Corporal punishment of children in Peru

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Children population 9,608,000 (UNICEF, 2020)

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. Article 1 of the Law prohibiting the use of physical and other humiliating punishment against children and adolescents 2015 ("Ley que prohibe el uso del castigo físico y humillante contra los niños, niñas y adolescents") explicitly prohibits corporal punishment in all settings (unofficial and provisional translation): "Purpose of the Law. To prohibit the use of physical and humiliating punishment against children and adolescents. This prohibition applies in all areas where children and adolescents are, including the home, school, community, workplaces and other related places." The law defines physical punishment in article 2 as "the use of force, in the exercise of powers of upbringing or educating [children or adolescents], intended to cause some degree of pain or discomfort in order to correct, control or change the behaviour of the children and adolescents". Humiliating punishment is defined as "any offensive, denigrating, devaluing, stigmatizing or mocking, in the exercise of the powers of upbringing or education, in order to correct, control or change the behaviour of children and adolescents".

The law prohibiting corporal punishment amends the Code of Children and Adolescents by inserting a new article 3-A confirming the right to good treatment: "Children and adolescents, without exception, are entitled to good treatment, which means to receive care, affection, protection, socialization and nonviolent education in a harmonious, supportive and nurturing environment in which will be provided comprehensive protection, either by their parents, tutors, or legal representatives, as well as their teachers, administrative, public or private authorities or anyone else." It also explicitly repeals article 74(d) of the Code on Children and Adolescents and article 423(3) of the Civil Code, both of which authorised parents and others to "moderately correct" children. The law was approved by Congress on 10 December 2015 and was promulgated in the Official Gazette on 30 December 2015. Implementing regulations were adopted in June 2018.

Peru became a Pathfinder country with the Global Partnership to End Violence Against Children in 2018. 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 the Law prohibiting the use of physical and other humiliating punishment against children and adolescents 2015 (see under “Home”).

Day care

Corporal punishment is unlawful in early childhood care and in day care for older children under the Law prohibiting the use of physical and other humiliating punishment against children and adolescents 2015 (see under “Home”).

Schools

Corporal punishment is prohibited in schools under the Law prohibiting the use of physical and other humiliating punishment against children and adolescents 2015 (see under “Home”).

Prior to reform in 2015, corporal punishment was considered unlawful in schools but was not explicitly prohibited. Supreme Decree No 007-2001-ED, Approval of Norms for the Management and Development of Activities in Educational Centres and Programmes 2001 states that corporal punishment should not be used in schools, but there is no explicit prohibition in law. Under the Code on Children and Adolescents 2000 the goal of education is the person’s development and his or her dignity and fundamental rights and freedoms must be respected (art. 15), and children must be respected by their teachers (art. 16). The child’s dignity and physical well-being is also provided for in the General Education Law 2003 (art. 53) and the Constitution (art. 15). The prohibition is supported by Ministerial Directive 019-2012 MINEDU, which provides guidelines for the prevention and protection of students from violence by staff in educational institutions; it defines physical and/or humiliating punishment as “violence in order to discipline or modify a behaviour considered incorrect, causing physical and/or emotional pain to the students under their care” (para. 5.2.1) and provides for a complaints system.

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions under the Law prohibiting the use of physical and other humiliating punishment against children and adolescents 2015 (see under “Home”). Article 240 of the Code on Children and Adolescents 2000 states: “During detention, the adolescent has the right … a) to decent treatment; … l) to challenge disciplinary measures taken by authorities of the institution.” There is no provision for corporal punishment in the Penal Execution Code, which allows for re-education, reincorporation and treatment of the prisoner (art. 2).

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. It is not among permitted measures in the Code on Children and Adolescents 2000 or the Criminal Code 1991. Article 2 of the Constitution prohibits torture and inhuman or humiliating treatment.

Universal Periodic Review of Peru’s human rights record

Peru was examined in the first cycle of the Universal Periodic Review process in 2008 (session 2). No recommendations were made concerning corporal punishment of children.

Examination in the second cycle took place in 2012 (session 14). During the review the following recommendations were made and were accepted by the Government:[1]

> “Introduce a legal ban on the use of corporal punishment of children (Belarus);

[1] 27 December 2012, A/HRC/22/15, Report of the working group, paras. 116(9), 116(10), 116(11), 116(12), 116(13) and 116(50)

"Complete its review of the Code on Children and Adolescents to draw up legislation to prohibit corporal punishment and humiliating treatment of children and adolescents (Jordan);

"Ensure that the draft amendments to the Code on Children and Adolescents explicitly prohibit corporal punishment of children in all settings, including in the home, and that they are enacted as a matter of priority (Liechtenstein);

"That the Bill on corporal punishment of children currently under consideration, explicitly prohibit all forms of corporal punishment in all settings, and enact this Bill as a matter of priority (Portugal);

"Complete the review of the Children and Adolescents Code, and develop the law prohibiting corporal punishment and humiliating treatment towards boys, girls and adolescents (Republic of Moldova);

"Establish mechanisms for dealing with cases of corporal punishment of children with a view to effective law enforcement (Liechtenstein)."

Third cycle examination took place in 2017 (session 28). The adoption of legislation prohibiting all corporal punishment in 2015 was welcomed,[2] but no recommendation specifically on corporal punishment was extended.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(29 January 2016, CRC/C/PER/CO/4-5 Advance Unedited Version, Concluding observations on fourth/fifth report, paras. 6, 39 and 40)

"The Committee notes with appreciation the adoption of the following legislative measures:

a) Law No 30403 prohibiting the use of corporal and other humiliating punishment against children and adolescents, on 29 December 2015; ...

"The Committee welcomes the adoption of the Law No 30403 prohibiting the use of corporal and other humiliating punishment against children and adolescents in December 2015, but is concerned that, despite improvements, the application and social acceptance of corporal punishment remains widespread.

"In the light of its general comment No. 8 (2006) on corporal punishment, the Committee recommends that the State party ensure effective implementation of the new law and strengthen its efforts to raise awareness on the harmful effects, both physical and psychological, of corporal punishment and promote positive, non-violent and participatory forms of child-rearing and discipline. The State party should also provide training to principals, teachers and other persons working with and for children in order to ensure that they can identify and provide adequate support to child victims of corporal punishment."

Committee on the Rights of the Child

(14 March 2006, CRC/C/PER/CO/3, Concluding observations on third report, paras. 42 and 43)

"While the Committee welcomes the legal provisions in place to prohibit corporal punishment both in the Penal Code and in Law No. 26260, it expresses concern that corporal punishment is lawful at home and is still widely practiced in the society as an accepted measure of discipline, both within the family and at school. Furthermore, the Committee is concerned that a recent survey showed that children themselves regard this practice as a natural means of discipline and education.

"The Committee recommends that the State party introduce and enforce legislation explicitly prohibiting all forms of corporal punishment of children in all settings, including in the home. The State

[2] 27 December 2017, A/HRC/37/8, Report of the working group, paras. 28, 31, 35 and 52

party should also conduct awareness raising and public education campaigns against corporal punishment and promote non-violent, participatory methods of childrearing and education."

Committee on the Rights of the Child

(22 February 2000, CRC/C/15/Add.120, Concluding observations on second report, para. 22)

"The Committee welcomes the legislative reforms aiming at preventing and combating domestic violence, but it remains concerned that physical and sexual abuse of children – within and outside the family – is a widespread phenomenon in the State party. In light of, inter alia, articles 3, 6, 19, 28 (2) and 39 of the Convention, the Committee recommends that the State party continue taking effective measures to prevent and combat abuse and ill-treatment of children within the family, at school and in society at large, including through setting up multidisciplinary treatment and rehabilitation programmes. It suggests, inter alia, that law enforcement should be strengthened with respect to such crimes; that adequate procedures and mechanisms to deal effectively with complaints of child abuse should be reinforced in order to provide children with prompt access to justice; and that the use of corporal punishment at home, in schools and other institutions be explicitly prohibited by law. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue…"

Committee Against Torture

([December 2018], CAT/C/PER/CO/7 Advance unedited version, Concluding observations on seventh report, para. 5, in Spanish only)

"5… d) La promulgación, el 30 de diciembre de 2015, de la Ley Nº 30403 que prohíbe el uso del castigo físico y humillante contra los niños, niñas y adolescentes, así como la aprobación en junio de 2018 del reglamento que la desarrolla (Decreto Supremo Nº 003- 2018-MIMP)."

Committee Against Torture

(21 January 2013, CAT/C/PER/CO/6, Concluding observations on fifth/sixth report, para. 20)

"The Committee is concerned that violence against children, including domestic and sexual violence, is widespread and that corporal punishment of children in the home, schools, penal institutions and care settings is not explicitly prohibited (arts. 2 and 16).

The Committee recommends that the Code on Children and Adolescents and the Penal Execution Code be amended to explicitly prohibit violence against children, and in particular sexual violence, and define corporal punishment in all settings as an offence under the law."

Prevalence/attitudinal research in the last ten years

The Young Lives longitudinal study, which is following two cohorts of children in Ethiopia, India (the states of Andhra Pradesh and Telangana), Peru and Vietnam over 15 years, found that in Peru 51% of 8 year-olds and 19% of 15 year-olds said they had been physically punished by a teacher in the past week; 30% of 8 year-olds and 7% of 15 year-olds said they had seen other children being physically punished. Among 8 year-olds, corporal punishment was more common for boys (35%) than girls (26%), in rural areas (39%) than urban areas (27%), and in public schools (32%) than private schools (21%). Over 3% of 8 year-olds cited "teachers beating" as the most important reason for disliking school.

(Ogando Portela, M. J. & Pells, K. (2015), Corporal Punishment in Schools: Longitudinal Evidence from Ethiopia, India, Peru and Viet Nam, Innocenti Discussion Paper No. 2015-02, Florence, Italy: UNICEF Office of Research)

As part of a 2012 assessment by SOS Children's Villages of the implementation of the UN Guidelines for the Alternative Care of Children, the Ombudsman reported that children in residential care experienced physical punishment including limitation of food and were also punished by having their free time or study time reduced, being forced to do domestic work and having family visits limited or stopped.

(SOS Children's Villages International (2012), A Snapshot of Alternative Care Arrangements in Peru, Innsbruck: SOS Children's Villages International)

According to a 2012 report by Plan International, 94% of Peruvians think governments should completely outlaw all violence in schools.

(Global Advocacy Team (2012), Plan's Learn Without Fear campaign: Third progress report, Woking, UK: Plan)

In a 2011 study carried out in Lima, Huancayo and Iquitos, 27% of the children involved had been struck with an object at home and 6.4% had suffered serious injury, such as cuts or burns.

(Reported in Catholic Review, 6 September 2012)

A 2011 national study on demographics and family health asked 16,464 mothers with children living at home about the punishments used by parents. Physical punishment was the third most common type of punishment, used by 31.7% of biological fathers and 35.6% of biological mothers. Verbal reprimands were the most common type of punishment, followed by not allowing children something they liked. Sixty-two per cent of the mothers interviewed said they had been hit by their parents as children; 18% believed physical punishment was necessary to bring up their children, compared to 33.4% in 2000.

(Instituto Nacional de Estadistica e Informatica (2011), Perú: Encuesta Demográfica y de Salud Familiar 2011)

In a survey of 1,000 adults in 15 cities by Ipsos Apoyo, published by El Comercio, 42% agreed with using corporal punishment "occasionally" to discipline children; 56% were against physical punishment.

(Reported in Living in Peru, 27 September 2009, www.livinginperu.com/news/10206)

End Corporal Punishment acts as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We support and analyse national progress, monitor legality and implementation worldwide, partner with organisations at all levels, and engage with human rights treaty body systems. End Corporal Punishment is hosted by the World Health Organization and supported by a multi-partner Advisory Committee.