

Corporal punishment of children in Nicaragua

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Child population 2,189,000 (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

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In 2014, the National Assembly of Nicaragua approved the new Family Code 2014, which was published in the Official Gazette on 8 October 2014. Article 280 states (unofficial translation): “The father, mother, or other family members, guardians or other persons legally responsible for the son or daughter have the responsibility, the right and duty to provide, consistent with the child’s evolving capacities, appropriate direction and guidance to the child, without putting at risk his or her health, physical integrity, psychological and personal dignity and under no circumstances using physical punishment or any type of humiliating treatment as a form of correction or discipline. The Ministry of Family, Youth and Children, in coordination with other state institutions and society shall promote forms of positive, participatory and non-violent discipline as alternatives to physical punishment and other forms of humiliating discipline.” The Code came into force on 8 April 2015.

In 2012, the “right to disciplinary punishment” of children was removed from the Penal Code 2008 by Law No. 779 Comprehensive Law against Violence against Women and Reforming Law No. 641 Penal Code 2012. Article 155 of the Penal Code as amended prohibits domestic violence and states (unofficial translation): “Domestic violence. Whoever carries any force, violence or physical or psychological intimidation against a person who is a spouse or partner in a stable union or is linked by a stable affective relationship, children, adolescents, older persons, persons with disabilities, the daughters and sons own spouse, partner or ascendants, descendants, collateral relatives by blood, marriage, adoption, or under guardianship. For children and adolescents, the right to disciplinary correction may not be claimed. Those responsible for this crime will be imposed the following penalties: (a) minor injuries, the penalty shall be one to two years in prison; (b) serious injury, the penalty is three to seven years in prison; (c) very serious injury, the penalty is five to twelve years in prison. In addition to the prison terms outlined above, the perpetrators of domestic violence, will be imposed disqualification for the same period of the rights arising from the relationship between mother, father and children, or the person under guardianship.” The linking of punishment with injury was considered to show a lack of clarity as to whether or not all physical punishment of children was unlawful; the new Family Code enacted in 2014 provides the necessary clarification of complete prohibition.

Alternative care settings

The prohibition of corporal punishment in article 280 of the Family Code 2014 applies to all persons with parental authority of a child, including adults in alternative care settings. In addition, on 14 November 2014, the Ministry of Family, Adolescents and Children issued Resolution No. 244/2014 confirming prohibition of all corporal punishment in all protection centres for children.

Day care

The prohibition of corporal punishment in article 280 of the Family Code 2014 applies to all persons with parental authority of a child, including adults in early childhood care and day care settings. In addition, on 14 November 2014, the Ministry of Family, Adolescents and Children issued Resolution No. 244/2014 confirming prohibition of all corporal punishment in all protection centres for children, including all day care.

Schools

Corporal punishment is prohibited in schools under article 100 of the General Education Law 2006: “Students have the following rights: ... c) to be treated with justice and respect, not be subject to corporal punishment, humiliation and discrimination....”

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions. The Code on Children and Adolescents 1998 states that adolescents subject to criminal justice have the right to be treated with respect for their dignity and personal integrity (art. 101). The Code establishes the right of adolescents “not to be held incommunicado or placed in solitary confinement, or not to be imposed corporal punishment” (art. 213). Corporal punishment is also prohibited by article 7 of the Prison and Execution of Sentences Act 2003.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in the Penal Code 2008 or the Code on Children and Adolescents 1998.

Universal Periodic Review of Nicaragua’s human rights record

Nicaragua was examined in the first cycle of the Universal Periodic Review in 2010 (session 7). The following recommendation was made and was accepted by the Government:¹

“Prohibit explicitly corporal punishment of girls and boys in all circumstances, as recommended by the Committee on the Rights of the Child (Chile).”

Examination in the second cycle took place in 2014 (session 19). The following recommendations were made and were accepted by the Government:²

¹ 17 March 2010, A/HRC/14/3, Report of the working group, para. 90(28)

² 9 May 2014, A/HRC/WG.6/19.L.14 Advance Unedited Version, Draft report of the working group, paras. 114(58) and 114(60)

“Formulate a national plan to combat violence against children, including corporal punishments and sexual abuses, which include considerations on prevention, care and reparation (Honduras);

“Explicitly prohibit corporal punishment of children in all settings, including the home and detention facilities (Austria)”

Third cycle examination took place in 2019 (session 33). No recommendations specifically on corporal punishment were extended.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

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

“The Committee notes with concern that various concerns and recommendations made upon consideration of the State party’s third periodic report (CRC/C/15/Add.265) of 21 September 2005 have been insufficiently addressed. 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 the 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 while article 155 of the Penal Code prohibits corporal punishment it makes an exception for ‘disciplinary correction.’ It is also concerned at the inadequate application of MINED administrative regulations that prohibit physical punishment in school.

“The Committee strongly recommends that the State party amend article 155 of the Penal Code to explicitly state that all corporal punishment – in the family, alternative care settings, school, public administration and judicial settings – constitutes an offence. 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. Regarding the police and the judiciary, the Committee recommends that appropriate standards be set and enforced to prevent and severely sanction corporal punishment of 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 to implement the recommendations contained in the report of the independent expert, while taking into account the outcome and recommendations of the regional consultation on violence against children, held in Buenos Aires from 30 May to 1 June 2005. In particular, the Committee urges the State Party to 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.”

Prevalence/attitudinal research in the last ten years

In a 2006-2007 study involving 10,113 women aged 15-49 with children, 34.4% reported that children in their home were punished by being hit, beaten, spanked or slapped. Women who had experienced partner violence were more likely to report that children in their home were physically punished (41.2% of women who had experienced partner violence compared to 32.3% of women who had not).

(Bott, S. et al (2012), *Violence Against Women In Latin America And The Caribbean: A Comparative Analysis Of Population-based Data From 12 Countries*, Washington DC: Pan American Health Organisation & Centers for Disease Control and Prevention)

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)