



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

NICARAGUA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 7th session, 2010

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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 (www.endcorporalpunishment.org) 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 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.

Summary

This briefing describes the legality of corporal punishment of children in Nicaragua, despite the recommendations of the Committee on the Rights of the Child. We hope the Review will highlight the importance of prohibition of corporal punishment of children, and strongly recommend that the government introduce legislation as a matter of urgency to prohibit all corporal punishment of children in all settings, including the home.

1 Legality of corporal punishment in Nicaragua

1.1 Corporal punishment is lawful in the **home**. Article 155 of the Penal Code punishes domestic violence “except in such cases in which the right to disciplinary punishment is exercised”, and in 2008 a Draft Family Code was under discussion which stated in article 279(f) that fathers, mothers and guardians should “discipline their sons and daughters adequately and moderately without risking their health and personal dignity.” As at June 2009, proposals had been made to prohibit all corporal punishment by parents in the new Family Code.

1.2 A survey by Save the Children Norway-Nicaragua in 2007 of more than 900 adults found that nearly nine out of ten agreed that hitting children is acceptable provided “it is not overdone”. More than six out of ten stated that children are hit in the home. Half of those interviewed admitted to having recently hit children in their care, most within the previous month.¹

1.3 Corporal punishment is prohibited in **schools** under article 100 of the General Education Law. It is also unlawful in the **penal system**.

1.4 There is no explicit prohibition of corporal punishment in **alternative care settings**.

2 Recommendations by human rights treaty monitoring bodies

2.1 In 2005, in its concluding observations on the state party’s third report, the **Committee on the Rights of the Child** recommended explicit prohibition of corporal punishment in the home, schools and all other institutions and forms of childcare (CRC/C/15/Add.265, paras. 43 and 44).

¹ Save the Children Norway-Nicaragua (2007-2008), *Adult attitudes towards the physical punishment of children and related practices in the target municipalities of Nicaragua*. Information provided to the Global Initiative, May 2008