

Corporal punishment of children in Barbados

Report prepared by the Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org), last updated May 2015



Child population

65,080 (UNICEF, 2013)

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings, day care, schools, penal institutions and as a sentence for crime.

The Prevention of Cruelty to Children Act 1904 confirms “the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child” (art. 4). This provision should be repealed, and the law should clearly state that all forms of corporal punishment and other cruel and degrading treatment are unacceptable, including by parents and others with parental authority.

Alternative care settings – Prohibition should be enacted in legislation applicable to all alternative care settings without exception, including foster care, institutions, children’s homes, places of safety, emergency care, etc.

Day care – Legislation should prohibit corporal punishment in all early childhood care settings (nurseries, preschools, crèches, children’s centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Schools – Provisions in the Education Act and Education Regulations authorising corporal punishment in schools should be repealed and prohibition enacted in relation to all schools, public and private.

Penal institutions – Provisions for “disciplinary” corporal punishment in the Reformatory and Industrial Schools Act 1926 and the Prisons Act 1964 should be repealed and prohibition of corporal punishment enacted in relation to all institutions accommodating children in conflict with the law.

Sentence for crime – Provisions authorising corporal punishment in the Magistrate’s Courts Act 2001, the Juvenile Offenders Act 1932 and the Corporal Punishment Act 1899 should be repealed and all judicial corporal punishment prohibited.

Detailed country report

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. Article 4 of the Prevention of Cruelty to Children Act 1904 states: “Nothing in this Act shall be construed to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child.” Provisions against violence and abuse in the Domestic Violence (Protection Orders) Act 1994, the Protection of Children Act 1990, the Employment (Miscellaneous Provisions) Act 1977 and the

Offences Against the Person Act 1994 are not interpreted as prohibiting corporal punishment in childrearing.

The Government rejected recommendations to prohibit corporal punishment made during the Universal Periodic Review (UPR) in 2008.¹ In its report to the second UPR in 2013, the Government referred to public support for the retention of corporal punishment particularly in homes and schools.² The Government accepted a recommendation concerning changing traditional attitudes towards corporal punishment but rejected recommendations to prohibit it.³

In reporting to the Committee on the Rights of the Child in 2014, the Government drew attention to the 2004 report of the National Commission on Law and Order, which was established in 2002 and which looked at the issue of corporal punishment in the home, schools and prisons. The Government quotes the report of the National Commission on Law and Order as stating:⁴ “The fact that Barbados continues to use corporal punishment in school and not to outlaw it in the home is partly due to the strong cultural attitude in favour of corporal punishment. The matter is no longer seen as even debatable.” The Commission did not agree that corporal punishment in the home should be subject to legislative control.⁵

Alternative care settings

There is no explicit prohibition of corporal punishment in alternative care settings, where it is lawful under the right “to administer punishment” in article 4 of the Prevention of Cruelty to Children Act 1904 (see under “Home”).

Day care

Corporal punishment is prohibited in day nurseries under article 14 of the Child Care Board Regulations 1985: “Corporal punishment, severe or frightening measures must not be inflicted on a child of the day nursery.” There is no explicit prohibition of corporal punishment in other early childhood care or in day care for older children, where it is lawful under the right “to administer punishment” in article 4 of the Prevention of Cruelty to Children Act 1904 (see under “Home”).

Schools

Corporal punishment is lawful in schools under the right “to administer punishment” in article 4 of the Prevention of Cruelty to Children Act 1904 (see under “Home”) and the Education Regulations pursuant to article 59 of the Education Act 1983. Education Regulation 18(j) authorises principals to inflict corporal punishment and to delegate the authority to do so to the deputy principal and senior teachers. Ministerial “Guidelines for the Administration of Corporal Punishment” state that corporal punishment should be “a last resort”, “moderate and reasonable” and “administered with a proper instrument”; where possible, a female should administer it on female students, and all corporal punishment must be recorded in the punishment book; it “shall not be administered to a child whose parents or legal guardian has upon the day of enrolment of the pupil filed with the principal of the school a statement from a medical doctor saying that it is detrimental to the child’s mental or emotional stability”.

¹ 16 March 2009, A/HRC/10/73/Add.1, Report of the working group: Addendum, paras. 21 and 22

² 5 December 2012, A/HRC/WG.6/15/BRB/1, National report to the UPR, paras. 85 and 86

³ 5 June 2013, A/HRC/23/11/Add.1, Report of the working group: Addendum, paras. 25 and 26

⁴ Quoted in 4 May 2015, CRC/C/BRB/2, Second state party report, para. 88

⁵ *ibid.*, para. 89

In 2006, the Government reported to the Human Rights Committee that “the Government and people of Barbados did not view corporal punishment as torture, or inhumane or degrading in itself” and there were no plans to review its legality.⁶ During the Universal Periodic Review of Barbados in 2008, the Government noted that the Minister of Education had publicly advocated for abolition of corporal punishment in schools but that this was not currently the official position, though “it may move in that direction in future”.⁷ In reporting to the second UPR in 2013, the Government stated that alternatives to corporal punishment were being encouraged but support for corporal punishment remained strong; however, the Education Act and Regulations are being reviewed and the Code of Discipline in schools will be examined in relation to human rights.⁸ In June 2014, Minister of Education, Science, Technology and Innovation Ronald Jones spoke of his opposition to corporal punishment in schools.⁹ As at April 2015, the Education Act is still under review.¹⁰

The 2014 report to the Committee on the Rights of the Child notes the conclusion of the National Commission on Law and Order in 2004 that corporal punishment should remain in the education system. The Government notes the “prolonged difficulty in changing the public’s attitude towards corporal punishment” and notes efforts to promote positive discipline in schools with the support of UNICEF, but makes no reference to the drafting of prohibiting legislation.¹¹

Penal institutions

Corporal punishment is lawful as a disciplinary measure in penal institutions. On conviction of an offence, children and young people may be sent to a Reformatory and Industrial School (Juvenile Offenders Act, art. 16). The Reformatory and Industrial Schools Act 1926 authorises the infliction of corporal punishment as a disciplinary measure on boys (art. 31), and allows a magistrate to order whipping as a punishment for attempted escape (art. 34).

Young people aged 16 and above are tried as adults and may be sentenced to imprisonment. In reporting to the Committee on the Rights of the Child in 2014, the Government noted the findings of the National Commission on Law and Order that corporal punishment “no longer exists” in the penal system by virtue of a 1992 Court of Appeal decision which concluded that the use of the cat-o’-nine tails (for flogging) as inhuman and degrading.¹² The Prisons (Amendment) Act 2015 has now formally repealed the provisions in the Prisons Act 1964 which authorised the use of force for purposes of maintaining discipline (art. 20) and provided for corporal punishment for specific disciplinary offences, up to 12 strokes for persons below the age of 21 (art. 40).

Sentence for crime

Corporal punishment is lawful as a sentence for crime for males. The Magistrate’s Courts Act 2001 provides for boys aged 8-15 to be “privately whipped” at a police station, up to 12 strokes with a “tamarind or other similar rod”, in place of or in addition to any other punishment (art. 71). The Juvenile Offenders Act 1932 includes “ordering the offender to be whipped” among the list of available sanctions for children and young people (art. 16(f)). The Act also provides for a court to order a boy aged 12-15 to be “privately whipped” in lieu of or in addition to any other punishment (art. 9). The Corporal Punishment Act 1899 states that whipping or flogging should be administered on a

⁶ 25 September 2006, CCPR/C/BRB/3, Third state party report, para. 244

⁷ 16 March 2009, A/HRC/10/73/Add.1, Report of the working group: Addendum, para. 23

⁸ 5 December 2012, A/HRC/WG.6/15/BRB/1, National report to the UPR, paras. 85 and 86

⁹ Reported in *The Barbados Advocate*, 29 June 2014

(www.barbadosadvocate.com/newsitem.asp?more=local&NewsID=37229, accessed 3 July 2014)

¹⁰ UNICEF Office for the Eastern Caribbean Area, in correspondence with the Global Initiative, April 2015

¹¹ 4 May 2015, CRC/C/BRB/2, Second state party report, paras. 91 and 94

¹² *ibid.*, para. 64

single occasion, up to 12 strokes for persons under 16 or 24 for older persons (art. 2). Corporal punishment may be carried out only after medical examination and under the supervision of a prison official.

Universal Periodic Review of Barbados' human rights record

Barbados was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 3). The following recommendations were made:¹³

“Eliminate all forms of corporal punishment from its legislation (Chile); abolish corporal punishment for children (Germany); address the concerns raised by the Human Rights Committee and the Committee on the Rights of the Child on corporal punishment (Turkey); take measures to eliminate corporal punishment as a legitimate sanction in the law and to discourage its use in schools with a view to its eventual and total abolition; conduct public awareness initiatives to change peoples' attitudes to corporal punishment (Slovenia)”

The Government rejected the recommendations to prohibit corporal punishment, stating that the laws of Barbados protect children from abuse and that corporal punishment in schools and prisons must be administered in compliance respectively with the Code of Discipline promulgated under the Education Act and the Prison Rules Act.¹⁴ The Government also noted during the review that the Minister for Education's public advocacy of prohibition of corporal punishment in schools was not the official position, though “it may move in that direction in future”.¹⁵ However, the Government accepted the recommendation regarding public awareness initiatives to change people's attitudes to corporal punishment.¹⁶

The following recommendations were also made, and were accepted by the Government:¹⁷

“Give consideration to all international obligations in the field of human rights provisions in revision of the Constitution (Mexico); take and strengthen necessary legislative measures required to incorporate in its domestic law the provisions contained in international human rights instruments to which it is a party (Algeria); adopt further measures to ensure the incorporation of its international human right obligations into national legislation (Czech Republic); consolidate the process of updating its national legislation in accordance with its international commitments (Cuba)”

In accepting these recommendations, the Government confirmed that it was “actively looking at further revising the Constitution and updating its legislation to conform to its treaty obligations”.¹⁸

The second cycle review took place in 2013 (session 15). In its national report, the Government noted that it is “cognisant of the call for the total abolition of corporal punishment” but that “there continues to be strong support for the retention of corporal punishment particularly within the school and home settings” and that while alternative disciplinary methods are being encouraged in schools “there is still a mammoth task of changing the national mindset in relation to corporal punishment”.¹⁹ During the review, the Government stated that “greater public acceptance seems to be needed for Government to comfortably introduce this change into its legislation”.²⁰

¹³ 9 January 2009, A/HRC/10/73, Report of the working group, para. 77(14)

¹⁴ 16 March 2009, A/HRC/10/73/Add.1, Report of the working group: Addendum, paras. 21 and 22

¹⁵ 9 January 2009, A/HRC/10/73, Report of the working group, para. 49

¹⁶ 16 March 2009, A/HRC/10/73/Add.1, Report of the working group: Addendum, para. 23

¹⁷ 9 January 2009, A/HRC/10/73, Report of the working group, para. 77(2)

¹⁸ 16 March 2009, A/HRC/10/73/Add.1, Report of the working group: Addendum, para. 3

¹⁹ 5 December 2012, A/HRC/WG.6/15/BRB/1, National report to the UPR, paras. 85 and 86

²⁰ 12 March 2013, A/HRC/23/11, Report of the working group, para. 39

The following recommendations were made:²¹

- “Prohibit the practice of corporal punishment (Norway);
- “Explicitly prohibit corporal punishment in family and school (Italy);
- “Adopt measures to eliminate corporal punishment (Slovenia);
- “Repeal the provisions allowing for corporal punishment in public schools and strengthen national legislation to protect children against all forms of violence or ill-treatment (France);
- “Abolish corporal punishment as a disciplinary measure for children in all areas (Germany);
- “Adopt immediate measures to abolish corporal punishment as a disciplinary measure, and intensify efforts to educate the population on the negative effects of corporal punishment on the development of the child (Uruguay);
- “Continue to request international assistance and advice on successful examples on ways to change traditional social attitudes that accept corporal punishment (Uruguay)”

The Government accepted the last of these recommendations, concerning changing traditional attitudes on corporal punishment, but rejected the recommendations to prohibit it.²²

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(24 June 1999, CRC/C/15/Add.103, Concluding observations on initial report, paras. 19 and 22)

“The Committee is concerned about legislation and policies that allow the use of flogging of children as a disciplinary measure in prisons and its use as a judicial sentence. In this respect, the Committee welcomes the commitment of the State party to give prompt consideration to the possibility of ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee encourages the State party to conduct a public awareness-raising campaign and to review its legislation and policies in order to eliminate flogging as a judicial sentence and as a disciplinary measure in the prison system.

“The Committee is seriously concerned about the high proportion of children who appear to be victims of physical abuse, in most instances accompanied by psychological and emotional abuse. The Committee is highly concerned about the subjective element involved in legislation that permits a ‘reasonable degree’ of physical chastisement as a disciplinary method. The Committee is concerned that the tolerance of corporal punishment in schools will make it extremely difficult to educate parents about alternative forms of discipline, and wishes to point out that there is usually a connection between the social and legal acceptability of corporal punishment and the high level of child abuse which is of serious concern. The Committee encourages the State party to review its policies and legislation in order to eliminate corporal punishment as a method of discipline and to implement fully the provisions of articles 19 and 39 of the Convention; it recommends that the State party increase its efforts to educate the public about the negative impact of corporal punishment on the development of the child and on the effort to prevent child abuse; finally, the Committee encourages the State party to seek international assistance and advice on successful examples of how to overcome traditional social attitudes regarding corporal punishment.”

²¹ 12 March 2013, A/HRC/23/11, Report of the working group, paras. 102(80), 102(81), 102(82), 102(83), 102(84), 102(85) and 102(86)

²² 5 June 2013, A/HRC/23/11/Add.1, Report of the working group: Addendum, paras. 25 and 26

Human Rights Committee

(11 May 2007, CCPR/C/BRB/CO/3, Concluding observations on third report, para. 12)

“The Committee is concerned that corporal punishment is still available as part of judicial sentences and is permitted within the penal and education systems. (arts. 7 and 24)

The State party should take immediate measures to eliminate corporal punishment as a legitimate sanction in its law and to discourage its use in schools. The State party should also take all necessary measures towards the eventual total abolition of corporal punishment.”

Prevalence/attitudinal research in the last ten years

In a survey conducted in 2012, three out of four children (75.1%) aged 2-14 years were found to have been subjected to at least one form of violent “discipline” (psychological aggression or physical punishment) by their parent or another household member in the month preceding the survey; this was slightly higher for boys (78.1%) compared to girls (72.1%); in urban areas (76.7%) compared to rural areas (72.3%), and for younger children compared to older children. Over 6% of children reported being subjected to severe physical punishment. In contrast to the actual prevalence of physical punishment (55.7%), 35.7% of respondents believed that children need to be physically punished; this belief appears to increase as the level of education of the respondent increases.

(Barbados Statistical Service (2014), *Barbados Multiple Indicator Cluster Survey 2012: Final Report*, Bridgetown, Barbados: Barbados Statistical Service)

A study carried out in 2009, which involved 800 adults and 350 children, found high levels of support among adults for “flogging” in homes and schools: 75% supported flogging in the home, 54% in schools. The figures had decreased slightly since a similar survey in 2004, when 80% supported flogging in the home and 69% in schools. Of children, 54% supported flogging in the home (76% in 2004). A large majority of children (74%) were opposed to flogging in schools (compared to 56% in 2004). Eighty-six per cent of children said they had been flogged at home, 56% at school; 63% of adults said they had flogged their child.

(Caribbean Development Research Services (2009), *Corporal Punishment and Other Major Educational Issues in Barbados*, UNICEF & Barbados Union of Teachers)

A UNICEF study of child vulnerability in Barbados, St Vincent and St Lucia, completed in November 2006, found that younger girls and boys were much more likely to be punished than their teenage siblings in all three countries. The number of young children who received no punishment was below 50% in all countries. Overall, younger children, both girls and boys, were more likely to be subjected to corporal punishment such as spanking, slapping or hitting with the hand or an object.

(UNICEF Office for Barbados and the Eastern Caribbean, Government of Barbados, Government of St. Lucia & Government of St. Vincent & the Grenadines (2006), *A Study of Child Vulnerability in Barbados, St. Lucia and St. Vincent & The Grenadines*, Barbados: UNICEF)

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

www.endcorporalpunishment.org; info@endcorporalpunishment.org

May 2015