

Corporal punishment of children in Colombia

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Child population 14,144,000 (UNICEF, 2015)

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

Current legality of corporal punishment

Home

Corporal punishment is prohibited in the home under article 1 of the Law “prohibiting the use of physical punishment, cruel, humiliating, or degrading treatment and any type of violence against children and adolescents as a method of correction against children and adolescents” (unofficial translation). In April 2021, the Colombian Congress passed a Bill (Law 2089 of 14 May 2021), to explicitly prohibit corporal punishment of children in all settings and amend both the Civil Code 1873 and the Children and Adolescents Code 2006.

Article 1 of the Law prohibiting the use of physical punishment, cruel, humiliating, or degrading treatment and any type of violence against children and adolescents as a method of correction against children and adolescents states: “Parents or individuals who exercise parental authority over children and adolescents have the right to educate, raise and correct their children according to their beliefs and values. The only limit is the prohibition to use physical punishment, cruel, humiliating, or degrading treatment and any type of violence against children and adolescents. The prohibition extends to any other person responsible for their care, in each of the different environments where childhood and adolescence unfold.” (unofficial translation)

Physical punishment is defined as an “action that takes place in the context of parenting, providing guidance or education, where physical force is used with the intention to cause physical pain, provided that this action does not constitute punishable conduct of abuse or domestic violence.” Humiliating punishment is defined as “any action that hurts the dignity of the child or adolescent or cruelly belittles, denigrates, degrades, stigmatizes or threatens them, provided that it does not constitute punishable conduct. It will not be grounds for losing parental authority or custody, nor grounds for emancipation processes, as long as it is not repetitive behavior, and the mental or physical health of the child or adolescent is not affected”. (article 2) (unofficial translation)

Article 3 of the new law amends article 262 of the Civil Code 1873 on “Non-violent supervision, correction and punishment” as follows: “Children and adolescents’ families, parents, caregivers, or their legal guardians will have the power to supervise their behaviour, correct them and sanction them.

The use of physical punishment, cruel, humiliating, or degrading treatment and any type of violence as a method of correction, sanction or discipline is prohibited.” (unofficial translation)

The Law introduces a new article 18-A to the Children and Adolescents Code 2006 on the “Right to be well treated” as follows: “Children and adolescents have the right to be well treated, to receive guidance, education, care and discipline through non-violent methods. This right includes the protection of their physical, psychological and emotional integrity, in the context of the rights of their parents or whoever exercises parental authority or their caregiver, to raise and educate them according to their values and beliefs.

Paragraph: Under no circumstances will physical punishment be admitted as a form of correction or discipline.” (unofficial translation).

Prior to this reform article 262 of the Civil Code 1883 (as amended 1974), confirmed the right of parents and other carers to “correct” children and “sanction them moderately”. Article 39(9) of the Children and Adolescents Code put an obligation on families to “refrain from any act or conduct involving physical, sexual or psychological maltreatment” but it did not clearly prohibit all corporal punishment.

The new law will also apply to children and adolescents in indigenous communities. Although article 3(2) of the Children and Adolescents Code 2006 gives indigenous peoples the ability to exercise their rights based on “their own standards”, article 1 of the prohibiting law specifically provides that parents or individuals’ right to “exercise parental authority over children and adolescents according to their beliefs and values” is limited by “the prohibition to use physical punishment, cruel, humiliating, or degrading treatment and any type of violence against children and adolescents”. Previously, indigenous children seemed to have less legal protection from corporal punishment than other children. In a 2012 judgment, the Constitutional Court confirmed that the Constitutional superiority of the rights of children must be interpreted in relation to indigenous communities in the context of each case.¹ A previous case law also established that physical punishment in indigenous communities which is not considered to be torture or to be degrading punishment did not violate the Constitution.²

Article 5 requires the National Government, through its relevant departments, to implement a National Pedagogical and Prevention Strategy within six months after the effective date of the law, promoting the elimination of physical punishment and cruel, humiliating or degrading treatment against children and adolescents. The National Pedagogical and Prevention Strategy will promote the participation of parents to identify and illustrate non-violent education, guidance and disciplinary alternatives and practices.

Colombia is a Pathfinder country with the Global Partnership to End Violence Against Children, which was established in 2016. This commits the Government to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals.

Alternative care settings

Corporal punishment is unlawful under article 1 of the Law prohibiting the use of physical punishment, cruel, humiliating, or degrading treatment and any type of violence against children and adolescents as a method of correction against children and adolescents. The law provides that “prohibition extends to any other person responsible for their care, in each of the different environments where childhood and adolescence unfold.” (unofficial translation) (see under “Home”).

Day care

Corporal punishment is unlawful under article 1 of the Law prohibiting the use of physical punishment, cruel, humiliating, or degrading treatment and any type of violence against children and adolescents as a method of correction against children and adolescents. In addition to parents, the law applies to any other person responsible for the care of children and adolescents in all settings. (see under “Home”).

Schools

Corporal punishment is unlawful in schools under article 1 of the Law prohibiting the use of physical punishment, cruel, humiliating, or degrading treatment and any type of violence against children and adolescents as a method of correction against children and adolescents. In addition to parents, the law applies to any other person responsible for the care of children and adolescents in all settings. (see under “Home”).

Penal institutions

Corporal punishment is unlawful under article 1 of the Law prohibiting the use of physical punishment, cruel, humiliating, or degrading treatment and any type of violence against children and adolescents as a method of correction against children and adolescents. (see under “Home”). The prohibiting law

¹ Sentence T-002/12

² Sentence T-523/97

applies “to any other person responsible for [their] care, in each of the different environments where childhood and adolescence unfold.” (unofficial translation).

Sentence for crime

Corporal punishment is unlawful as a sentence for crime under article 1 of the Law prohibiting the use of physical punishment, cruel, humiliating, or degrading treatment and any type of violence against children and adolescents as a method of correction against children and adolescents. The law provides that “any other person responsible for [their] care, in each of the different environments where childhood and adolescence unfold.” (unofficial translation) (see under “Home”).

Corporal punishment is unlawful as a sentence for crime concerning children in indigenous communities (see under “Home”). Previously, article 156 of the Children and Adolescents Code 2006 provided that they would be “judged according to the rules and procedures in their own communities as indigenous special legislation in Article 246 of the Constitution, international treaties on human rights ratified by Colombia and the law. Provided that the penalty imposed is not contrary to their dignity, nor allows him/her to be subjected to abuse....” (unofficial translation).

Universal Periodic Review of Colombia’s human rights record

Colombia was examined in the first cycle of the Universal Periodic Review in 2008 (session 3). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendation was made and was accepted by the Government:³

“Ensure the full protection of children’s rights, in particular of children who are victims of the internal armed conflict, and adequately address all situations of violence against women (Romania)”

The second cycle review took place in 2013 (session 16). No recommendations were made specifically on corporal punishment of children. However, the following recommendations were made and were accepted by the Government:⁴

“Enhance the protection for children, including by improving the investigation, prosecution and prevention of violence against children (Cyprus);

“Strengthen its efforts in the fight to eliminate violence against women and children (Senegal);

“Continue to work constructively to implement the laws, decrees and resolutions that have been approved to combat violence against women and girls and to guarantee access to justice for victims of sexual violence (Canada)”

Third cycle examination took place in 2018 (session 30). The Government noted the following recommendations:⁵

“Prohibit corporal punishment in all settings (Namibia)”

“Prohibit corporal punishment of children in all settings, including at home (Montenegro)”

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(4 February 2015, CRC/C/COL/CO/4-5 Advance Unedited Version, Concluding observations on fourth/fifth report, paras. 27 and 28)

“The Committee is deeply concerned at the high levels of violence which children are confronted with and in particular about: ...

d) reports that corporal punishment remains widespread and that it is not yet explicitly prohibited in all settings, including in the home....

“In the light of its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence and recalling the recommendations of the United Nations study on violence against children of 2006 (A/61/299), the Committee urges the State party to prioritize the elimination of all forms of

³ 9 January 2009, A/HRC/10/82, Report of the working group, para. 87(16)

⁴ 4 July 2013, A/HRC/24/6, Report of the working group, paras. 116(48), 116(53) and 116(56)

⁵ 9 July 2018, A/HRC/39/6, Report of the Working Group, paras. 121(24) and 121(26)

violence against children, and in particular to: ...

e) repeal the Article 262 of the Civil Code on the 'right of correction', ensure that its legislation explicitly prohibits corporal punishment in all settings, including for indigenous children, and raise awareness on positive, non-violent and participatory forms of child-rearing....”

Committee on the Rights of the Child

(8 June 2006, CRC/C/COL/CO/3, Concluding observations on third report, paras. 61 and 62)

“The Committee regrets the lack of statistics on the number of reported cases and is concerned that corporal punishment continues to occur in the school, the home and in institutions.

“The Committee recommends that the State party enforce legislation explicitly prohibiting all forms of corporal punishment of children in all settings, including the home. The State party should also conduct awareness-raising and public education campaigns against corporal punishment and promote non-violent, participatory methods of childrearing and education, while taking due account of the general comment No. 8 of the Committee on the Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment (2006).”

Committee on the Rights of Persons with Disabilities

(30 September 2016, CRPD/C/COL/CO/1, Concluding observations on initial report, paras. 18 and 19)

“The Committee is concerned about the limited information available on the situation of children with disabilities, mainly those who have been institutionalized or who are living in poverty or in rural or remote areas, and about the steps taken to protect their rights and facilitate their remaining with or return to their families or foster families. It is also concerned about the lack of a ban on corporal punishment of children with disabilities.

“The Committee urges the State party to more systematically gather data on children with disabilities and to take steps to prevent their abandonment, abuse and institutionalization. It encourages the State party to adopt a plan on the deinstitutionalization of children with disabilities, including those who are institutionalized on the basis of protection measures ordered by the Colombian Family Welfare Institute, and to provide community-based services and support to families, especially households headed by single mothers, in order to ensure the right of children with disabilities to grow up in a family environment and the right to have a family life. The Committee recommends that the State party repeal the provision in the Civil Code that authorizes adult childminders to correct and discipline children moderately and that it ban corporal punishment in any environment, including within the family and within indigenous and remote communities.”

Prevalence/attitudinal research in the last ten years

An evaluation of parent and caregiver support in conflict settings, conducted in 2012-2014 with 176 parents of 3-4 year olds attending child centres, found that violence against children was still common. Over 99% of caregivers in Chocó reported having used physical violence to discipline children. However, six months after the parenting programme was complete, violence against children decreased by 41% and mental health difficulties in parents and carers reduced from 22% to 5%. The study found that in conflict settings with extreme levels of poverty, unemployment, crime and violence, parent and caregiver support can play a crucial role in reducing physical punishment of children.

(The Evaluation Fund (2014), *Reducing Violence Against Children: Parent and Caregiver Support in Conflict Settings, Colombia: The Evaluation Fund*)

The first study examining national and regional prevalence and trends of corporal punishment in Colombia, particularly of spanking and hitting with objects, found that 40% of Colombian children younger than five (about 1.7 million children) are exposed to physical punishment. Specifically, 23.8% (more than 1 million children) are hit with objects and 20.4% (887,000) are spanked. It also found a higher proportion of children living in multi-dimensionally poor households and in rural areas were hit with objects than those living in non-poor households and in urban areas, but that overall, physical punishment has steadily declined throughout the country between 2005 and 2015.

(Cuartas, J. (2018) “Physical punishment against the early childhood in Colombia: National and regional prevalence, sociodemographic gaps, and ten-year trends” *93 Children and Youth Services Review* 428–440)

A study using a sample of 1,209 children from four major cities of Colombia (Bogotá, Medellín, Cali and Barranquilla) found that around half of children were spanked and one third were hit with objects as a disciplinary method in 2010. Results indicate that exposure to violent crimes, such as homicides and personal injuries, predicts a higher probability of hitting children with objects, even after controlling for a set of individual, family, and neighborhood characteristics.

(Cuartas, J. (2018) "Neighborhood crime undermines parenting: Violence in the vicinity of households as a predictor of aggressive discipline" (76) *Child Abuse & Neglect* 388–399)

A study using reports of 620 parents of children aged 5 to 8 years from eight public schools from a rural area north of Bogotá found that two-fifths (41%) of children were exposed to physical punishment as a disciplinary strategy. Family structure was found to be an important variable in the understanding of corporal punishment, especially in regard to nuclear families that have a large number of children and parents who started their parental role early in life.

(González, M. R., Trujillo, A., & Pereda, N. (2014) "Corporal punishment in rural Colombian families: Prevalence, family structure and socio-demographic variables" 38(5) *Child Abuse & Neglect* 909–916)

A study of the relationship between gender and physical punishment in China, Colombia, Italy, Jordan, Kenya, Philippines, Sweden, Thailand and the US, which used interviews with around 4,000 mothers, fathers and children aged 7-10, found that in Colombia 68% of girls and 63% of boys had experienced "mild" corporal punishment (spanking, hitting, or slapping with a bare hand; hitting or slapping on the hand, arm, or leg; shaking, or hitting with an object), and 15% of girls and 4% of boys severe corporal punishment (hitting or slapping the child on the face, head, or ears or beating the child repeatedly with an implement) by someone in their household in the past month. Smaller percentages of parents believed it was necessary to use corporal punishment to bring up their child: for girls, 14% of mothers and 13% of fathers believed it was necessary; for boys, 19% of mothers and 8% of fathers.

(Lansford, J. et al (2010), "Corporal Punishment of Children in Nine Countries as a Function of Child Gender and Parent Gender", *International Journal of Pediatrics*)

A qualitative research study about children's ideas, attitudes and feelings about punishment found that parents punish their children by hitting them with objects, spanking them, scolding them, forbidding them things they like and not allowing them to leave their bedrooms. Children said they felt bad, bored, guilty, angry and confused when they were punished. They suggested that instead of hitting or humiliating them, parents should talk to them about their behaviour. The study was carried out in 2006 and involved eight girls and five boys from Bogotá.

(Duque-Páramo, M. C. (2008), "No me gusta, pero está bien si me porto mal", *Investigación en Enfermería: Imagen y Desarrollo*, 10(1), 113-134, Bogotá)

End Corporal Punishment is a critical initiative of the **Global Partnership to End Violence Against Children**. Previously known as The Global Initiative to End All Corporal Punishment of Children, we act as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We track global progress, support and hold governments to account, partner with organisations at all levels, and engage with human rights treaty body systems.