



Global Initiative to
**End All Corporal Punishment
of Children**

ECUADOR

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Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General’s Study on Violence against Children, as a highly significant issue, both for asserting children’s status as rights holders and for the prevention of all forms of violence.

The Global Initiative to End All Corporal Punishment of Children has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies and also regional human rights mechanisms have condemned all corporal punishment. In October 2006, the report of the UN Secretary General’s Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment, setting a goal of 2009.

This briefing describes the gaps in prohibition in Ecuador, despite recommendations by the Committee on the Rights of the Child.

We hope the Review will highlight the importance of Ecuador responding to treaty body recommendations and strongly recommend that Ecuador introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.

I: Legality of corporal punishment in Ecuador

The home

Corporal punishment is lawful in the **home**.

Legal protection from violence and abuse is given by the Law against Violence against Women and the Family (1995), the Childhood and Adolescence Code (2003), the Criminal Code (1991, amended 2005) and the Constitution (1998). The Childhood and Adolescence Code prohibits ill-treatment of children, which is defined as “any conduct, any act of omission or commission, that causes or may cause harm to the integrity or physical, psychological or sexual health of a child or young person, by any persons, including their parents, other relatives, educators and persons responsible for their care, whatever means used, whatever the consequences and whatever time is necessary for the victim to recover” (article 67). Article 76 states that abusive practices suffered by children cannot be justified on the grounds that they are educative methods or traditional cultural practices, but this is not interpreted as prohibiting all forms of corporal punishment of children.

Schools and other settings

Corporal punishment is unlawful in **schools** under the Childhood and Adolescence Code (articles 40 and 41).

In the **penal system**, corporal punishment is unlawful as a sentence for crime under state legislation – the Constitutional provisions (articles 23 and 51), the prohibition of cruel and degrading treatment in the Criminal Procedure Code (2001) and the provisions for socio-educational measures for juvenile offenders in the Childhood and Adolescence Code. However, the judicial system allows indigenous communities that are not served by police forces to apply vigilante justice as a form of “traditional” law, and public humiliation and beatings are reportedly a common form of punishment in isolated Andean villages. In November 2005, a draft law for indigenous justice was under discussion.

There is no explicit prohibition of corporal punishment as a “disciplinary” measure against children in detention.

In **alternative care settings**, corporal punishment is prohibited in institutions under the Childhood and Adolescence Code (article 41), but there is no explicit prohibition in other alternative care settings.

II: Recommendations by human rights treaty monitoring bodies

In its concluding observations on the state party’s combined second and third report in 2005, the **Committee on the Rights of the Child** expressed concern at the continued use of corporal punishment against children in schools and in the penal system, and recommended that Ecuador “introduce and enforce legislation prohibiting all forms of corporal punishment in all settings, including in the family and alternative childcare system, as well as strengthening awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the human dignity of the child and in conformity with the Convention, in particular article 28(2)” (CRC/C/15/Add.262, para. 38). The Committee also expressed concern “that indigenous children ... are subjected to punishment, including forms of public shaming” (paras. 73 and 74).