

Corporal punishment of children in Trinidad and Tobago: Briefing for the Universal Periodic Review, 25th session, 2016

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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 Trinidad and Tobago, legal reform in 2015 achieved prohibition of corporal punishment of children in all settings outside the home. However, corporal punishment of children within the home remains lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights and recommendations made during the 1st cycle UPR of Trinidad and Tobago (rejected by the Government).

We hope the Working Group will note the significant law reform to date in Trinidad and Tobago but also note with concern the continuing legality of corporal punishment in the home. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Trinidad and Tobago complete the process of law reform and explicitly repeal the right of parents to use corporal punishment in article 4 of the Children Act 2012.

1 Review of Trinidad and Tobago in the 1st cycle UPR (2011) and progress since

1.1 Trinidad and Tobago was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 12). The issue of corporal punishment of children was raised in the compilation of UN information¹ and the summary of stakeholders' information.² The Government rejected recommendations to prohibit all corporal punishment of children.³ Nevertheless, since the initial review law reform has been achieved which prohibits corporal punishment in all settings outside the home, with the enactment of the Children Act 2012 and its entry into force in 2015.

1.2 **We hope the Working Group will note the significant law reform to date in Trinidad and Tobago but also note with concern the continuing legality of corporal punishment in the home. We hope states will raise the issue during the review in 2016 and make a specific**

¹ 25 July 2011, A/HRC/WG.6/12/TTO/2, Compilation of UN information, para. 32

² 22 July 2011, A/HRC/WG.6/12/TTO/3, Summary of stakeholders' information, paras. 3, 13, 14, 15, 16 and 17

³ 14 December 2011, A/HRC/19/7, Report of the working group, paras. 88(3), 88(40), 88(41), 88(42), 88(43) and 88(44)

recommendation that Trinidad and Tobago complete the process of law reform and explicitly repeal the right of parents to use corporal punishment in the Children Act 2012.

2 Legality of corporal punishment in Trinidad and Tobago

Summary of current law and reforms needed in order to achieve prohibition

Corporal punishment of children in Trinidad and Tobago is unlawful in all settings outside the home – alternative care settings, day care, schools, penal institutions and as a sentence for crime – but it remains lawful in the home. Achieving full prohibition requires the enactment of legislation explicitly repealing the right of parents to use corporal punishment in article 4 of the Children Act 2012.

- 2.1 ***Home (lawful)***: Article 4 of the Children Act 2012, which came into force in May 2015, punishes cruelty to children but states in subsection 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 child to administer reasonable punishment to such child.” Subsection 7 states that for persons other than parents this does not authorise the use of corporal punishment, implicitly confirming that parents may use corporal punishment: “Reasonable punishment referred to in subsection (6), in relation to any person other than a parent or guardian, shall not include corporal punishment.”
- 2.2 ***Alternative care settings (unlawful)***: Corporal punishment is unlawful under article 4(7) of the Children Act 2012. In addition, the Children’s Community Residences Regulations 2014, under the Children’s Community Residences, Foster Care and Nurseries Act 2000, explicitly prohibits corporal punishment in community residential care (art. 15).
- 2.3 ***Day care (unlawful)***: Corporal punishment is unlawful in early childhood care and in day care for older children under article 4(7) of the Children Act 2012.
- 2.4 ***Schools (unlawful)***: Corporal punishment is unlawful under article 4(7) of the Children Act 2012.
- 2.5 ***Penal institutions (unlawful)***: Corporal punishment is unlawful in institutions under article 4(7) of the Children Act 2012. It would appear that the provisions for corporal punishment in the Young Offenders (Male) Detention Regulations, pursuant to the Young Offenders Detention Act 1926, are still to be formally repealed.
- 2.6 ***Sentence for crime (unlawful)***: The Miscellaneous Provisions (Children) Act 2000 prohibited corporal punishment as a sentence for persons under 18 by repealing the Corporal Punishment (Offenders Not Over Sixteen) Act and amending the Corporal Punishment (Offenders Over Sixteen) Act to apply to offenders over the age of 18. But the Act did not repeal other laws which allowed under 18s to be sentenced to corporal punishment, including article 83(g) of the Children Act 1925 which provided for a child or young person found guilty of an offence to be ordered to be whipped: this provision would have been repealed in the Children (Amendment) Act 2000 (art. 24), but this Act was never brought into force. However, with the proclamation of article 4 of the Children Act 2012 in May 2015, all judicial corporal punishment of children is now prohibited.

3 Recommendations by human rights treaty bodies

- 3.1 **CRC:** The Committee on the Rights of the Child has twice recommended to Trinidad and Tobago that corporal punishment of children be prohibited in all settings including the home – in its concluding observations on the initial report in 1997 and on the second report in 2006.⁴
- 3.2 **CESCR:** In 2002, the Committee on Economic, Social and Cultural Rights recommended that corporal punishment of children be prohibited “in all areas of life” in Trinidad and Tobago.⁵

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.

⁴ 10 October 1997, CRC/C/15/Add.82, Concluding observations on initial report, paras.17, 23, 32 and 39; 17 March 2006, CRC/C/TTO/CO/2, Concluding observations on second report, paras 8, 9, 39, 40 and 47

⁵ 5 June 2002, E/C.12/1/Add.80, Concluding observations to the second report, paras. 29 and 52