



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

**BRIEFING ON THE DOMINICAN REPUBLIC FOR THE
COMMITTEE ON THE RIGHTS OF THE CHILD,
PRESESSIONAL WORKING GROUP – June 2014**

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This briefing describes the legality of corporal punishment of children in the Dominican Republic. In light of the Committee’s General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, its previous recommendations on the issue, the relevant recommendations made during the UPR in 2009 (accepted by the Government) and the importance of eradicating this form of violence given by the UN Secretary General’s Study on Violence against Children, we hope the Committee will:

- **in its List of Issues for the Dominican Republic, raise the issue of corporal punishment of children, in particular asking what steps are being taken to ensure that all corporal punishment, without exception, is explicitly prohibited in the home and other settings?**
- **in its concluding observations on the Dominican Republic’s third to fifth report, recommend that legislation is enacted to explicitly prohibit all corporal punishment in all settings, including the home and in all schools, as a matter of priority, and that prohibition is enforced through appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

1 The Dominican Republic’s report to the Committee on the Rights of the Child

1.1 The third to fifth report of the Dominican Republic describes measures concerning school discipline and the implementation of the prohibition of corporal punishment in schools in the Code for the Protection of the Rights of Children and Adolescents 2003 (Law 136-03).¹ It also provides data on the prevalence of corporal punishment of 2-14 year olds.² However, there is no reference to any steps towards prohibiting corporal punishment in the home and other settings,

¹ [2010], Advance Unedited Version, Third-fifth state party report, paras. 1.2.2 and 7.4, at the time of briefing available only in Spanish

² *ibid.*, para. 5.6

despite the recommendations to prohibit made by the Committee in its previous concluding observations.³

- 1.2 In response to recommendations made during the Universal Periodic Review of the Dominican Republic in 2009, the Government indicated that it considered prohibition of corporal punishment was achieved in all settings with the enactment of Law 136-03.⁴ As outlined below, our research reveals that this law prohibits all corporal punishment in some but not all settings, and further reform is necessary.

2 The legality of corporal punishment of children in the Dominican Republic

- 2.1 **Summary:** Corporal punishment of children in the Dominican Republic is unlawful in schools and the penal system but it is lawful in the home, alternative care settings and day care.

2.2 **Home (lawful):** 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. Provisions against violence and abuse in the Law Against Domestic Violence 1997 and the Criminal Code 2007 are not interpreted as prohibiting all corporal punishment in childrearing.

2.3 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: the deep-rooted and near universal acceptance of physical punishment in childrearing means that provisions against “all forms of violence” etc are not readily perceived as applicable to corporal punishment unless it reaches some level of severity.

2.4 The Government accepted the recommendation to prohibit corporal punishment in all settings made during the Universal Periodic Review in 2009.⁵ The Penal and Civil Codes are being reformed, including to ensure compliance with the new Constitution, but we do not know if proposals have been made in this context to explicitly prohibit corporal punishment in the home. **We hope the Committee will urge the state party to include prohibition of all corporal punishment of children as a key element in these reforms.**

2.5 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in alternative care settings (formal foster care, institutions, orphanages, children’s homes, places of safety, emergency care, etc). Legal provisions against violence and abuse in the Constitution and other laws protect children from some but not all corporal punishment.

2.6 **Day care (lawful):** There is no explicit prohibition of corporal punishment in formal early childhood care (nurseries, crèches, children’s centres, etc) and formal day care for older children (after-school childcare, childminding, day centres, etc). Legal provisions against violence and

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

⁴ 8 February 2011, A/HRC/13/56, Report of the Human Rights Council on its thirteenth session, para. 327

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

abuse in the Constitution and other laws protect children from some but not all corporal punishment.

- 2.7 **Schools (unlawful):** The Code on the Protection of the Rights of Children and Adolescents 2003 prohibits corporal punishment (art. 48, unofficial translation): “School discipline should be administered in accordance with the rights, guarantees and duties of children and adolescents established in this Code.... In relation to official disciplinary regulations of schools and educational institutes, the following measures must be taken into account: ... prohibit corporal punishment and economic sanctions, as well as collective punishment, and corrections that might be considered to threaten or violate the rights of learners.”
- 2.8 **Penal institutions (unlawful):** Article 349 of the Code for the Protection of the Rights of Children and Adolescents 2003 prohibits corporal punishment: “The adolescent has the right ... l) not to be subjected to incommunicado in any case, or to the imposition of corporal punishment....”
- 2.9 **Sentence for crime (unlawful):** There is no provision for judicial corporal punishment in criminal law.

3 Recommendations by human rights treaty bodies and during the UPR

- 3.1 **CRC:** In 2008, in its concluding observations on the state party’s second report, the Committee on the Rights of the Child recommended that corporal punishment in the Dominican Republic be explicitly prohibited in all settings.⁶
- 3.2 **UPR:** The Dominican Republic was examined in the first cycle of the UPR in 2009 (session 6). The Government accepted the recommendation to “prohibit corporal punishment of children in all settings”.⁷

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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⁶ 11 February 2008, CRC/C/DOM/CO/2, Concluding observations on second report, para. 46

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