

Corporal punishment of children in Grenada: Briefing for the Universal Periodic Review, 21st session, 2015

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

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In Grenada, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, the Human Rights Committee and during the 1st cycle UPR in 2010 (rejected by the Government). Legislation which would prohibit corporal punishment in the penal system is yet to be brought into force.

We hope the Working Group will note with concern the legality of corporal punishment of children in Grenada. We hope states will raise the issue during the review in 2015 and make a specific recommendation that the Juvenile Justice Act 2012, which prohibits corporal punishment of children in the penal system, is brought into effect and that legislation which prohibits corporal punishment in all other settings including the home is drafted and enacted as a matter of priority.

1 Review of Grenada in the 1st cycle UPR (2010) and progress since then

1.1 Grenada was reviewed in the first cycle of the Universal Periodic Review in 2010 (session 8). The issue of corporal punishment was included in the compilation of UN information,¹ in the summary of stakeholders information² and in advanced questions by Argentina, the Czech Republic, Denmark and the Netherlands. During the review, the Government stated that the use of corporal punishment was lawful but restricted under the Education Act 2002.³ The following recommendations were made:⁴

“Abolish provisions in its domestic legislation that authorize the corporal punishment of children in all places, in particular in detention facilities and in schools (France);

“Adopt a law that prohibits corporal punishment against children in all areas of life (Uruguay);

¹ 22 February 2010, A/HRC/WG.6/8/GRD/2, Compilation of UN information, para. 18

² 17 February 2010, A/HRC/WG.6/8/GRD/3, Summary of stakeholders' views, paras. 1 and 2

³ 16 June 2010, A/HRC/15/12, Report of the working group, para. 25

⁴ 16 June 2010, A/HRC/15/12, Report of the working group, paras. 71(61), 71(62) and 71(64)

“Amend the Criminal Code to ensure equal protection of boys and girls from all forms of sexual abuse and exploitation as well as to eliminate corporal punishment provisions from existing laws and to prohibit the use of corporal punishment in places of detention and in schools (Germany).”

- 1.2 The Government rejected these recommendations, stating that “it could not accept them since the use of corporal punishment was permitted under the local laws of Grenada in some instances” and adding that “awareness is being raised regarding the issue and in order to encourage its non-application”.⁵
- 1.3 Since the review, the Juvenile Justice Act 2012 has been enacted which explicitly prohibits corporal punishment of children as a sentence for crime. However, this has not yet been brought into force. Currently, as at the time of the first cycle UPR, corporal punishment of children is lawful in the home, alternative care settings, day care, schools, penal institutions and as a sentence for crime. **We hope members of the Working Group will urge the Government of Grenada to ensure that the Juvenile Justice Act 2012 is brought into force and that legislation is drafted and enacted to prohibit corporal punishment of children in all other settings including the home as a matter of priority.**

2 Legality of corporal punishment in Grenada

- 2.1 **Summary:** In Grenada, corporal punishment is possibly unlawful in care institutions but it is not prohibited in the home, other alternative care settings, day care, schools and penal institutions. It is prohibited as a sentence for crime under the Juvenile Justice Act 2012 but this has not yet been brought into force and boys convicted of an offence may currently be ordered to undergo corporal punishment.
- 2.2 **Home (lawful):** Article 54 of the Criminal Code 1958 allows the use of force under the “authority to correct a child, servant or other similar person, for misconduct”. Article 65 states that force may be used by parents and others with parental authority against children under 16 “for the purpose of correction” and “for misconduct or disobedience to any lawful command”. The “authority for correction” may be delegated to others, and such delegation is presumed in the case of schoolteachers.
- 2.3 The Domestic Violence Act 2010 defines domestic violence as “any controlling or abusive behaviour that harms the health, safety or well-being of a person or any child” (art. 2) but this is not interpreted as prohibiting all violent punishment in childrearing. The Act places an obligation on relevant professionals to report reasonable suspicions of domestic violence against or witnessed by a child but only “as a result of which the child suffers from injury” (art. 34). There is no prohibition of corporal punishment in the Child Protection Act 1998 or the Child (Protection and Adoption) Act 2010.
- 2.4 **Alternative care settings (partially prohibited):** Corporal punishment is lawful except possibly in child care homes. The Requirements of the Approval and Licensing of Child Care Homes, Grenada Bureau of Standards GDS 654:2002 prohibit corporal punishment in care institutions, but this is undermined by articles 54, 55 and 65 of the Criminal Code 1958 providing for “justifiable force” by way of “correction” (see para. 2.2, above). The

⁵ 1 October 2010, A/HRC/15/L.10, Report of the Human Rights Council on its fifteenth session, para. 510

Child Protection Act 1998 is silent on the issue. The Child (Protection and Adoption) Act 2010 states that a person authorised to care for a child shall “correct and manage the behaviour of the child” and that the Minister may make regulations “regulating the management and discipline of an approved child care service” (art. 148(2)).

- 2.5 **Day care (*lawful*)**: Corporal punishment is lawful under the “authority to correct a child” and provisions for “justifiable force” in the Criminal Code 1958.
- 2.6 **Schools (*lawful*)**: The Education Act 2002 authorises the use of corporal punishment and punishes its infliction contrary to the specified regulations (art. 53). The Criminal Code 1958 provide for the use of “justifiable force” by teachers for the purpose of “correction” (arts. 54, 55 and 56).
- 2.7 **Penal institutions (*lawful*)**: The Criminal Code 1958 provides for the use of “justifiable force” for the purpose of “correction”. Article 35 of the Prisons Act 1980 states that a prisoner found guilty of “mutiny or incitement to mutiny”, “taking part in any assault or attack on a member of the prison staff or on a medical officer” or “aggravated or repeated assault or attack on any other prisoner” is punished by “lawful corporal punishment not exceeding twelve strokes – provided that corporal punishment shall not be imposed without the approval of the Minister”. According to the Prisons Rules 1980 the prisoner must be certified medically fit to undergo the punishment (art. 89). The Juvenile Justice Act 2012 does not explicitly prohibit corporal punishment in penal institutions.
- 2.8 **Sentence for crime (*lawful*)**: Corporal punishment – flogging and whipping – is lawful as a sentence for crime for males under article 70 of the Criminal Code 1958. Article 75 sets out the rules for administering corporal punishment: “(1) A juvenile offender shall not be sentenced to flogging, but in lieu thereof he may be sentenced to be whipped. (2) No sentence of flogging or whipping shall be passed upon a female of any age; but, in lieu of any such sentence, the Court may sentence a female to solitary confinement or any other such additional punishment as the law for the time being permits to be inflicted on a female for an offence against the rules of the prison. (3) Flogging shall be with a cat of a pattern approved by the Governor-General and a sentence of flogging shall specify the number of strokes, which shall not exceed twelve. (4) Whipping shall be with a light rod or cane or birch of tamarind or other twigs, and a sentence of whipping shall specify the number of strokes, which shall not exceed twelve. (5) No person shall be sentenced to be flogged or whipped more than once for the same offence.” Article 78 additionally provides for the imposition of whipping on juvenile offenders in lieu of fine or imprisonment. We have yet to confirm that the Corporal Punishment (Caning) Ordinance 1960 is still in force and to see the full text.
- 2.9 The Juvenile Justice Act 2012 – not yet in force – explicitly prohibits corporal punishment, stating in article 64(2): “A sentence of flogging or whipping shall not be imposed on a child.”

3 Recommendations by human rights treaty monitoring bodies

- 3.1 **CRC**: The Committee on the Rights of the Child has twice expressed concern at corporal punishment of children in Grenada and recommended its prohibition in all settings – in its concluding observations on the initial report in 2000⁶ and the second report in 2010.⁷

⁶ 28 February 2000, CRC/C/15/Add.121, Concluding observations on initial report, paras. 21 and 28

3.2 **HRC:** In 2009, the Human Rights Committee expressed concern at flogging and whipping of children in Grenada and recommended prohibition of corporal punishment in places of detention, schools and all institutions.⁸

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities.

⁷ 22 June 2010, CRC/C/GRD/CO/2, Concluding observations on second report, paras. 5, 6, 32, 33, 59 and 60

⁸ 14 August 2009, CCPR/C/GRD/CO/1, Concluding observations in the absence of a report, para. 11