

Corporal punishment of children in Paraguay

LAST UPDATED January 2018

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Child population 2,412,000 (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. On 17 August 2016, the Chamber of Deputies approved the Law on "Promotion of Good Treatment, Positive Parenting and Protection of Children and Adolescents against Corporal Punishment or Any Type of Violence as a Method of Correction or Discipline", which was enacted by the Executive on 2 September 2016.¹ The new Law explicitly confirms children's right to be protected from corporal punishment in article 1 (unofficial translation): "All children and adolescents have the right to good treatment and for their physical, psychological and emotional integrity to be respected. This right includes the protection of their image, their identity, their autonomy, their thoughts, their feelings, their dignity and their values. Corporal punishment and humiliating treatment of children and adolescents is prohibited as a form of correction or discipline, especially when it is imparted by parents, tutors, guardians or anyone responsible for their education, care, guidance, or treatment of any kind. Children and adolescents are especially entitled to receive guidance, education, care and discipline by implementing guidelines for positive parenting." The new law puts an emphasis on prevention of corporal punishment and measures to ensure implementation of the law (article 5). It also requires the Ministry of Education and Culture, together with the Ministry of Public Health and Social Welfare, to establish accessible complaints mechanisms (article 8).

Earlier in 2016, the Government accepted recommendations to prohibit corporal punishment in all settings made during the Universal Periodic Review of Paraguay.² The Government also referred to the above law reform process (then the Good Treatment of Children and Adolescents Bill) which would achieve prohibition.³

Prior to this reform, the Children and Adolescents Code 2001 was the leading authority, under which parents are obliged to protect their children from violence and abuse (article 4) and parental rights

¹ Published in the Official Gazette, 5 September 2016

² 12 April 2016, A/HRC/32/9, Report of the working group, paras. 102(46) and 102(47)

³ 12 April 2016, A/HRC/32/9, Report of the working group, para. 94

include the right and obligation to “educate and guide” their children (article 70). The Code does not confirm a right to punish children but neither does it explicitly prohibit all corporal punishment in childrearing. Article 72 of the Code states that parental authority can be suspended in the case of “violence that harms the physical or mental health and safety of the children, even if it is exercised by way of discipline, and without prejudice to other measures appropriate to the gravity of the act”: this protects children from severe corporal punishment but does not clearly prohibit all forms of corporal punishment. Similarly, article 134 of the Penal Code 1998 punishes child abuse involving the infliction of “considerable psychological pain, severe and repeated mistreatment or damage to health” but does not address all forms of corporal punishment. The Penal Code was amended in 2014 to strengthen provisions against family violence, specifically dispensing with the need for the violence to be habitual and for the victim and perpetrator to be living together,⁴ but prohibition of all corporal punishment was not included. Other provisions against violence and abuse, including in the Constitution 1992 and the Law Against Domestic Violence 2000, are not interpreted as prohibiting all corporal punishment.

Paraguay 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. The National Plan of Action for the Protection of Children Against Abuse and All Forms of Violence 2017-2021 highlights promoting positive parenting to children, families, communities and public officials working with children.

Alternative care settings

Corporal punishment is prohibited in alternative care settings under the Law on the promotion of good treatment, positive parenting and protection of children and adolescents against corporal punishment or any type of violence as a method of correction or discipline (see under “Home”). Prior to this reform, corporal punishment was prohibited in shelter homes under articles 21 and 28 of the Enabling Regulations for the operation of shelter homes for children and adolescents in the special protection system 2006 under the Children and Adolescents Code 2001.

Day care

Corporal punishment is prohibited in day care settings under the Law on the promotion of good treatment, positive parenting and protection of children and adolescents against corporal punishment or any type of violence as a method of correction or discipline (see under “Home”).

Schools

Corporal punishment is prohibited in schools under the Law on the promotion of good treatment, positive parenting and protection of children and adolescents against corporal punishment or any type of violence as a method of correction or discipline (see under “Home”). The Law specifically requires the Ministry of Education and Culture to provide and allocate the necessary means and resources to effectively implement prohibition of corporal punishment in the formal and non-formal education field (article 6).

⁴ Act No. 5378/2014 amending article 229 of the Criminal Code relating to family violence, together with Act No. 1160/97 as amended by Act No. 4628/12

Prior to reform in 2016, a number of laws protected students' dignity, including the Children and Adolescents Code 2001 (arts. 21, 22 and 114) and the General Education Law 1998 (art. 125), but there was no prohibition of corporal punishment.

Penal institutions

Corporal punishment is prohibited in penal institutions under the Law on the promotion of good treatment, positive parenting and protection of children and adolescents against corporal punishment or any type of violence as a method of correction or discipline (see under "Home"). Prior to reform in 2016, corporal punishment was explicitly prohibited as a disciplinary measure in penal institutions in article 245 of the Children and Adolescents Code 2001: "During the implementation of measures, the adolescent has the right ... (h) not under any circumstances to be held incommunicado or in solitary confinement, or the imposition of corporal punishment...."

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. The Constitution 1992 prohibits cruel, inhuman and degrading treatment (art. 5) and there is no provision for judicial corporal punishment in the Criminal Code or the Code of Criminal Procedure 1998. Justice for indigenous peoples under customary law must be carried out in accordance with the Constitution.

Universal Periodic Review of Paraguay's human rights record

Paraguay was examined in the first cycle of the Universal Periodic Review in 2011 (session 10). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:⁵

"Ensure the full incorporation of CRC into its domestic legislation (Slovakia);

"Implement the recommendations of the Committee on the Rights of the Child, particularly with regard to street children and child labour (France)"

Examination in the second cycle took place in 2016 (session 24). The following recommendations were made and were accepted by the Government:⁶

"Introduce a law explicitly prohibiting corporal punishment of children in all settings (Poland);

"Adopt legislation clearly prohibiting all corporal punishment of children in all settings (Iran (Islamic Republic of))"

The Government reported that on 2 February 2016, the draft "Protection of children and adolescents against corporal punishment and other inhuman or degrading treatment" was tabled in Parliament and was "partially approved".⁷ The Law was enacted in September 2016 (see under "Home").

⁵ 28 March 2011, A/HRC/17/18, Report of the working group, paras. 85(6) and 85(49)

⁶ 12 April 2016, A/HRC/32/9, Report of the working group, paras. 102(46) and 102(47)

⁷ 10 June 2016, A/HRC/32/9/Add.1, Report of the working group: Addendum, para. 12

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(10 February 2010, CRC/C/PRY/CO/3, Concluding observations on third report, paras. 37, 38 and 39)

“The Committee welcomes the initiatives undertaken by the State party to prevent violence against children, such as awareness campaigns organized in cooperation with relevant organizations. However, it is concerned that there is no explicit prohibition of corporal punishment in schools, at home, in penal institutions or in situations of employment and that corporal punishment is culturally accepted as a form of education and family discipline.

“The Committee recommends that the State party, as a matter of urgency:

- a) expressly prohibit corporal punishment by law in all settings, 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;
- b) set up an effective monitoring system in order to ensure that abuses of power by teachers or other professionals working with children does not take place; and
- c) carry out public education, awareness-raising and social mobilization campaigns on corporal punishment with a view to changing the general attitude towards this practice and promote positive, non-violent, participatory forms of child-rearing and education.

“With reference to the United Nations study on violence against children (A/61/299), the Committee recommends that the State party:

- a) take all necessary measures for the implementation of the recommendations contained in the report of the independent expert for the United Nations study on violence against children while taking into account the outcome and recommendations of the regional consultation for Latin America held in Argentina between 30 May and 1 June 2005. In particular, the Committee recommends that the State party pay particular attention to the following recommendations:
 - (i) to prohibit all violence against children, including corporal punishment in all settings;
 - (ii) to promote non-violent values and awareness-raising;
 - (iii) to ensure accountability and end impunity....”

Committee on the Rights of the Child

(6 November 2001, CRC/C/15/Add.166, Concluding observations on second report, paras. 31 and 32)

“The Committee is concerned that corporal punishment of children remains socially acceptable in Paraguay and that it is still practised in families, schools and other institutions.

“In light of articles 3, 19, and 28 (2) of the Convention, the Committee encourages the State party to:

- a) develop measures to raise awareness about the harmful effects of corporal punishment and encourage use of alternative forms of discipline in families to be administered in a manner consistent with the child’s dignity and in conformity with the Convention; and
- b) explicitly prohibit corporal punishment in the family, in schools and in other institutions.”

Committee Against Torture

([August 2017], CAT/C/PRY/CO/7, Concluding observations on seventh report, Advance unedited version, in Spanish only, para. 4)

“El Comité celebra que el Estado parte haya adoptado las siguientes medidas legislativas en ámbitos relacionados con la Convención:...

b) La adopción en 2016 de la Ley 5659/2016 de promoción del buen trato, crianza positiva y de protección a niños, niñas y adolescentes contra el castigo físico o cualquier violencia como método de corrección y disciplina.”

Committee Against Torture

(14 December 2011, CAT/C/PRY/CO/4-6, Concluding observations on fourth-sixth report, para. 26)

“The Committee takes note of the measures taken to prohibit corporal punishment of children living with their mothers in places of detention or in shelters. The Committee also takes note of the information provided by the State party delegation on the existence of a bill to prohibit corporal punishment. However, the Committee is concerned that corporal punishment in the home is still not prohibited (art. 16).

The Committee recommends that the State party explicitly prohibit corporal punishment of children in all settings, including in the home.”

Prevalence/attitudinal research in the last ten years

In a 2010 study on violence in the juvenile penal system, based on interviews with 350 juvenile detainees, 35.8% of respondents said they had experienced violence from officials in the penal system.

(Defensa de Niñas y Niños Internacional Sección Paraguay (2012), *Situación de la Justicia Juvenil en Paraguay*, Asunción: DNI Paraguay)

A survey carried out after a two-month UNICEF campaign designed to raise awareness about family violence against children and provide parents with information about positive parenting asked 753 parents about their childrearing opinions and practices. When asked what discipline strategy they used most, 57.1% of parents said they talked to their children, compared to 55.6% before the campaign. Just over one parent in ten (11.5%) said they shouted or raised their voice, compared to one in five (20.4%) before the campaign. Before the campaign, 3.6% of parents said they most often “used a belt or other object”; after the campaign, 0.9% said this. After the campaign, nearly nine out of ten parents (88.9%) believed it was possible to bring up children without hitting them or using verbal violence, compared to 76.6% before the campaign. One in ten (10.2%) did not think it was possible, compared to one in five (20.3%) before the campaign. Seven in ten (70.3%) of those interviewed remembered the campaign. Of these, 46.5% thought the campaign would influence their friends’ and neighbours’ way of bringing up children a lot, 34% a little.

(First Analysis y Estudios (2010), *Sin Violencia si Educa Mejor: medición comparativa post campaña*, UNICEF)

In a 2010 UNICEF study, 61% of respondents had experienced violence or other kinds of mistreatment from their closest family members. The study, the first of its kind in Paraguay, involved over 800 children and young people aged 10-18, attending 54 private and public schools in different areas of the country. Over a third (35%) of respondents had experienced severe physical violence (being hit with objects, kicked, burned or suffocated) in their families, 13% “light” physical violence

(including slaps, having their hair pulled and being forced to stay in uncomfortable positions); 13% had experienced psychological violence such as insults and threats of abandonment. The physical violence had serious consequences, with 13% reporting being hit until they bled and 7.7% needing medical attention due to violence. More than half remembered that they began to experience family violence at 3-5 years old. Boys experienced more severe physical violence than girls, while girls experienced more psychological violence than boys. Physical and psychological violence was experienced by children of all social classes, though children at public and subsidised schools experienced more physical violence than children in private schools, while children in private schools experienced more psychological violence than their publicly schooled peers. Parents with a higher level of education were less likely to use physical violence – e.g. 23.9% of mothers and 26.8% of fathers who had been to university used severe physical violence as a punishment, compared to 46.8% of mothers and 55.6% of fathers who had not been to school. The results of the study suggested that, as mothers spend more time with their children than fathers, mothers use physical violence more often than fathers. However, mothers were more likely to decrease their use of physical violence as their children grew older, while fathers were more likely to use a greater degree of violence than mothers and to continue to use it at the same level as their children grew older. Mothers who spent less time with their children used most physical violence – 27.7% of those who spent all day at home used severe physical violence, compared to 39.6% of other mothers who spent only some hours of the day or some days of the week at home.

(UNICEF (2010), *Resumen Para Prensa: Estudio sobre maltrato infantil en el ámbito familiar, Paraguay 2010* www.unicef.org/paraguay/spanish/py_resumen_periodistas_estudio_14set10.pdf (in Spanish))

In a 2008 study involving 4,029 women aged 15-49 with children, 25.1% 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: 34.8% of women who had experienced partner violence compared to 23.3% 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)