

Corporal punishment of children in St Lucia: Briefing for the Universal Periodic Review, 23rd 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 St Lucia, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and recommendations to prohibit made during the 1st cycle UPR of St Lucia (which the Government rejected).

We hope the Working Group will note with concern the legality of corporal punishment of children in St Lucia. We hope states will raise the issue during the review in 2015 and make a specific recommendation that St Lucia prohibit all corporal punishment of children in all settings including the home and repeal the right “to administer reasonable punishment” in the Children and Young Persons Act 1972.

1 Review of St Lucia in the 1st cycle UPR (2011) and progress since then

1.1 St Lucia was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 10). In its national report, the Government stated that corporal punishment is part of the culture and that prohibiting it in schools and eradicating it in the family is a “formidable challenge”, but that there had been progress in phasing out its use in schools.¹ The issue of corporal punishment was raised in the compilation of UN information² and the summary of stakeholders’ information.³ During the review, the following recommendations were made:⁴

“Review its existing legislation to fully reflect the principles and provisions of CRC, especially in relation to non-discrimination, corporal punishment and juvenile justice (Guatemala);

“Take all necessary steps to eliminate corporal punishment (Germany);

“Increase efforts to ban corporal punishment from schools (Costa Rica);

“Prohibit all forms of corporal punishment of children in all settings (Slovenia);

¹ 12 November 2010, A/HRC/WG.6/10/LCA/1, National report to the UPR, para. 121

² 12 November 2010, A/HRC/WG.6/10/LCA/2, Compilation of UN information, paras. 6 and 28

³ 10 November 2010, A/HRC/WG.6/10/LCA/3, Summary of stakeholders’ information, paras. 4, 5, 6, 7 and 9

⁴ 11 March 2011, A/HRC/17/6, Report of the working group, paras. 89(30), 89 (81), 89(82), 89(83) and 89(84)

“Amend the legislation to explicitly prohibit corporal punishment in families, schools and institutions, to conduct awareness-raising campaigns on this issue and to ensure that the existing legislation related to children fully reflects the principles and provisions contained in CRC (Italy)”

- 1.2 The Government rejected these recommendations, stating: “Saint Lucia recognises the need to pursue alternative forms of discipline to corporal punishment. Amending the legislation which allows the use of corporal punishment remains a formidable challenge as non-violent corporal punishment is rooted in our tradition and culture. The government will continue efforts to promote positive, participatory and alternative forms of discipline in a manner consistent with the CRC (while respecting the right of parents to choose how to discipline their children, in conformance with human rights standards). The Government supports, and will continue to implement a gradual phasing out of corporal punishment and has already commenced this program within schools. The Government will intensify efforts to raise public awareness on this issue.”⁵
- 1.3 Prohibiting and eliminating all corporal punishment of children in all settings including the home – through law reform and other measures – is a key obligation under the Convention on the Rights of the Child and other human rights instruments, though it is one frequently evaded by Governments. Since the initial UPR of St Lucia, the Government has again been reminded of this obligation, in the recommendations of the Committee on the Rights of the Child following examination of the second-fourth report in 2014.⁶ Despite participating in an initiative to reform child laws in the region, to date there have been no concrete moves in St Lucia towards enacting legislation which prohibits corporal punishment of children.

2 Legality of corporal punishment in St Lucia

- 2.1 **Summary:** In St Lucia, corporal punishment of children is unlawful as a sentence for crime but it is not prohibited in the home, alternative care settings, day care, schools and penal institutions. St Lucia’s participation in the OECS-led reform of child laws in the region provides a key opportunity to achieve prohibition.
- 2.2 **Home (lawful):** Article 5 of the Children and Young Persons Act 1972 addresses cruelty to juveniles (under 16) but states: “(6) Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer reasonable punishment to him.” As part of an initiative to reform child laws in the region, the Organisation of Eastern Caribbean States (OECS) circulated a number of draft laws for consideration by member states, including St Lucia. As originally drafted, the laws do not explicitly prohibit corporal punishment but they nevertheless provide the impetus to review national legislation and to enact new laws which do prohibit corporal punishment.
- 2.3 **Alternative care settings (lawful):** Corporal punishment is lawful in alternative care settings under the right of persons having lawful control or charge of a juvenile “to administer reasonable punishment” in article 5 of the Children and Young Persons Act 1972. The Boys Training Centre houses boys in need of care and protection, as well as those in conflict with the law and the use of the cane is permitted.
- 2.4 **Day care (lawful):** Corporal punishment is lawful in day care under the right of persons having lawful control or charge of a juvenile “to administer reasonable punishment” in article 5 of the Children and Young Persons Act 1972.

⁵ 1 June 2011, A/HRC/17/6/Add.1, Report of the working group: Addendum

⁶ 13 June 2014, CRC/C/LCA/CO/2-4 Advance Unedited Version, Concluding observations on second-fourth report, paras. 6, 7, 28 and 29

- 2.5 **Schools (*lawful*)**: Some schools in St Lucia are part of the UNICEF child friendly schools initiative and do not use corporal punishment. However, corporal punishment remains lawful in these and all schools under the right of teachers “to administer reasonable punishment” in article 5(6) of the Children and Young Persons Act 1972 and article 50 of the Education Act 1999, which states that “corporal punishment may be administered where no other punishment is considered suitable or effective, and only by the principal, deputy principal or any teacher appointed by the principal for that purpose, in a manner which is in conformity with the guidelines issued in writing by the Chief Education Officer”. Article 51 gives the Minister the power to suspend or abolish corporal punishment in public schools and assisted schools.
- 2.6 It appears from the 2014 review of St Lucia by the Committee on the Rights of the Child that a national consultation on abolition of corporal punishment has been carried out.⁷ In December 2014, discussions began on the development of a discipline policy for schools⁸ but as yet there are no moves towards prohibiting it in law.
- 2.7 **Penal institutions (*lawful*)**: Boys convicted of an offence may be sent to the Boys Training Centre, where “for minor offences committed in the schoolroom” they may be given “not more than 2 strokes with the cane on each hand” (Statutory Rules and Orders No. 23 1976, s13). The Prison Rules and Orders 1964 also provide for the administration of corporal punishment (s54), though this is reportedly no longer used and in 2006 the provision was under review. The Correctional Services Act 2003 and the Correctional Services Code of Conduct Regulations 2005 provide for the establishment and management of correctional facilities and the treatment of persons and make no provision for corporal punishment.
- 2.8 **Sentence for crime (*unlawful*)**: Corporal punishment is not a permitted sentence under the Criminal Code 2005 and the Children and Young Persons Act 1972. In 2014 a Child Justice Bill was under discussion which similarly made no provision for judicial corporal punishment.

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 St Lucia and recommended that it be prohibited in all settings including the home – in its concluding observations on the initial report in 2005⁹ and on the second-fourth report in 2014.¹⁰

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 13 June 2014, CRC/C/LCA/CO/2-4 Advance Unedited Version, Concluding observations on second-fourth report, para. 28

⁸ <http://www.stlucianewsonline.com/st-lucia-to-create-national-policy-on-discipline-in-schools/#sthash.1yK1lRno.dpuf>, accessed 16 February 2015

⁹ 21 September 2005, CRC/C/15/Add.258, Concluding observations on initial report, paras. 9, 34 and 35

¹⁰ 13 June 2014, CRC/C/LCA/CO/2-4 Advance Unedited Version, Concluding observations on second-fourth report, paras. 6, 7, 28 and 29