

Corporal punishment of children in Venezuela

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Child population 10,418,000 (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 law was passed to reform the Organic Law for the Protection of Children and Adolescents 1998 to prohibit all corporal punishment. It inserted a new article 32-A (“the right to good treatment”) into the Law explicitly stating that “all forms of physical and humiliating punishment are prohibited”. It puts an obligation on “parents, representatives, guardians, relatives, and teachers” to use “non-violent methods of education and discipline to raise and educate their children”, and places an obligation on the State – “with the active participation of society” – to “ensure policies, programmes and protection measures are in place to abolish all forms of physical and humiliating punishment of children and young people”. Article 32-A defines corporal punishment as “the use of force, in raising or educating children, with the intention of causing any degree of physical pain or discomfort to correct, control or change the behaviour of children and young people”. Humiliating punishment is defined as “any form of offensive, denigrating, devaluing, stigmatising or mocking, treatment, carried out to raise or educate children and young people, with the aim of disciplining, controlling or changing their behaviour”.

Article 358 of the Law, which had originally provided a justification for the use of corporal punishment because of its confirmation of the duty and right to use “appropriate corrective measures”, was amended by the 2007 law to clarify that this excludes the use of corporal punishment: “The responsibility for raising children includes the shared duty and right, which is equal and non-derogable, of the father and mother to love, raise, train, educate, and look after their children, sustain and assist them financially, morally and emotionally, using appropriate corrective measures that do not violate their dignity, rights, guarantees or overall development. Consequently, all forms of physical punishment, psychological violence and humiliating treatment, which harm children and young people, are prohibited.”

Alternative care settings

Corporal punishment is prohibited in alternative care settings under article 32-A of the Organic Law for the Protection of Children and Adolescents 1998 as amended in 2007 (see under “Home”).

Day care

Corporal punishment is prohibited in early childhood care and in day care for older children under article 32-A of the Organic Law for the Protection of Children and Adolescents 1998 as amended in 2007 (see under “Home”).

Schools

Corporal punishment was first prohibited in schools in 1998, in article 57 of the Organic Law for the Protection of Children and Adolescents 1998. As amended by the reforms in 2007, this Law also clarifies the prohibition in article 56 on “the right to be respected by teachers”, which states: “All children and young people have the right to be respected by their teachers, and receive an education based on love, affection, mutual understanding, national identity, mutual respect for ideas and beliefs, and solidarity. Consequently, all forms of physical and humiliating punishment are prohibited.”

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions. Article 630 of the Organic Law for the Protection of Children and Adolescents 1998 states that in the application of sanctions the adolescent has the right to receive dignified and humanitarian treatment. Article 631 states that a child deprived of liberty has the right to “not be, in any case ... submitted to corporal punishment”. Article 638 states that the internal regulations of each detention centre must include as a minimum “a strict regulation of sanctions that can be imposed on the adolescent, during the fulfilment of the measure. In no case can cruel, inhumane or degrading measures be applied, including corporal punishment”.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not a permitted sanction under the Organic Law for the Protection of Children and Adolescents 1998 (art. 621), which allows only protection measures for children below 12 years and for those between 12 and 18 years reprimands, imposition of rules of behaviour, community service, parole, semi-liberty and detention. The Constitution (art. 60) prohibits cruel, inhuman or degrading treatment or punishment.

Universal Periodic Review of Venezuela’s human rights record

Venezuela was examined in the first cycle of the Universal Periodic Review in 2011 (session 12). No recommendations were made concerning corporal punishment of children.

Examination in the second cycle took place in 2016 (session 26). The following recommendations were issued:¹

¹ 18 November 2016, A/HRC/WG.6/26/L.3, Draft report of the Working Group, paras. 130(55), 130(60), 130(61), 130(145), 130(148), and 130(149)

“Set measures to prevent violence against children and prohibit corporal punishment of children (Liechtenstein)”

“Expedite the process to finalize the National Plan of Action for Children and Adolescents (2015-2019) (Maldives); Continue its efforts to finalize the National Plan for the Comprehensive Protection of Children and Adolescents (2015-2019) (State of Palestine); Finalize the National Plan of Action for Children and adolescents and establish a pertinent monitoring mechanism for its implementation (Turkey)”

“Most serious measures be taken to end violence against women and children (Bahrain)”

“Make progress in the prevention and mitigation of the negative impact on the rights of children and adolescents caused by different sources of violence (Colombia)”

The Government “did not support” the recommendation to prohibit as one of the recommendations that was deemed “biased, confused, politically malicious, elaborated on false bases and contrary to the spirit of cooperation and respect that should prevail in the UPR”.² The other recommendations were accepted.³

Venezuela will be examined in the third cycle in 2021.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(19 September 2014, CRC/C/VEN/CO/3-5 Advance Unedited Version, Concluding observations on third-fifth report, paras. 44 and 45)

“The Committee welcomes the various initiatives undertaken by the State party to prevent violence against children, and in particular the ‘social inclusion initiative’ that produced positive results as stated by the State party during the dialogue. However, the Committee is deeply concerned about the still existing high incidence of violence against children in all settings, including schools, home, public spaces and the Internet. The Committee regrets the absence of disaggregated data as to the extent of the problem and of a comprehensive strategy to combat all forms of violence against children.

“Recalling the recommendations of the United Nations study on violence against children of 2006 (A/61/299), the Committee recommends that the State party prioritize the elimination of all forms of violence against children. The Committee further recommends that the State party take into account general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and in particular: ...

c) ensure the full implementation of the legal prohibition of corporal punishment in all settings and promote positive, non-violent and participatory forms of child-rearing and discipline...”

² 13 March 2017, A/HRC/34/6/Add.1, Report of the Working Group, Addendum, paras 8 to 13

³ Ibid., para. 6

Committee on the Rights of the Child

(17 October 2007, CRC/C/VEN/CO/2, Concluding observations on second report, paras. 53, 54 and 55)

“With reference to the United Nations Secretary-General’s study on violence against children, the Committee recommends that the State party:

a) take all necessary measures to implement the recommendations of the United Nations Study on violence against children (A/61/299), 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) Prohibit all violence against children, including corporal punishment in all places....

“The Committee welcomes the information provided by the delegation that corporal punishment will be prohibited but is concerned that corporal punishment is still lawful. Furthermore, the Committee is concerned that abuse and ill treatment of children are underreported.

“The Committee urges the State party to adopt and implement new laws explicitly prohibiting corporal punishment in all settings, including in the home, to conduct awareness-raising and public education campaigns against corporal punishment, and to promote non-violent, participatory methods of childrearing and education while taking due account of 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) as well as the recommendation in the United Nations Secretary-General’s Study on Violence against Children that all corporal punishment of children be prohibited by 2009.”

Prevalence/attitudinal research in the last ten years

None identified.