

Corporal punishment of children in Uruguay

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Child population 889,000 (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 prohibited in the home. In 2007, a new law (“Proyecto de Ley Sustitutivo – Prohibición del castigo físico”, Law 18.214) repealed the provisions in the Civil Code (arts. 261 and 384) and the Children and Adolescents Code 2004 (art. 16) which confirmed the right of parents and others to inflict corporal punishment on children under the guise of “moderate/adequate correction”. The 2007 law also explicitly prohibited all corporal punishment and other humiliating or degrading treatment of children by inserting into the Children and Adolescent Code a new article 12bis: “Prohibition of corporal punishment. Parents and guardians, as well as all persons responsible for the care, treatment, education or supervision of children and adolescents, are prohibited from using corporal punishment or any type of humiliating treatment as a means of reprimanding or disciplining them. The National Institute for Children and Adolescents (INAU), in coordination with other State institutions and civil society, is responsible for: (a) implementing sensitization and education programmes for parents, guardians, and all persons responsible for the care, treatment, education or supervision of minors; and (b) promoting positive, participatory and non-violent forms of discipline as alternatives to corporal punishment or other forms of humiliating treatment.” Article 16 of the Code was amended to state that one of the duties of parents and guardians is “to discipline their children or charges, excluding the use of corporal punishment or any type of humiliating treatment”. The prohibition came into force in February 2008.

Alternative care settings

Corporal punishment is prohibited in alternative care settings under article 12bis of the Children and Adolescent Code 2004 as amended 2007 (see under “Home”).

Day care

Corporal punishment is prohibited in early childhood care and in day care for older children under article 12bis of the Children and Adolescent Code 2004 as amended 2007 (see under “Home”).

Schools

Corporal punishment has been prohibited in public schools since 1877 (the General Regulations for Public Schools). It is now prohibited in all schools under article 12bis of the Children and Adolescent Code 2004 as amended 2007 (see under “Home”).

Penal institutions

Corporal punishment is prohibited as a disciplinary measure in penal institutions under article 12bis of the Children and Adolescent Code 2004 as amended 2007 (see under “Home”).

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for it in the Criminal Code.

Universal Periodic Review of Uruguay’s human rights record

Uruguay was examined under the Universal Periodic Review process in 2009. No recommendations were made concerning corporal punishment of children.

The second cycle review of Uruguay took place in 2014 (session 18). No recommendations were made specifically on corporal punishment of children.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(4 February 2015, CRC/C/URY/CO/3-5 Advance Unedited Version, Concluding observations on third-fifth report, paras. 4, 30, 31 and 32)

“The Committee welcomes the adoption of the following legislative measures: ...

e) the Personal integrity of children and adolescents Act, against degrading corporal punishment of 20 November 2007.

“The Committee is seriously concerned about :

a) allegations of ill-treatment and torture in police stations of adolescents suspected of having committed crimes and of children in street situations;

b) reports of excessive use of force and collective punishments in detention facilities, children and adolescents being locked up in their cells up to 22 hours per day and about the administration of anti-anxiety medication to juvenile detainees, as a mean of restraint, as pointed out by the Committee against Torture (CAT/C/URY/CO/3) and the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/13/39/Add.2)....

“With reference to the Committee’s general comment N° 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee urges the State party to:

a) take all necessary measures to prevent, prohibit and protect children detained from all forms of torture or other cruel, inhuman and degrading treatment or punishment, including by the police....

“While noting that corporal punishment is prohibited in all settings, the Committee is concerned that the legislation does not provide for a specific sanction for those inflicting corporal punishment. The Committee is also concerned that violence against children remains a serious problem in the State party and that the measures adopted to identify and protect children victims of violence, including domestic violence remain inadequate.

“The Committee recommends that the State party:

a) ensure that laws prohibiting corporal punishment are effectively implemented, including through the imposition of commensurate sanctions to those responsible for ill-treating children....”

Committee on the Rights of the Child

(5 July 2007, CRC/C/URY/CO/2, Concluding observations on second report, paras. 36 and 37)

“The Committee, while recognising pending legislative amendments, regrets that article 16 of the Code on Childhood and Adolescence of 2004 allows for corporal punishment of children. The Committee is concerned over the lack of statistics on the number of reported cases and that corporal punishment continues to occur in the home, as well as schools and childcare institutions.

“The Committee recommends that the State party adopt pending legislation as soon as possible, explicitly prohibiting all forms of corporal punishment of children in all settings, including the home. The State party should also take all measures to ensure the enforcement of the law, conduct capacity building of professionals working with children, carry out awareness raising and public education campaigns against corporal punishment and promote non-violent, participatory methods of child-rearing and education, while taking due account of general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.”

Prevalence/attitudinal research in the last ten years

A survey carried out in 2013 by UNICEF in collaboration with the Ministry of Social Development as part of the global MICS programme, found 55% of children age 2-14 years had been subjected to at least one form of psychological or physical punishment by household members during the month preceding the survey, more often in urban areas (56%) than rural areas (42%). Physical punishment was more commonly experienced by boys (34%) than girls (18%). On average, 3% of children experienced severe physical punishment (hitting the child on the head, ears or face or hitting the child hard and repeatedly). Only 34% of children had experienced only non-violent forms of discipline – this more often occurred in rural areas (47%) than urban areas (33%).

(UNICEF & MIDES (2015), *Uruguay. Encuesta de Indicadores Múltiples por Conglomerados 2013, Informe Final*, Montevideo, Uruguay: UNICEF & MIDES)

According to a 2009 report by the Ministry of Social Development, 59% of adults reported having used “moderate” or “severe” physical punishment in the home and 15% having inflicted “severe” or “very severe” punishments.

(Ministry of Social Development (2009), *Practices of upbringing and solving family conflicts: Prevalence of ill-treatment against children and adolescents*, cited in Durrant, J. & Smith, A. (2011), *Global Pathways to Abolishing Physical Punishment: Realizing Children’s Rights*, NY: Routledge)

In a poll of 500 adults in Montevideo in December 2007, just after new legislation prohibiting all corporal punishment was passed, the majority (53%) agreed that corporal punishment of children is never justified; 37% felt it was justified in some cases; 8% felt it was justified in many cases.

(Reported in *Angus Reid Global Monitor*, 23 February 2008)