



Global Initiative to  
End All Corporal Punishment  
of Children

## **BRIEFING ON MEXICO FOR THE COMMITTEE AGAINST TORTURE 49<sup>th</sup> SESSION – October/November 2012**

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**This briefing describes the legality of corporal punishment of children in Mexico. In light of the obligation under international human rights law to prohibit all corporal punishment of children, the recommendations of the UN Secretary-General's Study on Violence against Children, the repeated recommendations of the Committee on the Rights of the Child and the Government's acceptance of the recommendations made during the Universal Periodic Review in 2009, we hope the Committee against Torture will:**

- **raise the issue of corporal punishment of children in its examination of Mexico, in particular asking what measures have been taken to ensure the law explicitly prohibits corporal punishment in all settings, including the home and all forms of alternative care, and**
- **recommend to Mexico, in the concluding observations on the fifth/sixth state party report, that legislation is enacted and enforced which explicitly prohibits corporal punishment in the home, schools penal institutions and care settings, together with appropriate public education and professional training on positive, non-violent education and childrearing.**

### **1 Mexico's report to the Committee Against Torture**

1.1 The fifth/sixth report to the Committee was prepared in response to the List of Issues Prior to Reporting, which did not ask specifically about corporal punishment. However, given that a draft new Law on the Protection of the Rights of the Child is currently under discussion in the state party, providing an opportunity to prohibit corporal punishment of children and thereby realise their fundamental right to protection from this form of violence, we hope the Committee will include the issue in its examination of the Government delegation.

### **2 The legality of corporal punishment of children in Mexico**

2.1 Corporal punishment of children in Mexico is unlawful as a sentence for crime but it is not explicitly prohibited in the home, schools, penal institutions or care settings.

2.2 With regard to the **home**, the "right to correct" of persons with parental authority is confirmed in article 423 of the Federal Civil Code (2002). Provisions against violence and abuse in the Law for the Protection for the Rights of Children and Adolescents (2000), the

Criminal Code (1984, amended 2003) and the Law on Assistance and Prevention of Domestic Violence (1996) are not interpreted as prohibiting all corporal punishment in childrearing. In 2011, draft amendments to the Federal Criminal Code were under discussion but they did not include prohibition of corporal punishment. We are currently trying to ascertain whether or not prohibition has been proposed in the context of drafting the new Law on the Protection of the Rights of the Child.

2.3 In **schools**, article 32 of the Law for the Protection for the Rights of Children and Adolescents states that children have a right to an education that respects their dignity and indicates that laws must promote the necessary measures to impede discipline in educational institutions which affects a child's dignity or physical or mental integrity, but there is no explicit prohibition of corporal punishment. Corporal punishment is not prohibited in military schools.

2.4 In the **penal system**, corporal punishment is prohibited as a sentence for crime in article 22 of the Constitution: "Punishment by mutilation and infamy, branding, flogging, beating with sticks, torture of any kind, excessive fines, confiscation of property and any other unusual or extreme penalties are prohibited." It is not explicitly prohibited as a disciplinary measure in penal institutions, though there are various prohibitions of ill-treatment and abuse, including in the Law for the Treatment of Juvenile Offenders for the Federal District in common matters and for all the Republic in federal matters (1992) and the Law for the Protection for the Rights of Children and Adolescents.

2.5 There is no prohibition of corporal punishment in **alternative care settings**. A report on institutions including psychiatric hospitals and shelters in Mexico found that children and adults with disabilities are kept in permanent restraints, and that this constitutes cruel, inhuman or degrading treatment or punishment and sometimes torture.<sup>1</sup>

### **3 Recommendations by human rights treaty bodies and during the UPR**

3.1 The **Committee on the Rights of the Child** first recommended that corporal punishment of children in Mexico be prohibited in the family, schools and other settings in its concluding observations on the second report in 1999.<sup>2</sup> The Committee reiterated these recommendations following examination of the third report in 2006.<sup>3</sup> The Committee recommended prohibition of corporal punishment for a third time following examination of Mexico's initial report on implementation of the Optional Protocol on Children in Armed Conflict in 2011.<sup>4</sup>

3.2 At the **Universal Periodic Review** of Mexico in 2009, the following recommendation was made and was accepted by the Government: "Curb prevalence of corporal punishment on children, in keeping with Mexico's international advocacy against such offences (Bangladesh), and take measures to ensure that children are fully protected from corporal punishment and other forms of violence or exploitation (Sweden)."<sup>5</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>1</sup> Rosenthal, E. et al (2010), *Abandoned & Disappeared: Mexico's Segregation and Abuse of Children and Adults with Disabilities*, Disability Rights International & Comisión Mexicana de Defensa y Promoción de los Derechos Humanos

<sup>2</sup> 10 November 1999, CRC/C/15/Add.112, Concluding observations on second report, para. 25

<sup>3</sup> 2 June 2006, CRC/C/MEX/CO/3 Unedited Version, Concluding observations on third report, paras. 35, 36, 72 and 73

<sup>4</sup> 7 April 2011, CRC/C/OPAC/MEX/CO/1, Concluding observations on initial report (OPAC), para. 18

<sup>5</sup> 29 May 2009, A/HRC/11/27, Report of the Working Group, para. 93(30)