

## **ECUADOR**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 13<sup>th</sup> session, 2012**

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

*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.*

*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 as a matter of priority.*

*The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities. There is growing progress across all regions in challenging this common form of violence against children. But many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope the Working Group of the UPR will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies on this issue, as well as to the recommendations made during the first cycle of the UPR.*

**Corporal punishment of children is lawful in Ecuador, despite repeated recommendations made by the Committee on the Rights of the Child and other human rights treaty bodies and questioning during the initial UPR of Ecuador.**

**We hope the Human Rights Council will highlight with concern Ecuador’s record of ignoring treaty body recommendations and strongly recommend that legislation be introduced as a matter of urgency to prohibit corporal punishment of children in the home and in all settings, including as a sentence under customary forms of justice.**

## **1 The initial review of Ecuador by the Human Rights Council (2008)**

1.1 Ecuador was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 1). No recommendation on corporal punishment was made during the review, though the issue was raised in advance questions by Finland. A recommendation was made concerning domestic violence which was accepted by the Government.<sup>1</sup> However, today as in 2008 children may lawfully be subjected to corporal punishment in the home as well as in institutions and other forms of care and as a sentence for crime in traditional justice systems.

1.2 Given that prohibiting corporal punishment is a key obligation under the Convention on the Rights of the Child and other international human rights instruments, and that it is frequently an obligation ignored or even denied by Governments, challenging Ecuador in this respect during its second UPR would reflect the seriousness with which the Human Rights Council views violations of the rights of all persons, including children.

## **2 Legality of corporal punishment in Ecuador**

2.1 Corporal punishment is lawful in the **home**. Article 67 of the Children and Adolescence Code defines ill-treatment of children 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 these and other legal provision against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing.

2.2 Corporal punishment is explicitly prohibited in **schools** in articles 40 and 41 of the Childhood and Adolescence Code.

2.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime under the Constitution, the Criminal Code and the Criminal Procedure Code, which make no provision for it though do not explicitly prohibit it. The Childhood and Adolescence Code provides for socio-educational measures in the case of juvenile offenders, and, in exceptional circumstances, deprivation of liberty. However, the Constitution allows indigenous communities to follow their traditional customary forms of justice providing they do not conflict with the Constitution or with national laws. These can include corporal punishments such as whipping and dousing with cold water and other public humiliation.

2.4 There is no explicit prohibition of corporal punishment as a disciplinary measure against children in detention, though children in institutions providing education are protected from corporal punishment under article 41 of the Childhood and Adolescence Code.

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

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<sup>1</sup> 13 May 2008, A/HRC/8/20, Report of the Working Group on the Universal Periodic Review: Ecuador, para. 60(8)

### **3 Recommendations by human rights treaty monitoring bodies**

3.1 The **Committee on the Rights of the Child** has twice expressed concern at the traditional acceptance and legality of corporal punishment of children and recommended its prohibition in all settings, including the home – in its concluding observations on the state party's fourth report in 2010<sup>2</sup> and in 2005 on the second/third report.<sup>3</sup>

3.2 In 2010, the **Committee Against Torture** recommended prohibition of corporal punishment of children in the home.<sup>4</sup>

3.3 In 2009 the **Human Rights Committee** recommended the promotion of positive non-violent discipline in education and public information about the negative effects of corporal punishment.<sup>5</sup>

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<sup>2</sup> 2 March 2010, CRC/C/ECU/CO/4, Concluding observations on fourth report, paras. 7, 8, 9, 10, 45, 46, 47, 64 and 65

<sup>3</sup> 13 September 2005, CRC/C/15/Add.262, Concluding observations on second and third combined report, paras.37, 38, 73 and 74

<sup>4</sup> 7 December 2010, CAT/C/ECU/CO/4-6, Concluding observations on fourth-sixth report, para. 18

<sup>5</sup> 4 November 2009, CCPR/C/ECU/CO/5, Concluding observations on fifth/sixth report, para. 14