

# Corporal punishment of children in Barbados: Briefing for the Universal Periodic Review, 29<sup>th</sup> session, 2018

*From the Global Initiative to End All Corporal Punishment of  
Children, June 2017*



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 Barbados, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and the Human Rights Committee, as well as recommendations made during the 2<sup>nd</sup> cycle UPR of Barbados in 2013.**

**We hope the Working Group will note with concern the legality of corporal punishment of children in Barbados. We hope states will raise the issue during the review in 2018 and make a specific recommendation that Barbados clearly prohibit all corporal punishment of children, however light, in every setting of their lives including the home and in the penal system.**

## **1 Review of Barbados in the 2<sup>nd</sup> cycle UPR (2013) and progress since**

- 1.1 Barbados was reviewed in the second cycle of the Universal Periodic Review in 2013 (session 15). The issue of corporal punishment of children was raised in the compilation of UN information<sup>1</sup> and the summary of stakeholders' information.<sup>2</sup> The Government accepted a recommendation on changing societal attitudes to corporal punishment, but rejected several recommendations to prohibit it in all settings<sup>3</sup> in contradiction with its international obligations.
- 1.2 Since the second cycle review in 2013, amendments were enacted to the Domestic Violence (Protection Orders) Act 1994 and to the Education Act – neither reform addressed the issue of corporal punishment of children. However, the Education Act is still under review, and a Children's Bill and a Juvenile Justice Bill are currently being drafted. This provides the Government of Barbados with clear opportunities to explicitly prohibit all corporal punishment of children.

<sup>1</sup> 9 November 2012, A/HRC/WG.6/15/BRB/2, Compilation of UN information, paras. 25, 33 and 36

<sup>2</sup> 29 October 2012, A/HRC/WG.6/15/BRB/3, Summary of stakeholders' views, paras. 3, 4, 14, 15, 19 and 20

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

- 1.3 We hope the Working Group will note with concern the legality of corporal punishment of children in Barbados. We hope states will raise the issue during the review in 2018 and make a specific recommendation that Barbados clearly prohibit all corporal punishment of children, however light, in every setting of their lives including in the home and in the penal system.

## 2 Legality of corporal punishment in Barbados

### *Summary of current law and opportunities for achieving prohibition*

In Barbados, corporal punishment is lawful in all settings except for day nurseries. The Children's Bill, the review of the Education Act and the Juvenile Justice Bill provide opportunities to achieve prohibition in all settings.

- 2.1 **Home (*lawful*):** 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 (amended 2016), 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.
- 2.2 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:<sup>4</sup> "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.<sup>5</sup>
- 2.3 Proposed amendments to the Offences Against the Person Act and the Penal System Reform Act do not include prohibition of corporal punishment. In 2017, the Government reported to the Committee on the Rights of the Child that recommendations for law reform, including a unified Children's Act, were "prioritised in 2016".<sup>6</sup> In April 2017 the draft Bill was submitted to the Cabinet for approval.<sup>7</sup> We do not know whether prohibition of corporal punishment is being discussed in this context.
- 2.4 **Alternative care settings (*lawful*):** 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.
- 2.5 **Day care (*partially lawful*):** 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

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

<sup>5</sup> *ibid.*, para. 89

<sup>6</sup> 16 January 2017, CRC/C/BRB/Q/2/Add.1, Reply to the list of issues, para. 1

<sup>7</sup> See <http://www.nationnews.com/nationnews/news/96050/children-act-coming>, accessed 22 May 2017

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.

2.6 **Schools (lawful)**: Corporal punishment is lawful in schools under the right “to administer punishment” in article 4 of the Prevention of Cruelty to Children Act 1904 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.

2.7 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.<sup>8</sup> 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”.<sup>9</sup> 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 were being reviewed and the Code of Discipline in schools would be examined in relation to human rights.<sup>10</sup> In June 2014, Minister of Education, Science, Technology and Innovation Ronald Jones spoke of his opposition to corporal punishment in schools.<sup>11</sup> The Education (Amendment) Bill was passed in March 2015 and does not prohibit corporal punishment. In April 2015, it appeared that the Act was still under review.<sup>12</sup>

2.8 **Penal institutions (lawful)**: 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).

2.9 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.<sup>13</sup> 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).

2.10 **Sentence for crime (lawful)**: 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

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<sup>8</sup> 25 September 2006, CCPR/C/BRB/3, Third state party report, para. 244

<sup>9</sup> 16 March 2009, A/HRC/10/73/Add.1, Report of the working group: Addendum, para. 23

<sup>10</sup> 5 December 2012, A/HRC/WG.6/15/BRB/1, National report to the UPR, paras. 85 and 86

<sup>11</sup> Reported in *The Barbados Advocate*, 29 June 2014

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

<sup>12</sup> UNICEF Office for the Eastern Caribbean Area, in correspondence with the Global Initiative, April 2015

<sup>13</sup> *ibid.*, para. 64

(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 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. A Juvenile Justice Bill which would repeal the above provisions is being drafted.<sup>14</sup>

### 3 Recommendations by human rights treaty bodies

3.1 **CRC:** In 1999, the Committee on the Rights of the Child expressed concern at corporal punishment of children in Barbados and recommended that legislation be reviewed in order to eliminate it. This concern was reiterated in 2017, when the Committee recommended that corporal punishment is explicitly prohibited in all settings, including the home, at schools and in the justice system.<sup>15</sup>

3.2 **HRC:** In 2007, the Human Rights Committee expressed concern at corporal punishment in the penal and education systems and recommended measures be taken towards its total abolition.<sup>16</sup>

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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 since 2011 the Committee on the Rights of Persons with Disabilities.*

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<sup>14</sup> 16 January 2017, CRC/C/BRB/Q/2/Add.1, Reply to the list of issues, para. 39

<sup>15</sup> 24 June 1999, CRC/C/15/Add.103, Concluding observations on initial report, paras. 19 and 22; 3 February 2017, CRC/C/BRB/CO/2, Concluding observations on second report, paras. 31 and 32

<sup>16</sup> 11 May 2007, CCPR/C/BRB/CO/3, Concluding observations on third report, para. 12