

Corporal punishment of children in Honduras

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Child population 3,109,000 (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

Corporal punishment is unlawful in the home. Prior to law reform, article 231 of the Civil Code 1906 and article 191 of the Family Code 1984 both confirmed the authority of parents “to reprimand and adequately and moderately correct their children”. The Code on Children and Adolescents 1996 protected a child from “all inhuman, violent, terrorizing, humiliating or destructive treatment, even when it is supposedly done for disciplinary or corrective measures, regardless of who commits it” (art. 24) but also confirmed that paternal relationships are governed by the Family Code (art. 57). Prohibition was achieved in 2013 with the enactment of Decree No. 35-2013: article 5 replaces article 191 of the Family Code with explicit prohibition of corporal punishment and article 14 repeals article 231 of the Civil Code; article 1 amends article 164 of the Code on Children and Adolescents to include in its definition of abuse that which is inflicted in the guise of discipline or correction.

As amended in 2013, article 191 of the Family Code states (unofficial translation¹): “Parents, in the exercise of parental authority, have the right to exercise orientation, care and correction of their children, and to import to them, in keeping with the evolution of their physical and mental faculties, the guidance and orientation which are appropriate for their comprehensive development. It is prohibited to parents and every person charged with the care, upbringing, education, treatment and monitoring [of children and adolescents], whether on a temporary or permanent basis, to use physical punishment or any type of humiliating, degrading, cruel or inhuman treatment as a form of correction or discipline of children or adolescents. The State, through its competent institutions, will guarantee: a) the execution of awareness and education programs directed to parents and every person charged with the care, treatment, education or monitoring of children and adolescents, at

¹ Our briefing is based on the following text, as published in the Official Gazette, 6 September 2013, Number 33,222. However, we note that in reporting to the Committee Against Torture in 2015, the Government stated that article 191 as amended stated: “Parents shall refrain from applying to the children under their parental authority any corrective or disciplinary measures that are contrary to the children’s dignity and their fundamental rights established in the Convention on the Rights of the Child, the Code on Children and Adolescents and other laws.” (14 August 2015, CAT/C/HND/2, Second state party report, paras. 226)

both national and local levels; and, b) the promotion of positive, participative and non-violent forms of discipline as alternatives to physical punishment and other forms of humiliating treatment.”

The Code on Children and Adolescents states in article 168: “Ill-treatment by transgression occurs whenever behaviour towards a child is hostile, indicative of rejection or destructive, such as subjecting the child to physical abuse; providing him or her with drugs or medications that are harmful or not necessary for the child’s health; subjecting a child to unnecessary medical or surgical procedures that put his or her physical, mental or emotional health at risk; making the child a victim of emotional or verbal aggression, including through offence and humiliation; a lack of communication that conveys rejection; punishment through hard labour and other similar transgressions or discriminatory actions. Acts of violence in the family nucleus, even if they do not directly affect the child, shall also be considered ill-treatment by omission.”

Honduras became a Pathfinder country with the Global Partnership to End Violence Against Children in 2019. 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 in alternative care settings under article 191 of the Family Code 1984 as amended in 2013 (see under “Home”).

Day care

Corporal punishment is unlawful in early childhood care and in day care for older children under article 191 of the Family Code 1984 as amended in 2013 (see under “Home”).

Schools

Corporal punishment is prohibited in schools. It was explicitly prohibited in article 134 of the Public Education Code 1923 and the General Public Education Act, though these are possibly no longer in force. Articles 24 and 164 of the Code on Children and Adolescents 1996 apply (see under “Home”), and article 35 stipulates that there must be reciprocal respect and dignified treatment between educators and students. In the Statute of the Honduran Teacher 1997, educators’ obligations include respect for dignity, physical, psychological and moral integrity of the students (art. 9). Article 191 of the Family Code 1984, as amended in 2013, explicitly prohibits corporal punishment by persons charged with educating children and adolescents (see under “Home”).

Penal institutions

Corporal punishment is unlawful in penal institutions. As amended in 2013, article 244 of the Code on Children and Adolescents 1996 explicitly states that in the execution of sanctions, children and adolescents have a right not to be subjected to corporal punishment.

Article 7 of the Decree No. 2-2015 on the disciplinary regime for persons deprived of their liberty in the national prison system explicitly prohibits corporal punishment.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in criminal law and it is explicitly prohibited in article 244 of the Code on Children and Adolescents 1996 as amended in 2013.

Universal Periodic Review of Honduras' human rights record

Honduras was examined in the first cycle of the Universal Periodic Review in 2010 (session 9). The following recommendation was made:²

“Make efforts to incorporate into national legislation the prohibition of all forms of the corporal punishment of children (Costa Rica)”

The Government accepted the recommendation, stating that it considers it already implemented or in the process of implementation.³

Examination in the second cycle took place in 2015. No recommendation was made specifically on corporal punishment of children.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(8 June 2015, CRC/C/HND/CO/4-5 Advance Unedited Version, Concluding observations on fourth/fifth report, paras. 41 and 42)

“The Committee welcomes the amendment of article 191 of the Family Code, which prohibits all forms of corporal punishment of children in all settings, including in the family environment. However, the Committee remains concerned about the high number of cases of abuse reported in families, schools and institutions, concern compounded by the lack of consolidated, detailed and disaggregated information, in particular for girls and children in vulnerable situations.

“In the light of its General Comment No. 8 (2006) on the right of the child to protection from corporal punishment, the Committee recommends that the State party promote positive, non-violent and participatory forms of child-rearing and discipline, conduct awareness-raising programmes on this prohibition and create mechanisms for its fulfilment.”

Committee on the Rights of the Child

(3 May 2007, CRC/C/HND/CO/3, Concluding observations on third report, paras. 54 and 55)

“The Committee is concerned that article 191 of the Family Code seems to authorize corporal punishment in the home and that there is no explicit prohibition of corporal punishment in alternative care settings.

“The Committee recommends that the State party, taking into account the Committee’s general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (2006), introduce – and enforce where applicable - legislation explicitly prohibiting all forms of corporal punishment of children in all settings, including the home.

² 4 January 2011, A/HRC/16/10, Report of the working group, para. 82(4)

³ 4 January 2011, A/HRC/16/10, Report of the working group, para. 82(4)

The State party should also conduct awareness-raising and public-education campaigns against corporal punishment and promote non-violent, participatory methods of child-rearing and education.”

Subcommittee for the Prevention of Torture

(10 February 2010, CAT/OP/HND/1, Report on first periodic visit, paras. 30, 236 and 241)

“Several detainees in police custody interviewed by the Subcommittee described how they had been beaten during their arrest. One 17-year-old at Metropolitan Division No. 3 in Comayagüela, Tegucigalpa, showed the Subcommittee marks of cudgel blows on his back....

“The Subcommittee observed that a legal vacuum exists with regard to punishments applicable to prisoners and the behaviours that constitute disciplinary offences. A number of inmates stated that they had been beaten as punishment by other inmates or by prison staff, on orders from the coordinators, and that sometimes the coordinator himself administered the ‘punishment’. Inmates in the Marco Aurelio Soto Prison in Tegucigalpa are sometimes punished with ‘three months in the corridor’, meaning that they have to sleep in the corridors for that period of time. They are sometimes also tied to the mesh barriers or given several days or weeks in solitary confinement. Another form of punishment is the suspension of conjugal and family visits.

“The Subcommittee recommends that all prisons establish disciplinary regulations, in accordance with the Standard Minimum Rules for the Treatment of Prisoners, stipulating: (a) conduct that constitutes a disciplinary offence; (b) the type and duration of the penalties that may be imposed; and (c) the authority competent to impose such punishments. Any disciplinary measure should be applied in accordance with those regulations, and all prisoners should have a copy. The Subcommittee recommends that all prisoners be granted the right to be heard before disciplinary action is taken and to bring such action to higher authorities for review. The Committee also recommends that collective punishments be abolished, including those imposed on inmates as a result of the escape that took place on 17 July 2009.”

Prevalence/attitudinal research in the last ten years

The Office of the Special Prosecutor for Children of the Public Prosecution Service conducted a study in public and private schools in seven regions of Honduras in 2007. The study found that despite a ban on corporal punishment in national law and in the by-laws of many of the schools surveyed, it is frequently applied as a disciplinary measure and children perceive it as part of their normal school lives, especially in public sector schools. Common punishments (especially in the public sector) included being hit with a rod, ruler or hand, hair- and ear-pulling, having to stand facing a wall and having to clean toilets and other specific areas of the school. There were also reports of children of a certain ethnic group being punished by hitting them on the tips of their fingers with a ruler or stick. While many students expressed satisfaction with their teachers, especially in the private sector, some said their teachers do not like them because they yell and physically punish them.

(Ministerio Público, Secretaría de Educación & UNICEF (2008), *Estudio de Garantía de Derechos de la Niñez en el Sistema Educativo Nacional*)