



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

## **BRIEFING ON DOMINICAN REPUBLIC FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN PRESESSIONAL WORKING GROUP – October 2012**

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### **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),<sup>1</sup> addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.

**This briefing describes the legality of corporal punishment of children in the Dominican Republic. 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, the Government’s acceptance of the recommendation made during the UPR in 2009 to prohibit corporal punishment in all settings, and the current opportunities for achieving law reform as described in this briefing, 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 the Dominican Republic, asking what progress has been made towards prohibiting and eliminating all corporal punishment in all settings, including the home, and**
- **recommend to the Dominican Republic, in the concluding observations on the sixth/seventh state party report, that all corporal punishment be explicitly prohibited in the home and all forms of care as a matter of priority.**

<sup>1</sup> General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” is available at [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm).

## **1 The Dominican Republic's sixth/seventh report to CEDAW**

1.1 The sixth/seventh report of the Dominican Republic to CEDAW (21 December 2011, CEDAW/C/DOM/6-7) provides extensive information regarding gender-based violence, including its prohibition in article 42(2) of the new Constitution (para. 61(b)). However, it fails to mention the violence that may lawfully be inflicted on girls and boys in the guise of "discipline" by parents and other carers.

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

2.1 In the Dominican Republic, corporal punishment of children is unlawful in the penal system and in schools but it is lawful in the home and in alternative care settings.

2.2 With regard to the **home**, we have been unable to establish whether or not written law confirms a "right" of parents to inflict "reasonable" or "moderate" punishment/correction on their children, but neither the various legal provisions against violence and abuse nor the protections for the family and for children in the new Constitution explicitly prohibit all corporal punishment in childrearing.

2.3 According to UNICEF, 83% of 2-14 year olds experienced physical punishment and/or psychological aggression in the home in 2005-2006; of girls and women aged 15-49, 9% think that a husband is justified in hitting or beating his wife under certain circumstances.<sup>2</sup>

2.4 Corporal punishment is unlawful in **schools** under the Education Act (1997, amended 2007) and the Code for the System of Protection of the Fundamental Rights of Children and Adolescents (articles 48 and 49).

2.5 In the **penal system**, corporal punishment is unlawful as a sentence for crime: there is no provision for judicial corporal punishment in criminal law. It is unlawful as a disciplinary measure in penal institutions under article 349 of the Code for the System of Protection of the Fundamental Rights of Children and Adolescents, which states that in the implementation and enforcement of sanctions, no young person should be subjected to corporal punishment. Article 384 states that the internal regulations of penal institutions should comply with the Code.

2.6 There is no explicit prohibition of corporal punishment in all forms of **alternative care**.

## **3 Opportunities for achieving law reform to prohibit corporal punishment**

3.1 As the state party reports in its sixth/seventh report to CEDAW, both the Civil Code and the Penal Code are being revised, and attention is now focused on giving effect to the protections in the new Constitution (paras. 73-79). This process of law reform provides a key opportunity for prohibiting all corporal punishment of children, particularly since the Constitution explicitly prohibits all forms of violence including gender based violence and given that the Government accepted the recommendation made during the UPR to prohibit corporal punishment in all settings (see section 4, over).

**We hope the Committee on the Elimination of Discrimination Against Women will urge the Government of the Dominican Republic to ensure that in the context of reforming the Civil and Penal Codes the girl child is protected in law from all forms of violent punishment.**

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<sup>2</sup> UNICEF (2009), *Progress for Children: A report card on child protection*, NY: UNICEF

#### **4 Recommendations by human right treaty monitoring bodies**

4.1 Following examination of the state party's second report in 2008, the **Committee on the Rights of the Child** expressed concern at the legality of corporal punishment in education settings, care institutions and the family, and recommended explicit prohibition in all settings as a matter of priority.<sup>3</sup>

4.2 The Dominican Republic was examined in the first cycle of the **Universal Periodic Review** in 2009 (session 6). The Government accepted the recommendations to “prohibit corporal punishment of children in all settings”.<sup>4</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>3</sup> 11 February 2008, CRC/C/DOM/CO/2, Concluding observations on second report, paras. 45 and 46

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