Ghana)”

Examination in the second cycle took place in 2012 (session 13). During the review, Congressman Domingos Dutra, President of Human Rights Commission of the House of Representatives, noted the

² 22 May 2008, A/HRC/8/27, Report of the working group, para. 83(2)

bill prohibiting corporal punishment of children and adolescents as an example of legislative progress.³ No recommendations were made specifically concerning corporal punishment, but the following recommendations were made and were accepted by the Government:⁴

“Continue its efforts strengthening human rights, particularly within the framework of the family (Saudi Arabia);

“Implement further measures to combating and preventing torture, as well as strengthen existing mechanisms for the implementation of the recommendations of the UN Committee Against Torture and other international bodies (Uzbekistan);

“Make sure prisoners and detainees have at all times access to their rights and descriptions of proper treatment, including those laid down in the Standards Minimum Rules and the Body of Principles for the Protection of Detainees and to make sure that they have access to effective procedures to realize these rights (Netherlands);

“Make further efforts to improve conditions in detention facilities according to international standards, especially including developing gendersensitive policies and programmes for women (Republic of Korea);

“Take action to improve prison conditions, in particular to improve conditions of women’s detention facilities in accordance with international standards, and ensure protection of human rights of all detainees, including guarantees of due process and protection against cruel and inhumane treatment (Slovenia)”

Brazil was examined in the third cycle in 2017 (session 27). The following recommendation was made:⁵

“Further strengthen its efforts to enforce the “Boy Bernardo Act” and promote positive, non-violent and participatory forms of child-rearing and discipline (Liechtenstein)”

The Government accepted the recommendation.⁶

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(2 October 2015, CRC/C/BRA/CO/2-4, Concluding observations on second-fourth report, paras. 39 and 40)

“The Committee welcomes Act No. 13.010 (‘Boy Bernardo Act’) in 2014 prohibiting corporal punishment in all settings. However, the Committee is concerned that the law is not effectively enforced and that corporal punishment remains widely practiced and tolerated as a method of disciplining children.

“In the light of its general comment No. 8 (2006) on corporal punishment, the Committee recommends that the State party strengthen its efforts to enforce Act No. 13.010. It furthermore recommends that the State party promote positive, non-violent and participatory forms of child-rearing and discipline.”

³ 9 July 2012, A/HRC/21/11, Report of the working group, para. 87

⁴ 9 July 2012, A/HRC/21/11, Report of the working group, paras. 119(27), 119(63), 119(66), 119(67) and 199(68)

⁵ 17 May 2017, A/HRC/WG.6/27/L.9, Draft report of the Working Group, para. 136(203)

⁶ 6 September 2017, A/HRC/36/11/Add.1, Report of the working group: Addendum

Committee on the Rights of the Child

(1 October 2004, CRC/C/15/Add.241, Concluding observations on initial report, paras. 42 and 43)

“The Committee expresses its concern that corporal punishment is widely practised in the State party and that no explicit legislation exists in the State party to prohibit it. Corporal punishment is used as a disciplinary measure in penal institutions, ‘reasonable’ punishment is carried out in schools and ‘moderate punishment’ is lawful in the family.

“The Committee recommends that the State party explicitly prohibit corporal punishment in the family, school and penal institutions, and to undertake education campaigns that educate parents on alternative forms of discipline.”

Subcommittee on Prevention of Torture

(5 July 2012, CAT/OP/BRA/1, Report on first periodic visit, paras. 80, 86, 133, 143, 145, 146, 147, 148 and 149)

“The SPT also received numerous and consistent allegations from children and adolescents of torture and ill-treatment suffered upon arrest and during police custody. Children and adolescents alleged that the torture and ill-treatment committed by the military police took place upon arrest and the methods included slaps, kicking and boxing on all parts of the body...

“The SPT considers the above allegations to be cases of physical and mental torture or ill-treatment. The SPT condemns all acts of torture and ill-treatment and recalls that torture cannot be justified under any circumstance. The SPT reiterates its call for the Brazilian authorities to condemn any act of torture firmly and publicly and to take all the necessary steps to prevent torture and ill-treatment. Preventive steps include inter alia the conduct of prompt, impartial and independent investigations, the establishment of an efficient complaints system, and the prosecution and punishment of alleged perpetrators.

“On the basis of numerous interviews, the SPT found that children and adolescents were not given the special protection they needed from the moment of arrest. Those interviewed reported consistent practices of physical abuse, some amounting to torture, as well as a lack of legal safeguards.

“The SPT received consistent and numerous allegations of ill-treatment at Forum Bras and the adjacent building of Rio Nilo, both being pre-trial detention facilities adjacent to the Bras court in São Paulo. Children and adolescents reported a military atmosphere with strict discipline. The SPT observed that inmates kept their heads facing the floor and their hands behind their back, and were not allowed to talk. The SPT noticed bruises (black eyes) on the face of some of the inmates.

“Through interviews conducted with a number of children and adolescents, the SPT received credible and reiterated allegations of torture and ill-treatment. These included beatings by staff on the back of the head and other parts of the body with open hands, wood or metal batons, stripping of children and adolescents, forcing them to stand in uncomfortable positions, insults and threats. As an overall observation, the SPT noted that humiliating practices were resorted to as a tool to maintain discipline. In the Internment Unit of Jatobá in São Paulo the SPT collected evidence of dismissal and cover-up of injuries by medical staff...

“An extremely worrying element was the involvement of external security troops (*“tropa de choque”*) to maintain discipline and quell riots. Ordinarily, these troops would remain outside the centres and intervene only when requested to do so by the administration in the case of riots. However, the SPT

received a number of credible allegations that external troops would frequently, if not systematically, be requested to enter and apply excessive use of force and humiliating practices following a search of a centre or when a riot or even a disagreement arose between a child or adolescent and the staff. In one centre, these interventions had allegedly happened three times in one week. The children showed the SPT recent wounds from these beatings. This type of treatment was sometimes imposed with the participation of other staff, or even institution directors. The SPT received frequent allegations that acts of torture and other inhumane treatment were inflicted on children and adolescents in rooms or spaces hidden from existing video cameras.

“Regarding centres for girls, the SPT was concerned that in one centre, a silent mode system was imposed on newcomers during the first 24 hours in the centre, and as a form of punishment.

“The SPT considers the above allegations to be examples of physical or mental torture and ill-treatment, which are even more preoccupying given the young age of the victims. In light of the consistency of the allegations received, the SPT considers that torture, ill-treatment and other forms of abuse were practiced in most of the centres for children and adolescents visited.

“The SPT reiterates its categorical condemnation of all acts of torture and ill-treatment. The SPT recalls that children deprived of their liberty shall be treated in a manner consistent with the promotion of the child's sense of dignity and worth, reinforcing the child's respect for the human rights of others and taking into account the child's age and desirability of their reintegration in society.⁵⁰ The SPT requests to be provided with information on any plan of action devised to eradicate torture and ill-treatment in institutions for children and adolescents.”

Prevalence/attitudinal research in the last ten years

During the 2011 visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Brazil, the Subcommittee received numerous and consistent allegations of ill-treatment of children and young people in police custody, pre-trial detention facilities and penal institutions for children and adolescents, including beatings by staff on the back of the head and other parts of the body with open hands, wood or metal batons, stripping of children and adolescents, forcing them to stand in uncomfortable positions, and insults and threats.

(Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2012), *Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Brazil*)

A 2010 survey which involved interviews with 4,025 people over 16 found that 70.5% had experienced physical punishment as children, compared to 79.6% in a similar survey in 1999; 20.2% had been physically punished almost every day or once a week, compared to 23.2% in 1999.

(Cardia, N. (2012), *Pesquisa nacional, por amostragem domiciliar, sobre atitudes, normas culturais e valores em relação à violação de direitos humanos e violência: Um estudo em 11 capitais de estado*, São Paulo: Núcleo de Estudos da Violência da Universidade de São Paulo)

A 2012 study of men's childhood experiences of violence in Brazil, Chile, Croatia, India, Mexico and Rwanda, which involved men aged 18-59 living in urban settings, found a high prevalence of corporal punishment in all six countries. In Brazil, of the 744 men who participated, 36% reported having been spanked or slapped by a parent in the home during childhood, 6% threatened with physical punishment in the home and 8% humiliated by someone in their family in front of other people; 4% reported having been beaten or physically punished at school by a teacher. The study found that men who had experienced violence, including corporal punishment, during childhood, were more likely to perpetrate intimate partner violence, hold inequitable gender attitudes, be involved in fights outside the home or robberies, pay for sex and experience low self-esteem and depression, and were less

likely to participate in domestic duties, communicate openly with their partners, attend pre-natal visits when their partner is pregnant and/or take paternity leave.

(Contreras, M. et al (2012), *Bridges to Adulthood: Understanding the Lifelong Influence of Men's Childhood Experiences of Violence, Analyzing Data from the International Men and Gender Equality Survey*, Washington DC: International Center for Research on Women (ICRW) and Rio de Janeiro: Instituto Promundo)

A report comparing diagnosis and treatment of attention deficit hyperactive disorder (ADHD) in different countries found that in Brazil, physical punishment is considered by a large number of teachers to be a “therapeutic” treatment for ADHD.

(Reported in *Psychiatric News*, 46 (11), 3 June 2011)

A study on the relationship between severe physical punishment and mental health problems found that 20% of the children (aged 6-17) in the 813 participating households had suffered severe physical punishment (being hit with an object, being kicked, choked, smothered, burnt, scalded, branded, beaten or threatened with a weapon) by one or both parents in the last 12 months.

(Bordin, I. A. et al (2009), “Severe physical punishment: risk of mental health problems for poor urban children in Brazil”, *Bulletin of the World Health Organisation*, 87(5), 336–344)