

# Ending family violence in the Dominican Republic – challenging physical punishment of girls and boys



GLOBAL INITIATIVE TO  
**End All Corporal  
Punishment of Children**

Information for the Committee on the Elimination of Discrimination Against Women, Pre-Sessional Working Group for the 73<sup>rd</sup> session,  
*from the Global Initiative to End All Corporal Punishment of Children*  
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## **Introduction: family violence in the Dominican Republic and CEDAW's examination of the eighth state party report**

The Law Against Domestic Violence 1997 provides some protection from family violence to women and girls, but those provisions and others in domestic legislation are not interpreted as prohibiting all corporal punishment of children. The Positive Parenting (Discipline) and Prohibition of Abuse Bill is under discussion to prohibit all forms of corporal punishment – this would fulfil the Dominican Republic's long-standing commitment to do so.

**We hope the Committee on the Elimination of Discrimination Against Women will raise the issue of violent punishment of girls and boys in its examination of the Dominican Republic. In particular, we hope the Committee will:**

- **in its list of issues prior to reporting for the Dominican Republic, ask what progress is being made on enacting the Positive Parenting (Discipline) and Prohibition of Abuse Bill to prohibit all physical punishment of children as a matter of priority, and**
- **in its concluding observations on the eighth state party report, recommend that the Dominican Republic ensure that *no* form of violence within the domestic sphere is condoned, including by parents against their children, and that draft legislation currently under discussion is enacted to prohibit domestic violence against all family members, including the violent punishment of girls and boys.**

The remainder of this briefing provides the following further details:

1. The current law relating to family violence and corporal punishment of children in the Dominican Republic.
  2. Treaty body and UPR recommendations on the issue made to the Dominican Republic to date.
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# 1 Laws on domestic violence and corporal punishment of children in the Dominican Republic

## Summary

1.1 Provisions in the Law Against Domestic Violence 1997 provide some protection from family violence, but the law is not interpreted as prohibiting all forms of physical punishment of children. The Positive Parenting (Discipline) and Prohibition of Abuse Bill provides an opportunity for the Dominican Republic to fulfil its long-standing commitment to provide children with equal protection from violence in the home.

## Detail

1.2 Corporal punishment is lawful in the home. Article 12 of the Code for the Protection of the Rights of Children and Adolescents 2003 confirms the right of all children and adolescents to personal integrity and to respect for their dignity and states that it is the responsibility of the family, the state and society to protect children “against all forms of exploitation, maltreatment, torture, abuse or neglect that may affect their personal integrity” (unofficial translation) – but it does not explicitly prohibit all forms of corporal punishment in childrearing. The Code on Protection of Children and Adolescents 1994, which the 2003 Code repealed, included in its definition of maltreatment “personal injury caused by corporal punishment” (art. 126): this definition is not reiterated in the 2003 Code but there is nothing in the latter to suggest that it is intended to prohibit all corporal punishment of children, however light.

1.3 Article 303 of the Criminal Code states “Any act carried out as a method of criminal investigation, measure of intimidation, corporal punishment, preventive measure, criminal sanction or for any other purpose that causes injury or physical or mental suffering constitutes torture or an act of cruelty. Equally, the application of substances or methods designed to neutralize the personality or will of persons or to reduce their physical or mental capacity, even if such substances or methods do not cause physical pain or mental suffering, also constitutes torture or an act of cruelty.” But this is not interpreted as prohibiting all corporal punishment in childrearing, as indicated by article 303-1 which punishes acts of cruelty by 10-15 years. Provisions against violence and abuse in the Law Against Domestic Violence 1997 do not include prohibition of all corporal punishment.

1.4 Article 42 of the Constitution 2010 confirms the right of every person to personal integrity and “to live without violence”, stating also that “no one shall be subjected to punishment, torture or degrading treatment involving loss or decline in health or physical or mental integrity” and that “domestic and gender violence in any form is condemned”; article 56 confirms the right of children to protection from “all forms of abuse and violence” (art. 56). There is no evidence that these provisions are interpreted as prohibiting all corporal punishment of children by parents.

1.5 The Government has signalled its commitment to full prohibition of corporal punishment. In 2009, the Government accepted the recommendation to prohibit corporal punishment in all settings made during the Universal Periodic Review.<sup>1</sup> In reporting to the UPR of the Dominican Republic in 2014, the Government stated that work was under way “on drafting a provision to combat child abuse that covers corporal or physical punishment based on the Guide on Comprehensive Health Care for Children and Adolescent Victims of Violence and Abuse”.<sup>2</sup> The Government reported to the Committee on the Rights of the Child in 2015 that it had adopted a national roadmap on the prevention and elimination of violence against children;<sup>3</sup> this was officially launched on 30 April

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<sup>1</sup> 4 January 2010, A/HRC/13/3, Report of the working group, para. 87(14)

<sup>2</sup> 8 November 2013, A/HRC/WG.6/18/DOM/1, National report to the UPR, para. 21

<sup>3</sup> 15 January 2015, CRC/C/SR.1932, Summary record of 1932nd meeting, para. 31

2015.<sup>4</sup> This follows the adoption in 2011 of the Regional Roadmap on Violence against Children by the Central American Governments of Cuba, Mexico and the Dominican Republic, which includes a recommendation to adopt national legislation to explicitly prohibit all corporal punishment and to repeal provisions allowing for “moderate” punishment/correction.<sup>5</sup>

1.6 Current law reform includes the reform of the Penal and Civil Codes, including to ensure compliance with the new Constitution (see above). In 2016, the Government reported that a Family Code was being drafted in order to bring national legislation in line with the state’s international obligations.<sup>6</sup> The Government reported in August 2017 that a workshop had been held by the Inter-Agency Commission for the 2015-2018 Road Map to End Violence against Children where a consensus had emerged to draft a Bill entitled “Positive Parenting (Discipline) and Prohibition of Abuse Act” and that a commission was set up to pursue political advocacy and a communications strategy regarding corporal punishment.<sup>7</sup> As of May 2018, the Bill was still being prepared.<sup>8</sup>

**1.7 Prohibition of all violent punishment of children – which is critical in laying the legal foundations for efforts to reduce child abuse and domestic violence – requires an explicit ban in legislation. We hope the Committee will urge the Government of the Dominican Republic to enact legislation as a matter of urgency to clearly prohibit all corporal punishment of girls and boys.**

## **2 Recommendations by human right treaty monitoring bodies and during the Universal Periodic Review**

2.1 The *Committee on the Rights of the Child* has twice recommended to the Dominican Republic that legislation be enacted to explicitly prohibit corporal punishment in all settings, including the home – in its concluding observations on the state party’s second report in 2008<sup>9</sup> and on the third-fifth report in 2015.<sup>10</sup>

2.2 At the first cycle *Universal Periodic Review* of the Dominican Republic in 2009, the Government accepted the recommendation to prohibit corporal punishment of children in all settings.<sup>11</sup>

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<sup>4</sup> NGO Coalition for Children, correspondence with the Global Initiative, 6 May 2015; see also <http://www.listindiario.com/la-republica/2015/5/5/366053/Castigaran-a-adultos-que-les-den-pelas-a-los-ninos>, accessed 12 May 2015

<sup>5</sup> Regional Road Map on Violence against Children, adopted in 2011, 1 and 2 December in Santo Domingo, as a follow-up to the recommendations of the UN Study on Violence against Children, available at [http://srsg.violenceagainstchildren.org/sites/default/files/political\\_declarations/Hoja%20de%20Ruta%20Final%20EVCN%20Centroamericano%20Dic%202012.pdf](http://srsg.violenceagainstchildren.org/sites/default/files/political_declarations/Hoja%20de%20Ruta%20Final%20EVCN%20Centroamericano%20Dic%202012.pdf), accessed 21 February 2015

<sup>6</sup> 27 July 2016, CCPR/C/DOM/6, Sixth state report, paras. 125 and 126

<sup>7</sup> 15 August 2017, CCPR/C/DOM/Q/6/Add.1, Reply to list of issues, para. 30

<sup>8</sup> Information provided to the Global Initiative, May 2018; see also 15 August 2017, CCPR/C/DOM/Q/6/Add.1, Reply to list of issues, para. 16

<sup>9</sup> 11 February 2008, CRC/C/DOM/CO/2, Concluding observations on second report, paras. 45 and 46

<sup>10</sup> 4 February 2015, CRC/C/DOM/CO/3-5, Concluding observations on third-fifth report, paras. 31 and 32

<sup>11</sup> 4 January 2010, A/HRC/13/3, Report of the working group, para. 87(14)