

BARBADOS

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 15th session, 2013

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

Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General’s Study on Violence against Children, as a highly significant issue, both for asserting children’s status as rights holders and for the prevention of all forms of violence.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies and also regional human rights mechanisms have condemned all corporal punishment. In October 2006, the report of the UN Secretary General’s Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment as a matter of priority.

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. There is growing progress across all regions in challenging this common form of violence against children. But many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope the Working Group of the UPR will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies on this issue, as well as to the recommendations made during the first cycle of the UPR.

Corporal punishment of children is lawful in Barbados, despite recommendations to prohibit it by treaty monitoring bodies and during the initial UPR in 2008, the latter explicitly rejected by the Government.

We hope the Working Group will note with concern the legality of corporal punishment in Barbados and the Government’s continued defence of it. We hope states will raise the issue during the review in 2013 and recommend to Barbados that legislation is enacted to explicitly prohibit corporal punishment of children in the home as a matter of priority.

1 The initial review of Barbados by the Working Group on the Universal Periodic Review (2008)

1.1 Barbados was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 3). The issue of corporal punishment of children was raised in an advance question by Denmark and was included in the compilation of UN information¹ and the summary of stakeholders' information.² The following recommendations were made:

“Eliminate all forms of corporal punishment from its legislation (Chile); abolish corporal punishment for children (Germany); address the concerns raised by the Human Rights Committee and the Committee on the Rights of the Child on corporal punishment (Turkey); take measures to eliminate corporal punishment as a legitimate sanction in the law and to discourage its use in schools with a view to its eventual and total abolition; conduct public awareness initiatives to change peoples' attitudes to corporal punishment (Slovenia)”³

1.2 The Government rejected the recommendations to prohibit corporal punishment, stating that the laws of Barbados protect children from abuse and that corporal punishment in schools and prisons must be administered in compliance respectively with the Code of Discipline promulgated under the Education Act and the Prison Rules Act.⁴ The Government also noted during the review that the Minister for Education's public advocacy of prohibition of corporal punishment in schools was not the official position, though “it may move in that direction in future”.⁵ However, the Government accepted the recommendation regarding public awareness initiatives to change people's attitudes to corporal punishment.⁶

1.3 The following recommendations were also made, and were accepted by the Government:

“Give consideration to all international obligations in the field of human rights provisions in revision of the Constitution (Mexico); take and strengthen necessary legislative measures required to incorporate in its domestic law the provisions contained in international human rights instruments to which it is a party (Algeria); adopt further measures to ensure the incorporation of its international human right obligations into national legislation (Czech Republic); consolidate the process of updating its national legislation in accordance with its international commitments (Cuba)”⁷

1.4 In accepting these recommendations, the Government confirmed that it was “actively looking at further revising the Constitution and updating its legislation to conform to its treaty obligations”.⁸

1.5 Prohibiting corporal punishment is a key obligation under the Convention on the Rights of the Child and other international human rights treaties, though it is an obligation frequently ignored or evaded by governments. In Barbados, there has been considerable public debate on the issue, e.g. in the media, but there has been no change in the legality of corporal punishment since the initial review: now, as in 2008, it is lawful for children to be physically punished in

¹ 25 September 2008, A/HRC/WG.6/3/BRB/2, Compilation of UN information, paras. 24 and 49

² 16 September 2008, A/HRC/WG.6/3/BRB/3, Summary of stakeholders' information, paras. 2 and 3

³ 9 January 2009, A/HRC/10/73, Report of the Working Group, para. 77(14)

⁴ 16 March 2009, A/HRC/10/73/Add.1, Report of the Working Group: Addendum, paras. 21 and 22

⁵ 9 January 2009, A/HRC/10/73, Report of the Working Group, para. 49

⁶ 16 March 2009, A/HRC/10/73/Add.1, Report of the Working Group: Addendum, para. 23

⁷ 9 January 2009, A/HRC/10/73, Report of the Working Group, para. 77(2)

⁸ 16 March 2009, A/HRC/10/73/Add.1, Report of the Working Group: Addendum, para. 3

the home, schools, penal institutions, some care settings and as a sentence for crime (see following section).

2 Legality of corporal punishment in Barbados

2.1 Corporal punishment is lawful in the **home**. 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.”

2.2 Corporal punishment is lawful in **schools** under the Education Regulations pursuant to article 59 of the Education Act (1983). 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”.

2.3 In the **penal system**, corporal punishment is lawful as a sentence for crime for males. The Magistrate’s Courts Act 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 (article 71). The Juvenile Offenders Act includes “ordering the offender to be whipped” among the list of available sanctions for children and young people (article 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 (article 9). The Corporal Punishment Act 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 (article 2). Corporal punishment may be carried out only after medical examination and under the supervision of a prison official.

2.4 Corporal punishment is lawful as a disciplinary measure in penal institutions. The Reformatory and Industrial Schools Act (1926) authorises the infliction of corporal punishment as a disciplinary measure on boys (section 31), and allows a magistrate to order whipping as a punishment for attempted escape (section 34). The Prisons Act (1964) allows the use of force for purposes of maintaining discipline (section 20) and provides for corporal punishment for specific disciplinary offences, up to 12 strokes for persons under 21 (section 40).

2.5 With regard to **alternative care settings**, corporal punishment is reportedly prohibited in state-arranged foster care and in pre-school settings, and the Child Care Board Regulations (1985) prohibit the use of corporal punishment for any child in a day care centre or a residential children’s home run by the Board. It is lawful in private foster care and article 4 of the Prevention of Cruelty to Children Act (see above) applies.

3 Recommendations by human rights treaty monitoring bodies

3.1 In 1999, the **Committee on the Rights of the Child** recommended that corporal punishment of children be prohibited as a sentence of the courts and as a disciplinary measure in the prison system and in all other settings. The Committee also recommended public awareness raising measures to change public opinion on the practice.⁹

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

3.2 In 2007, the **Human Rights Committee** expressed concern at corporal punishment in the penal and education systems and recommended its abolition.¹⁰

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July 2012

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