



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

BRIEFING ON ECUADOR FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, PRESESSIONAL WORKING GROUP – Jul 2014

*From Elinor Milne, Global Initiative
elinor@endcorporalpunishment.org*

The human rights obligation to prohibit corporal punishment – a key strategy in eliminating all forms of violence

The legality and practice of corporal punishment of girls breaches their fundamental rights to respect for their human dignity and physical integrity, to equality under the law and to protection from all forms of violence – rights guaranteed in the Convention on the Elimination of All Forms of Discrimination Against Women and other international human rights instruments. There are strong links between corporal punishment of children – girls and boys – and all other forms of violence, including gender-based violence. As the Committee on the Rights of the Child emphasised in its General Comment No. 8 (2006), addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.

The near universal acceptance of a degree of violent punishment in childhood and deeply held views that parents and other adults have a “right” to physically punish children can challenge efforts to achieve prohibition. This situation also means that corporal punishment – at least to some degree – is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence. Physical violence against girls and boys in their own home is typically assumed not to be domestic violence because it is inflicted under the guise of “discipline” or “correction” – a rationale totally unacceptable when the victim is an adult woman. **It is for these reasons that we respectfully urge the Committee on the Elimination of Discrimination Against Women to specifically recommend that corporal punishment be prohibited in the home and all settings.**

This briefing describes the legality of corporal punishment of children in Ecuador. In light of General Recommendation No. 19 on Violence against women (1992), the links between corporal punishment of children and all other forms of violence including gender-based violence, and the repeated recommendations to Ecuador by treaty monitoring bodies and during the UPR (accepted by the Government), we hope the Committee on the Elimination of Discrimination Against Women will:

- **raise the issue of corporal punishment of girls in its List of Issues for Ecuador, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home, and**
- **recommend to Ecuador, in the concluding observations on the fifth state party report, that legislation which prohibits corporal punishment in all settings, including the home, is adopted as a matter of priority.**

1 The state party's report to CEDAW

- 1.1 The eighth/ninth state report of Ecuador to CEDAW includes extensive information on violence against women but appears to make no reference to corporal punishment of children – punitive violence which may lawfully be inflicted on them in the home and other settings.¹
- 1.2 In 2012, the Government signalled its commitment to prohibition by clearly accepting the recommendations to prohibit corporal punishment in all settings made during the UPR.² **We hope the Committee will urge the state party to fulfil this commitment and emphasise the importance of prohibiting and eliminating physical punishment of girls and boys within the family when taking measures against family violence.**

2 The legality and practice of corporal punishment of children in Ecuador

- 2.1 **Summary:** In Ecuador, corporal punishment is unlawful in schools, preschool provision, penal institutions and as a sentence for crime under state law, but it is lawful in the home, alternative care settings, day care and possibly as a sentence in indigenous justice systems.
- 2.2 **Home (lawful):** Article 67 of the Children and Adolescence Code 2003 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” (art. 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 this is not interpreted as prohibiting all forms of corporal punishment in childrearing. Provisions against violence and abuse in the Law against Violence against Women and the Family 1995, the Childhood and Adolescence Code 2003, the Criminal Code 1991 and the Constitution 2008 are not interpreted as prohibiting all corporal punishment. A 2012 study by the Observatorio de los Derechos de la Niñez y la Adolescencia, UNICEF, Plan International and other NGOs found that 44% of children had been punished in the family home by being beaten, compared with 40% in a similar study in 2000.³
- 2.3 **Alternative care settings (lawful):** Children are protected from some corporal punishment under articles 67 and 76 of the Children and Adolescence Code 2003 (see para. 2.2, above) but there is no explicit prohibition of all forms of corporal punishment.
- 2.4 **Day care (partial prohibition):** Corporal punishment is prohibited in preschool provision in articles 40 and 41 of the Childhood and Adolescence Code 2003 but it is not explicitly prohibited in other early childhood care and in day care for older children. Articles 67 and 76 of the Code protect children from some but not all corporal punishment.
- 2.5 **Schools (unlawful):** Corporal punishment is explicitly prohibited in schools in articles 40 and 41 of the Childhood and Adolescence Code 2003.
- 2.6 **Penal institutions (unlawful):** Corporal punishment is considered unlawful but is not explicitly prohibited except in institutions providing education, where article 41 of the Childhood and Adolescence Code 2003 is applicable (see para. 2.5, above).
- 2.7 **Sentence for crime (partial prohibition):** There is no provision for judicial corporal punishment in criminal law. However, the Constitution allows indigenous communities to follow their traditional customary forms of justice providing that they do not conflict with the Constitution or

¹ 27 February 2013, CEDAW/C/ECU/8-9, Eighth/ninth state party report (as at 10 June 2014 available only in Spanish)

² 5 July 2012, A/HRC/21/4, Report of the working group, paras. 135(21) and 135(22)

³ Reported in *La Hora*, 30 May 2012

with national laws. Media reports suggest that these can include corporal punishments such as whipping and dousing with cold water and other public humiliation.⁴

3 Recommendations by human right treaty monitoring bodies and during the UPR

- 3.1 **CRC:** The Committee on the Rights of the Child has twice recommended to Ecuador that corporal punishment of children be prohibited in all settings, including the home – in its concluding observations on the state party’s second/third report in 2005 and on the fourth report in 2010.⁵
- 3.2 **HRC:** In 2009, the Human Rights Committee expressed concern at corporal punishment of children in the family and other contexts in Ecuador and recommended that steps be taken to put an end to it, including the promotion of non-violent discipline and public information campaigns.⁶
- 3.3 **CAT:** In 2010, the Committee Against Torture recommended to Ecuador that corporal punishment of children be prohibited in the home.⁷
- 3.4 **UPR:** The Government accepted recommendations to prohibit corporal punishment in all settings including the family, made during the Universal Periodic Review of Ecuador in 2012.⁸

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
June 2014

⁴ See, for example, *The Star*, 11 May 2003; *Hemisphere*, 22 March 2004; *IPSNews.net*, 26 May 2010

⁵ 13 September 2005, CRC/C/15/Add.262, Concluding observations on second/third report, paras. 37, 38, 39, 73 and 74; 2 March 2010, CRC/C/ECU/CO/4, Concluding observations on fourth report, paras. 7, 8, 9, 10, 45, 46, 47, 64 and 65

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

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

⁸ 5 July 2012, A/HRC/21/4, Report of the working group, para. 135