**BRIEFING FROM GLOBAL INITIATIVE**

**TO END ALL CORPORAL PUNISHMENT OF CHILDREN**

**BRIEFING FOR THE COMMITTEE ON THE RIGHTS OF THE CHILD**

**PRE-SESSIONAL WORKING GROUP – June 2011**

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**PANAMA (third/fourth report – CRC/C/PAN/3-4)**

**Corporal punishment in the home**

Corporal punishment is lawful in the **home**. Under article 319 of the Family Code (1994) those with parental authority over children have a duty and power “to reasonably and moderately correct them”, and there is a similar provision in article 443 in relation to guardians/tutors. The Civil Code also recognises the right of guardians to “reasonably and moderately” correct the child or adolescent in their care (article 188). The Family Code (article 501) and the Penal Code (article 215D) protect children from corporal punishment which causes physical injury but they do not prohibit all corporal punishment. Other legal provisions against violence and abuse in the Family Code, Law No. 38 on Domestic Violence and Abuse of Children and Adolescents (2001), the Criminal Code and the Constitution (1972) are not interpreted as prohibiting all corporal punishment.

The Government appears to have made no response to recommendations made during the Universal Periodic Review in 2010 to prohibit corporal punishment.

**Corporal punishment outside the home**

Corporal punishment is lawful in **schools** under the right of correction (see above, information unconfirmed).

In the **penal system**, corporal punishment is unlawful as a sentence for crime under the Penal Code and Law No. 40 on the special regime of criminal responsibility regarding adolescents (1999). It is explicitly prohibited as a disciplinary measurein penal institutions in article 144 of Law No. 40 on the Special regime of criminal responsibility regarding adolescents.

Corporal punishment is lawful in **alternative care settings** under the right of correction in the Family Code and the Civil Code (see above).

**Following examination of the state party’s initial report in 1997, the Committee on the Rights of the Child recommended prohibition of corporal punishment, including by parents (CRC/C/15/Add.68, para. 30). During examination of the second report in 2004, the Committee was led to believe that corporal punishment was prohibited in law and that this protection was strengthened by Law No. 38 (see the second state party report, CRC/C/70/Add.20, paras. 207 and 208, and summary record CRC/C/SR.952, para. 54). The Committee went on to welcome the prohibition of corporal punishment in Law No. 38 and make recommendations concerning implementation of prohibition (CRC/C/15/Add.233, paras. 33, 34 and 40). However, our research finds that Law No. 38 punishes only corporal punishment which results in physical injury.[[1]](#footnote-1)**

**In light of the Committee on the Rights of the Child’s General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” 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 urge the Government of Panama to repeal all legal defences for the use of corporal punishment in childrearing and to enact legislation prohibiting all corporal punishment – however light – in all settings, including the home, as a matter of priority.**

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*

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1. Law 38 amends the Penal Code by inserting article 215D as follows (emphasis added):

   A**rtículo 215-D.** La persona que maltrate a un niño, niña o adolescente menor de 18 años, será sancionada con prisión de 2 a 6 años o con medida de seguridad curativa o ambas.

   Las siguientes conductas tipifican el maltrato de menores de edad: 1. Causar, permitir o hacer que se les cause daño físico, mental o emocional, incluyendo lesiones físicas ocasionadas por castigos corporales. 2. Utilizarlos o inducir a que se les utilice, con fines de lucro, en la mendicidad, pornografía o en propaganda o publicidad no apropiada para su edad. 3. Emplearlos en trabajos prohibidos o contrarios a la moral, o que pongan en peligro su vida o su salud. 4. Imponerles trato negligente y malos tratos que puedan afectarles en su salud física y metal. [↑](#footnote-ref-1)