

Corporal punishment of children in Barbados: Briefing for the Universal Periodic Review, 43rd session, April/May 2023



*From the Global Partnership to End Violence Against Children,
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This submission provides an update on the legality of corporal punishment of children in Barbados since its review in the third cycle UPR in 2018. Corporal punishment prohibition is still to be fully achieved in the home, alternative care settings, day care, schools, penal institutions and as a sentence for crime.

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 recommendations to prohibit it by the Committee on the Rights of the Child, other human rights treaty bodies, and during the 1st, 2nd and 3rd cycle UPR of Barbados, respectively in 2008, 2013 and 2018, all rejected by the Government of Barbados.

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 next year and make a specific recommendation that Barbados enact a legislation to clearly prohibit all corporal punishment of children in every setting of their lives and repeal any legal defence allowing its use, as a matter of priority.

1 Review of Barbados in the 3rd cycle UPR (2018) and progress since

1.1 Barbados was reviewed in the third cycle of the Universal Periodic Review in 2018 (session 29). Recommendations to prohibit corporal punishment in all settings were

¹ 6 April 2018, A/HRC/38/12, Report of the working group, paras. 96(121), 96(122), 96(123), 96(124), 96(125), 96(127), 96(129); and 14 June 2018, A/HRC/38/12/Add.1 Advance unedited version, Report of the working group: Addendum, para.

made¹ and noted by the Government.

1.2 Following the review, no legislation to explicitly prohibit corporal punishment of children in all settings seems to have been adopted.

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 2023 and make a specific recommendation that Barbados intensify its efforts to enact a law to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, as a matter of urgency.**

2 Legality of corporal punishment in Barbados

Summary of current law and opportunities for achieving prohibition

Corporal punishment of children in Barbados is lawful 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” (section 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.

2.1 **Home (lawful):** Corporal punishment is lawful in the home. Section 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. As of July 2022, a draft Child Protection Bill that would repeal the Prevention of Cruelty to Children Act 1904 was still in preparation and had yet to be tabled in Parliament.²

2.2 **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 section 4 of the Prevention of Cruelty to Children Act 1904 (see under “Home”).

2.3 **Day care (lawful):** Corporal punishment is prohibited in day nurseries under section 14 of the Child Care Board Regulations 1985: “Corporal punishment, severe or frightening measures

¹ 6 April 2018, A/HRC/38/12, Report of the working group, paras. 96(121), 96(122), 96(123), 96(124), 96(125), 96(127), 96(129); and 14 June 2018, A/HRC/38/12/Add.1 Advance unedited version, Report of the working group: Addendum, para. 5

² Information received by End Corporal Punishment in July 2022

must not be inflicted on a child of the day nursery". There is no explicit prohibition of corporal punishment on other early childhood care or in care for older children, where it is lawful under the right "to administer punishment" in section 4 of the Prevention of Cruelty to Children Act 1904 (see under "Home").

2.4 Schools (lawful): Corporal punishment is lawful in schools under the right "to administer punishment" in section 4 of the Prevention of Cruelty to Children Act 1904 (see under "Home") and the Education Regulations pursuant to section 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".

2.5 Penal institutions (lawful): 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). The Government has reported that the Juvenile Justice Bill would repeal the Reformatory and Industrial Schools Act 1926.³ In July 2022, the Juvenile Justice Bill was scheduled to be presented in Parliament later in the year.⁴

2.6 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.⁵ 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).

2.7 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 (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.

³ 4 January 2018, A/HRC/WG.6/29/BRB/1, National report, para. 56

⁴ Information received by End Corporal Punishment in July 2022

⁵ 4 May 2015, CRC/C/BRB/2, Second state party report, para. 64

2.8 The Juvenile Justice Bill which would repeal the above provisions has been drafted.⁶ As at January 2018, the final draft, which would also repeal the Juvenile Offenders Rules 1933, was being examined by the Office of the Chief Parliamentary Counsel.⁷ In June 2018, the Government accepted a UPR recommendation to expedite the adoption of the Bill to “outlaw the use of corporal punishment as a criminal sanction”.⁸ As of July 2022, the Juvenile Justice Bill had not been tabled in Parliament.

3 Recommendations by human rights treaty bodies

3.1 **CRC:** On two occasions, the Committee on the Rights of the Child has recommended to Barbados that legislation be enacted to explicitly prohibit corporal punishment in all settings: in its concluding observations on the state party’s initial report in 1999⁹ and on the second report in 2017.¹⁰

3.2 **CEDAW:** In its concluding observations on the state party’s fifth/eighth report in 2017,¹¹ the Committee on the Elimination of Discrimination Against Women recommended that the Government “explicitly prohibit corporal punishment at school and ensure that the prohibition of corporal punishment is adequately monitored and enforced and strengthen teacher training and practice on positive discipline...”

3.3 **HRC:** In its concluding observations on the state party’s third report in 2007,¹² the Human Rights Committee recommended that the Government take all necessary measures towards the eventual total abolition of corporal punishment.

Briefing prepared by End Corporal Punishment on behalf of the Global Partnership to End Violence Against Children

www.endcorporalpunishment.org; secretariat@end-violence.org

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

⁷ 4 January 2018, A/HRC/WG.6/29/BRB/1, National report, para. 56

⁸ 14 June 2018, A/HRC/38/12/Add.1 Advance unedited version, Report of the working group: Addendum, para. 3

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

¹⁰ 3 March 2017, CRC/C/BRB/CO/2, Concluding observations on second report, paras. 31 and 32

¹¹ 21 July 2017, CEDAW/C/BRB/CO/5-8, Concluding observations on fifth/eighth report, Advance unedited version, paras. 31 and 32

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