



End Violence
Against Children



End Corporal
Punishment

Corporal punishment of children in Cuba

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Child population 2,182,00 (UNICEF, 2020)

Cuba's commitment to prohibiting corporal punishment

The Government of Cuba committed to prohibition of corporal punishment in all settings with the adoption of the Regional Roadmap on Violence against Children (2011) which recommends prohibition. The Family Code 2022 prohibits corporal punishment in the home and alternative care settings.

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in day care and schools.

The Family Code 2022 prohibits "inappropriate forms of discipline" by preventing adults responsible for the care of children from using corporal punishment in any form and humiliating treatment.

Day care – Corporal punishment should be prohibited in all early childhood care (nurseries, crèches, kindergartens, preschools, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Schools – Prohibition should be enacted of corporal punishment in all education settings, public and private.

Current legality of corporal punishment

Home

Corporal punishment is unlawful in the home under article 146 of the Family Code 2022 which prohibits corporal punishment and humiliating treatment inflicted by adults. On 25 September 2022, a referendum was held in Cuba to approve the Family Code 2022 which provides more protection for children and adolescents. The Family Code was approved by 66% of voters.

Article 146 of the Family Code prohibiting the use of inappropriate forms of discipline states: “ (1) Children and adolescents have the right to receive guidance and education from the adults responsible for their care through positive forms of parenting, without in any way authorising the use of corporal punishment in any form, humiliating treatment or the use of any other form of violence or abuse, including abandonment, neglect and negligence, or any act which injures or undermines them physically, morally or psychologically. (2) The exercise of parental responsibility must be respectful of the dignity and physical and mental integrity of children and adolescents.” (unofficial translation)

Previously, the Family Code 1975 permitted “adequate and moderate correction” of children by parents (art. 86) (unofficial translation): “Parents are empowered to reprimand and moderately and adequately correct children under their guardianship.” There was a similar provision in relation to guardians in article 152.

The Government had indicated its commitment to prohibiting all corporal punishment of children, by adopting in 2011 the Regional Roadmap on Violence against Children along with the Central American Governments of Mexico and the Dominican Republic. The Roadmap included a recommendation to adopt national legislation to explicitly prohibit all corporal punishment and to repeal provisions allowing for “moderate” punishment/correction.¹ In the same year, the Government had reported that a draft new Family Code was under discussion that would remove the provision for “adequate and moderate correction”.² In May 2022, the Government reported to the UN Committee on the Rights of the Child that it was “working to enact the previous recommendations of the Committee” notably by expressly prohibiting inappropriate forms of discipline, including the use of corporal punishment in any form.³ In 2011, in response to the recommendations on the issue by the Committee on the Rights of the Child,⁴ the Government asserted that “corporal punishment is not allowed in any law, or lower-ranking legal rules, or family practice, school or social institutions”.⁵ The Government repeated this assertion to the Committee in 2018, stating “corporal punishment is not allowed in the law or lower-ranking norms, nor in family or school practice, and they are not socially tolerated” (unofficial translation).⁶

Alternative care settings

Corporal punishment is unlawful in alternative care settings under article 146 of the Family Code 2022 which prohibits corporal punishment and humiliating treatment inflicted by adults. (see under “Home”). Article 348 confirms that the prohibition of corporal punishment applies to alternative care settings (e.g. foster care) as follows: “ The duties assumed in foster care are assimilated to the personal care of children and adolescents with the same scope required for the holders of parental responsibility and guardians.” (unofficial translation).

¹ 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

² 27 April 2011, CRC/C/CUB/Q/2/Add.1, Written replies to the Committee on the Rights of the Child, para. 36

³ See <https://www.ohchr.org/en/press-releases/2022/05/experts-committee-rights-child-commend-cubas-health-system-and-ask-about>, accessed 5 July 2022

⁴ 20 June 2011, CRC/C/CUB/CO/2 Advance Unedited Version, Concluding observations on second report, paras. 36 and 37

⁵ Opiniones del Gobierno de la República de Cuba sobre el documento CRC/C/CUB/CO/2 contentivo de las Observaciones finales del Comité de los Derechos del Niño sobre el segundo Informe periódico de Cuba (?2011), pp. 7-8

⁶ [2018], CRC/C/CUB/3-6, Initial report, para. 120

Day care

There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children. In 2011/2012 the Government stated to the Committee on the Rights of the Child that corporal punishment is prohibited in institutions but cited only a Ministerial Resolution relating to education (see under “Schools”).⁷

Schools

The Government has stated that corporal punishment is prohibited in schools,⁸ but there is no legislation explicitly prohibiting corporal punishment in schools. In commenting on recommendations issued in 2011 by the Committee on the Rights of the Child, the Government stated that Resolution 165/2006 of the Ministry of Education approving the Regulations on the discipline of work in educational activities (Resolución 165 de 2006 del Ministerio de Educación que aprueba el Reglamento Ramal de la disciplina del trabajo en la actividad educacional) prohibits corporal punishment in schools.⁹ However, Ministerial Resolution 165/2006 only prohibits the use of violence in educational settings. It does not explicitly prohibit corporal punishment in schools.

Penal institutions

Corporal punishment is prohibited as a disciplinary measure in penal institutions under article 6 of the prison regulation. The Criminal Code 1987 which explicitly prohibited corporal punishment in the penal system was repealed and replaced by the Penal Code 2022. Article 1 (d) of the annex to the 2022 Penal Enforcement Law (“Ley de Ejecucion Penal 152/2022”) states: “The person deprived of liberty is treated with respect for their human dignity, physical, mental and moral integrity, and the exercise of their rights and guarantees is respected in accordance with the Constitution of the Republic of Cuba, the legal system and to the provisions of the international treaties in force for the country. No sanctioned person or a person on pretrial detention is subjected to cruel, degrading or inhuman treatment.” (unofficial translation).

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not available as a sentence under the Penal Code 2022. Article 95 (d) of the Constitution of 2019 provides that in criminal proceedings, all people have the rights to “be treated with respect for their dignity and physical, mental and moral integrity, and not be a victim of violence and duress of any kind in order to coerce a testimony...” (unofficial translation). Article 4.1 of the Criminal Procedure Law 2021 (“Ley Del Proceso Penal 143/2021”) states: “Nobody may be subjected to enforced disappearance, torture or cruel, inhuman or degrading treatment or punishment”. (unofficial translation).

Universal Periodic Review of Cuba’s human rights record

Cuba was examined in the first cycle of the Universal Periodic Review in 2009 (session 4). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:¹⁰

“Continue its action to align, to strengthen and to make compatible national legislation with its international obligations in accordance with the treaties to which it is a party (United Arab Emirates; Trinidad and Tobago; Ghana; Uzbekistan)

⁷ <http://www.gacetaoficial.cu/html/codigo%20de%20lafamilia.html#T2>, accessed 28 March 2014

⁸ See for example [2018], CRC/C/CUB/3-6, Initial report, para. 125

⁹ <http://www.gacetaoficial.cu/html/codigo%20de%20lafamilia.html#T2>, accessed 28 March 2014

¹⁰ 3 March 2009, A/HRC/11/22, Report of the working group, para. 130(2), 130(3), 130(4) and 130(6)

“Conduct a study on the need for legislative and administrative adjustments for the domestic implementation of human rights (Mexico)

“Continue to take measures to honour its human rights obligations and to advance the promotion and protection of human rights and freedoms (Jamaica)

“Continue its implementation of measures designed to further promote and protect the rights of children and to intensify its efforts aimed at providing greater opportunity for higher education (Malaysia)”

The second cycle review of Cuba took place in 2013 (session 16). No recommendations were made concerning corporal punishment of children.

Third cycle examination took place in 2018 (session 30). The following recommendation was extended:¹¹

“Revise current legislation in order to explicitly prohibit a corporal punishment of children in all settings, including at home (Montenegro)”

The Government noted this recommendation, declaring generally that (unofficial translation) “Many of the issues [the recommendations] address are applied by Cuba or steps are being taken or foreseen to comply with them. Due to the manner in which some of them have been drafted, it is not possible to ensure compliance for the time being. These will continue to be analyzed in accordance with Cuban laws, the country's institutional processes and the principles that govern the political system sovereignly chosen by the Cuban people.”¹²

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(16 June 2022, CRC/C/CUB/CO/3-6, Concluding observations on the combined third to sixth periodic reports, para. 29)

“The Committee notes with concern that the current Family Code permits “moderate” punishment of children by parents and guardians, and because of its widespread social acceptance, the Committee, recalling its general comment No. 8 (2006) on corporal punishment, and its previous recommendations”

“The committee urges the State party to:

- (a) Explicitly prohibit corporal punishment in law in all settings, including in the home, childcare institutions, alternative care settings, schools and penal institutions;
- (b) Establish protocols and procedures to take action when corporal punishment takes place;
- (c) Consolidate a national system of data collection and analysis of corporal punishment;
- (d) Strongly invest in promoting positive, non-violent and participatory forms of child-rearing and discipline;
- (e) Intensify awareness-raising campaigns for parents and professionals working with and for children to promote attitudinal change, within the family and the community, with regard to corporal punishment.”

Committee on the Rights of the Child

(3 August 2011, CRC/C/CUB/CO/2, Concluding observations on second report, paras. 36 and 37)

“While taking note that the provision on ‘adequate and moderate’ punishment will be removed from the new draft Family Code, as indicated during the dialogue, the Committee is concerned that provisions allowing for such punishment of children by their parents and guardians (arts. 86 and 152 of the Family Code) are still in force in the State party. The Committee is further concerned that corporal punishment is often used at school and in social institutions as a measure of ‘discipline’.

“The Committee recommends that corporal punishment, in any form, be explicitly prohibited and that the State party conduct public awareness campaigns and provide information on alternative non-

¹¹ 11 July 2018, A/HRC/39/16, Report of the Working Group, para. 24(317)

¹² 18 September 2018, A/HRC/39/16/Add.1 Advance unedited version, Report of the Working Group: Addendum, paras. 8 and 9

violent forms of discipline, parental guidance and counselling with a view to eliminating all forms of corporal punishment of children. The Committee urges the State party to prioritize the adoption of the draft Family Code. In this regard, the Committee draws the State party's attention to its general comment no. 13 (2011) on the right of the child to freedom from all forms of violence, and its general comment no. 8 (2006) on corporal punishment."

Committee on the Rights of the Child

(18 June 1997, CRC/C/15/Add.72, Concluding observations on initial report, paras. 19 and 35)

"While the Committee takes note of the State party's efforts to deal with the issue of child abuse, including through the establishment of an early warning system for violence against children, it is of the view that these measures are insufficient to fully protect children from such violations. Furthermore, serious concern remains in relation to a child's opportunity to report abuse and other violations of his/her rights in the family, schools or other institutions and to have a complaint taken seriously and responded to effectively.

"The Committee recommends that further measures to protect children from abuse and maltreatment be undertaken, in particular through the development of a widespread public information campaign for the prevention of corporal punishment and bullying of children, whether by adults or by other children."

Committee on the Rights of Persons with Disabilities

(10 May 2019, CRPD/C/CUB/CO/1, Concluding observations on initial report, paras. 17 and 18)

"The Committee is concerned about: ... (c) Article 86 of the Family Code, under which "parents are entitled to reprove and correct [children], in an adequate and moderate manner", resulting in corporal punishment of children with disabilities;

"The Committee recommends that the State party take measures to develop and strengthen respect for the rights of children with disabilities in society, particularly children with disabilities living in rural areas, and enhance support for families of children with disabilities. The Committee also recommends that the State party: ... (c) Expedite the revision of the Family Code to explicitly prohibit corporal punishment of children, including children with disabilities, in all settings, particularly at home and in institutions where children still live"

Prevalence/attitudinal research in the last ten years

In 2019, a UNICEF study found that 34.1 % of boys and 32.1% of girls aged between 1 and 14 experienced physical punishment, while 2.3% of boys and 1 % of girls experienced severe forms of physical punishment.

UNICEF, Violence against children in Latin America and the Caribbean 2015-2021: A systematic review - Executive summary, UNICEF (2021)

According to adult respondents in a 2014 survey, 36% of children aged 1-14 years were subjected to some form of violent discipline (psychological or physical punishment) by household members during the month preceding the survey; 28% were said to be physically punished, 2% severely physically punished (hit on the head, bottom, ears or face or hard and repeatedly – most common for 10-14 year olds). Children in the central and eastern regions and children whose head of household has lower education were more likely to experience physical punishment. In contrast to the actual prevalence, just 4% of respondents stated they believe physical punishment is needed to raise a child properly. Only 37% of children experienced only non-violent discipline; this was more common in the western region and in households where the head of household has higher education.

(Dirección de Registros Médicos y Estadísticas de Salud & UNICEF (2015), Encuesta de Indicadores Múltiples por Conglomerados. Cuba, 2014. Informe final, La Habana, Cuba: Dirección de Registros Médicos y Estadísticas de Salud & UNICEF)

[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.