



Global Initiative to
End All Corporal Punishment
of Children

**BRIEFING ON CHILE FOR THE COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN
PRESESSIONAL WORKING GROUP – March 2012**

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The human rights obligation to prohibit corporal punishment of girls and boys

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),¹ 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 Chile. In light of General Recommendation No. 19 on Violence against women (1992) and the links between corporal punishment of children and all other forms of violence including gender-based violence, 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 Chile, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home and schools, and**
- **recommend in the concluding observations on Chile’s fifth/sixth report, that Chile carry out further law reform to prohibit corporal punishment in the home and other settings, including through explicit repeal of all legal defences for its use in childrearing.**

¹ 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.

The fifth/sixth report of Chile to CEDAW

Chile's fifth/sixth report to CEDAW (17 March 2011, CEDAW/C/CHL/5-6, as at 26 January 2012 available only in Spanish), describes measures taken to protect women and children from violence, including domestic violence, but makes no reference to violence that may lawfully be inflicted on girls by parents and carers in the guise of "discipline".

Corporal punishment of children in Chile

In Chile, corporal punishment of children is lawful in the home, schools and alternative care settings. It is unlawful in the penal system.

With regard to the home, law reform in 2008 failed to fully prohibit all corporal punishment in childrearing. Article 234 of the Civil Code provides for parents' "right to correct" their children. In 2008, this was amended to state that this excludes all forms of physical and psychological abuse ("maltrato físico y psicológico") and shall be exercised in accordance with the Convention on the Rights of the Child. However, there is no clear prohibition of all corporal punishment including that which does not reach the threshold of "abuse". We have uncovered no evidence that provisions against violence and abuse in the Criminal Code, the Family Violence Act and the Child Law (1967) are interpreted as prohibiting all corporal punishment in childrearing.

There appears to be no explicit prohibition of corporal punishment in schools. In care settings, article 57 of the Child Law confirms a "right to correct" in children's homes and institutions; article 234 of the Civil Code presumably applies to adults with parental authority in other care settings.

The World Studies of Abuse in the Family Environment (WorldSAFE) comparative research carried out between 1998 and 2003 found that in Chile, 69% of children experienced "moderate" physical discipline (including being "spanked" on the buttocks, hit with an object, slapped on the face and having hot pepper put in their mouth); 4.5% experienced harsh physical discipline (including being burnt, beaten up, kicked and smothered); 32% harsh psychological discipline such as being called names, being cursed and being threatened with abandonment; 85% "moderate" psychological discipline, including being yelled or screamed at or being refused food.² In a 2006 survey by the Association of Chileans for the United Nations, together with Save the Children Sweden, many parents admitted frequently using corporal punishment, most commonly in families of lower socio-economic status, and more commonly mothers than fathers.³

Recommendations by human rights treaty bodies

In its concluding observations on the state party's third report in 2007, the Committee on the Rights of the Child expressed concern at the legality of corporal punishment in the home under article 234 of the Civil Code and at the use of corporal punishment in the home, schools and institutions (CRC/C/CHL/CO/3, para. 40). The Committee recommended law reform to explicitly prohibit corporal punishment together with awareness raising, public education and the promotion of non-violent methods of childrearing and education (para. 41). The Committee had previously recommended prohibition in the family, schools and institutions in its concluding observations on the second report in 2002 (CRC/C/15/Add.173, para. 32).

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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² Runyan, D. et al (2010), "International Variations in Harsh Child Discipline", *Pediatrics*

³ Soledad Salazar Medina (2006), *Estilos de crianza y cuidado infantil en Santiago de Chile: Algunas reflexiones para comprender la violencia educativa en la familia*, Asociación Chilena Pro Naciones Unidas – ACHNU – PRODENI