



Global Initiative to  
End All Corporal Punishment  
of Children

**BRIEFING ON ANDORRA FOR THE COMMITTEE ON THE ELIMINATION  
OF DISCRIMINATION AGAINST WOMEN  
PRESESSIONAL WORKING GROUP – Feb/Mar 2013**

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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 Andorra. 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 recommendations of treaty monitoring bodies and the Government’s acceptance of the UPR recommendations to prohibit, 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 Andorra, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home, and**
- **recommend to Andorra, in the concluding observations on the second/third state party report, that legislation be strengthened to explicitly prohibit corporal punishment in all settings, including the home, 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 Andorra's second/third report to CEDAW

1.1 The second/third report of Andorra to CEDAW (2 November 2011, CEDAW/C/AND/2-3) provides information concerning violence against women and girls but appears to make no reference to the violence that may lawfully be inflicted on girls and boys within the family and other settings in the guise of “discipline”.<sup>2</sup>

## 2 The legality of corporal punishment of children in Andorra

2.1 *Summary:* In Andorra, corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in the La Governera children's centre but it is not explicitly prohibited in any other setting, including the home, schools, penal institutions and alternative care settings.

2.2 *Home:* The *Llei qualificada* on adoption and other forms of protection of abandoned minors states that the purpose of parental authority is to protect the child's safety, health and morals, and parents have a right and duty to care for, watch over, maintain and educate the child (articles 27-28). The Criminal Code 2005 (amended 2008) punishes domestic violence and physical ill-treatment, including physical assault which does not cause injury (articles 114 and 476).

2.3 The Government has repeatedly stated that corporal punishment in the home and in other settings is prohibited under these provisions in the Code but has also acknowledged that there is no explicit prohibition of corporal punishment.<sup>3</sup> In reporting to the Committee on the Rights of the Child that corporal punishment is prohibited in the family, the Government cites article 114 of the Penal Code, “Maltreatment in the home”, as amended by Law No. 91/2010.<sup>4</sup> In fact, article 114 as amended does not refer to corporal/physical punishment. Rather, it punishes physical and psychological violence. The rationale for amending the law – the “Exposició de motius” – as outlined in the official bulletin appears to focus on ensuring that all violence is punished and not only habitual or repeated violence; there is no specific reference to violence inflicted in the guise of punishment or “discipline”.

2.4 *Schools:* Corporal punishment is considered unlawful under protection of children's right to respect for basic rights, including the dignity of the person, in the qualified law on education 1993, the law regulating the Andorran educational system 1994, the regulations for private teaching centres 1994, the regulations for safety in schools 2000 and the law guaranteeing the rights of the disabled 2002, but these laws do not explicitly prohibit corporal punishment.

2.5 *Penal system:* Corporal punishment is unlawful as a sentence for crime; it is considered unlawful as a disciplinary measure in penal institutions but it is not explicitly prohibited.

2.6 *Alternative care settings:* Corporal punishment is prohibited in the internal regulations of the La Governera children's centre (*Règlement relatif au régime interne du centre d'accueil pour enfants La Governera*), but there is no explicit prohibition in other alternative care settings.

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<sup>2</sup> As at 22 January 2013, report available only in French

<sup>3</sup> 3 January 2011, RAP/RCha/AND/IV(2010), National report to the European Committee of Social Rights, pp. 62-63; 15 September 2011, CRC/C/AND/2, Second report to the Committee on the Rights of the Child, para. 396; 4 January 2011, A/HRC/16/8, Report of the Working Group of the Universal Periodic Review, paras. 49, 50 and 68; 6 April 2011, A/HRC/16/L.41, Report of the Human Rights Council on its sixteenth session, para. 492

<sup>4</sup> 6 August 2012, CRC/C/AND/Q/2/Add.1, para. 37

### **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 prohibition of corporal punishment in all settings, including the home – following examination of the initial report in 2002 and, most recently, the second report in 2012.<sup>5</sup>
- 3.2 *ECSR*: In 2011, the European Committee of Social Rights concluded that the situation in Andorra is not in conformity with article 17 of the European Social Charter on the grounds that corporal punishment is not explicitly prohibited in the home, schools and institutions.<sup>6</sup>
- 3.3 *UPR*: Andorra was examined in the first cycle of the Universal Periodic Review in 2010 (session 9). The Government accepted the recommendations to “Enact and implement legislation that unambiguously prohibits all corporal punishment in the home” and to “Take all necessary measures to fully implement the Convention on the Rights of the Child, including by prohibiting corporal punishment of children in all settings”.<sup>7</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>5</sup> 7 February 2002, CRC/C/15/Add.176, Concluding observations on initial report, paras. 39 and 40 ; 30 November 2012, CRC/C/AND/CO/2, Concluding observations on second report, paras. 7, 8, 30 and 31

<sup>6</sup> January 2012, Conclusions 2011

<sup>7</sup> 4 January 2011, A/HRC/16/8, Report of the working group, paras. 30, 56, 83(2), 83(7) and 83(10)