



Global Initiative to  
End All Corporal Punishment  
of Children

## **Submission to OAS survey on the rights of persons deprived of liberty**

**Prepared by the Global Initiative to End All Corporal Punishment of Children  
([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)), June 2010**

This report covers states known not to have prohibited corporal punishment as a disciplinary measure in penal institutions accommodating children and adolescents and for states where prohibition has not been confirmed:

Antigua and Barbuda

Argentina

Bahamas

Barbados

Belize

Bolivia

Brazil

Colombia

Cuba

Dominica

Grenada

Guyana

Honduras

Mexico

Peru

St Kitts and Nevis

St Lucia

St Vincent and the Grenadines

Trinidad and Tobago

USA



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

## Corporal punishment as a disciplinary measure in penal institutions accommodating children and adolescents: Progress towards prohibition in OAS member states

Prepared by the Global Initiative to End All Corporal Punishment of Children  
 ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)), June 2010

State	Prohibited in penal institutions <sup>1</sup>
Antigua & Barbuda	NO
Argentina	NO <sup>2</sup>
Bahamas	[YES]
Barbados	NO
Belize	SOME <sup>3</sup>
Bolivia	NO <sup>4</sup>
Brazil	NO <sup>5</sup>
Canada	YES
Chile	YES
Colombia	NO <sup>6</sup>
Costa Rica	YES
Cuba	NO
Dominica	NO
Dominican Republic	YES

State	Prohibited in penal institutions
Ecuador	YES
El Salvador	YES
Grenada	NO
Guatemala	YES
Guyana	NO
Haiti	YES
Honduras	NO
Jamaica	YES
Mexico	NO
Nicaragua	YES
Panama	YES
Paraguay	YES
Peru	NO <sup>7</sup>
Saint Kitts & Nevis	NO
Saint Lucia	NO
Saint Vincent & Grenadines	NO
Suriname	YES
Trinidad & Tobago	NO <sup>8</sup>
Uruguay	YES
USA	SOME <sup>9</sup>
Venezuela	YES

<sup>1</sup> This information has been compiled from many sources, including reports to and by the United Nations human rights treaty bodies. Information in square brackets is unconfirmed. We are very grateful to government officials, UNICEF and other UN agencies, NGOs and human rights institutions, and many individuals who have helped to provide and check information. Please let us know if you believe any of the information to be incorrect:  
[info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org).

<sup>2</sup> Draft juvenile justice bill (Bill 6789-D-05) which would prohibit corporal punishment under discussion (2007)

<sup>3</sup> Prohibited in “Youth Hostel” detention centre but lawful in prisons and by law enforcement officials

<sup>4</sup> Legislation prohibits only corporal punishment which is considered harmful

<sup>5</sup> Government committed to prohibition of corporal punishment of children in all settings; draft legislation which would achieve this was dropped in 2008; a major new campaign was launched in December 2009

<sup>6</sup> Legislation prohibits only corporal punishment resulting in injury

<sup>7</sup> Government committed to prohibition of corporal punishment of children in all settings; legislation which would achieve this was under discussion un 2009

<sup>8</sup> Children Bill 2010 would prohibit

<sup>9</sup> Prohibited in 32 states

# Response to questionnaire on the rights of persons deprived of liberty: Antigua and Barbuda

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## Basic information

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

Corporal punishment is lawful as a disciplinary measure in penal institutions.

The **Corporal Punishment Act** provides for corporal punishment (flogging/whipping) for breaches of prison discipline. Section 4 of the Act states:

*(1) Except in the case of the undermentioned offences against prison discipline committed by a male person serving a sentence of imprisonment and for which corporal punishment is authorised by rules made under the Prison Act, that is to say-*

*(a) Mutiny;*

*(b) Incitement to mutiny;*

*(c) Gross personal violence to an officer of a prison, corporal punishment shall not be inflicted in any prison.*

*(2) Whenever corporal punishment is ordered to be inflicted for offences against prison discipline, the instrument to be used in carrying out the punishment shall be such as the Governor-General may approve and the number of strokes which may be ordered to be inflicted shall not exceed twenty-four:*

*Provided that in any case in which the cat-0'-nine tails shall be approved by the Governor-General it shall be applied on the back of the person to be punished and where the rod of tamarind is approved it shall be applied to the buttocks of the person.*

The **Prison Act** (1956) allows for up to 12 strokes for persons below the age of 21 years. Section 11 states:

*(1) Except as provided by this section, corporal punishment shall not be inflicted in any prison.*

*(2) Rules made under section 26 may authorize the infliction of corporal punishment for mutiny, incitement to mutiny, or gross personal violence to an officer of a prison when committed by a male prisoner.*

*(3) The rules shall not authorize the infliction of corporal punishment except by order of the visiting committee made at a meeting at which not less than two thirds of the members are*

*present; and no such order shall be made except after an inquiry in which the evidence is given on oath:*

*Provided that the Governor-General may, if he thinks fit in any particular case, direct that the functions exercisable as aforesaid by the visiting committee shall be exercised by a magistrate appointed by him in that behalf.*

*(4) The punishment which may be inflicted under such an order as aforesaid shall not exceed*

*(a) in the case of a person appearing to the visiting committee or magistrate to be not less than twenty-one years of age, eighteen strokes of a cat-o'-nine-tails or tamarind rod; or*

*(6) in the case of a person appearing to them or him to be under that age, twelve strokes of a tamarind rod, and if corporal punishment is inflicted, no further punishment by way of confinement in cells or restricted diet shall be imposed.*

*(5) Where an order for the infliction of corporal punishment has been made under this section, a copy of the notes of the evidence given at the inquiry, a copy of the order and a statement of the grounds on which it was made shall forthwith be given to the Governor-General; and the order shall be carried into effect only after confirmation by the Governor-General and, if the Governor-General confirms the order with modifications, in accordance with the modifications.*

*(6) A refusal by the Governor-General to confirm such an order as aforesaid shall not prejudice any power to impose another punishment for the offence for which the order was made.*

Section 26 states:

*(1) The Cabinet may make rules for the regulation and management of prisons, the conduct, discipline and duties of the officers employed therein, and the classification, treatment, employment, discipline and control of prisoners.*

*(2) Rules made under this section shall make provision for ensuring that a person who is charged with any offence under the rules shall be given a proper opportunity of presenting his case.*

Young people convicted of an offence may be sent to a training school. The **Training Schools Act** (1891) provides for the Cabinet to make regulations with respect to discipline and management, including “*by fine, whipping, imprisonment or other punishment*” (section 5(i)).

Also applicable is the Juvenile Act (1951). Section 5 punishes cruelty to children but confirms “*the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer reasonable punishment to him*”.

## **Moves towards law reform**

A Child Justice Bill (2007) has been drafted by the Organisation of Eastern Caribbean States, for consideration by the attorney general. It does not prohibit corporal punishment in institutions accommodating children in conflict with the law.

## **Recommendations by human rights treaty bodies**

Following examination of the state party’s initial report in 2004, the **Committee on the Rights of the Child** recommended immediate repeal of the Corporal Punishment Act and prohibition of corporal punishment by law in institutions (CRC/C/15/Add.247, para. 36).

# Response to questionnaire on the rights of persons deprived of liberty: Argentina

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## Basic information

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions.

Article 9 of the **Law for the Integral Protection of Children and Adolescents** recognises the right of the child to dignity and personal, physical and moral integrity, and to protection from torture, abuse, humiliating and intimidating treatment, and cruel or degrading treatment, but does not explicitly prohibit all corporal punishment. The World Organisation Against Torture has documented ill-treatment and corporal punishment of children detained in police stations (OMCT (2002), *Rights of the Child in Argentina*).

## Moves towards law reform

In 2007, there was a draft juvenile justice bill, *Regiment legal aplicable a las personas menores de 18 años de edad infractoras de la ley penal, Bill 6789-D-05 in Camara de Diputados*, pending before Congress that would explicitly prohibit corporal punishment, stating in article 60:

*Derechos de las personas menores de dieciocho años privadas de la libertad. Además de los derechos reconocidos en el artículo anterior, a la persona menor de dieciocho años privada de libertad deben garantizársele los siguientes derechos ...*

*Derecho a no ser incomunicado en ningún caso, a no ser sometido al régimen de aislamiento ni a la imposición de penas corporales*

As at June 2010, it appears this bill has not been enacted (information unconfirmed). The written replies to the Committee on the Rights of the Child (2010) refer to the adoption of standards prohibiting corporal punishment in institutions, but these appear not to include penal institutions and the Committee went on to note the absence of prohibition in detention centres (see below).

## Recommendations by human rights treaty bodies

In its concluding observations on the state party's third/fourth report in June 2010, the **Committee on the Rights of the Child** noted that corporal punishment is not prohibited in centres of detention for juvenile offenders and recommended explicit prohibition by law in these and other settings

(CRC/C/ARG/CO/3-4 Advance Unedited Version, paras. 45, 46 and 47). In 2002, following examination of the second report, the Committee expressed concern at corporal punishment of children in detention and recommended that necessary measures be taken to improve conditions of detention (CRC/C/15/Add.187, paras. 62 and 63).

# Response to questionnaire on the rights of persons deprived of liberty: Bahamas

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## Basic information

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

Corporal punishment appears to be unlawful as a **disciplinary measure** in penal institutions under article 118 of the Penal Code, which states:

*Notwithstanding anything to the contrary in this, or any other law, no form of corporal punishment shall be imposed as a penalty under any law in respect to the commission of a criminal or disciplinary offence.*

But we have yet to confirm that the abolition overrides all laws authorising corporal punishment of children in conflict with the law. As at June 2010, subsidiary rules under the Children and Young Persons (Administration of Justice) Act and under the Prisons Act (1943) were accessible on the government website (<http://laws.bahamas.gov.bs>) which allow for disciplinary corporal punishment in penal institutions for girls and boys.

The **Children and Young Persons (Industrial School for Girls) Rules** (1961) state in Rule 18:

*(1) Every effort shall be made to enforce discipline without resort to corporal punishment. Where it is found necessary its application shall be made to the hands only and shall not exceed three strokes on each hand with a tamarind or similar rod.*

*(2) The Superintendent shall record in the punishment book all punishment inflicted under this rule and they shall be carried out by the Superintendent or by a member of the staff in her presence and under her direction. The medical officer shall sanction all awards of corporal punishment.*

*(3) No inmate shall be allowed to inflict corporal punishment on any other inmate.*

Rule 44 of the **Children and Young Persons (Industrial School for Boys) Rules** (1947) states:

*In order to maintain discipline the superintendent may deal with minor offences and award light corporal punishment up to ten strokes with a light cane or tamarind rod, or deprive the offender of playing games for a period not exceeding three days, or cell-confinement during recreation hours for a period not exceeding three days, or bread and water for one dinner meal once a week and not exceeding a period of three weeks. In serious cases the matter shall be brought to the notice of the committee who may impose such reasonable punishment as may be necessary.*

Rule 243 of the **Prison Rules** (1963) states:

(1) *Where a prisoner is reported for any of the following offences –*

- (a) escaping or attempting to escape from prison or from any other lawful custody;*
- (b) gross personal violence to a fellow prisoner;*
- (c) committing or attempting to commit an indecent act with another prisoner;*
- (d) chronic laziness;*
- (e) repeated refusal to obey lawful orders;*
- (f) gross insubordination,*

*the Superintendent may, in his discretion, report the offence to the chairman or acting chairman of the committee, who along with two or more members of the committee, may enquire into the charges (under oath if they think it desirable) and shall determine thereupon, and for this purpose, may make one or more of the awards set out in rule 241, or in the case of a male prisoner under sentence of hard labour, order corporal punishment with the tamarind rod:*

*Provided, however, that in respect of the offence in paragraph (d) hereof no such corporal punishment may be awarded until the prisoner has been medically examined to ensure that such chronic laziness is not due to any physical cause.*

(2) *Where a prisoner is reported for one of the following offences-*

- (a) mutiny or incitement to mutiny;*
- (b) gross personal violence to any officer or servant of the prison;*
- (c) continued insubordination,*

*the Superintendent shall forthwith report the offence to the chairman or acting chairman of the committee who along with two or more members of the committee shall inquire into the charges (under oath if they think it desirable) and shall determine thereupon, and for this purpose may make one or more of the awards set out in rule 241, or in the case of a male prisoner under sentence of hard labour, order corporal punishment with the tamarind rod or recommend corporal punishment with the cat-o'-nine-tails.*

*(3) Whenever a recommendation for corporal punishment with the cat-o'-nine-tails is made the committee shall forthwith furnish to the Governor-General a report on the evidence taken, the sentence and the grounds on which it was passed. Such recommendation shall not be carried into effect until it has received the approval of the Governor-General.*

*(4) Corporal punishment, in the case of a prisoner over 18 years of age, shall be inflicted either with a cat-o'-nine-tails or with a tamarind or similar rod, and in the case of a prisoner under 18 years of age with a tamarind or similar rod.*

*(5) The number of lashes or strokes inflicted on a prisoner of 18 years of age or over shall not exceed 24, or, on a prisoner under 18 years of age, 12.*

*(6) The committee, instead of inquiring into a report and awarding punishment, may, in appropriate cases, direct that steps be taken to have the prisoner prosecuted before a court.*

Also relevant are provisions allowing the use of force for purposes of correction in article 110 of the **Penal Code:**

*A blow or other force, not in any case extending to a wound or grievous harm, may be justified for the purpose of correction, as follows-*

*(1) a parent may correct his or her legitimate or illegitimate child, being under sixteen years of age, or any guardian or person acting as a guardian, his ward, being under sixteen years of age, for misconduct or disobedience to any lawful command; ...*

*(4) a parent or guardian, or a person acting as a guardian, may delegate to any person whom he or she entrusts permanently or temporarily with the governance or custody of his or her child or ward all his or her own authority for correction, including the power to determine in what cases correction ought to be inflicted; and such a delegation shall be presumed, except in so far as it may be expressly withheld, in the case of a schoolmaster or a person acting as a schoolmaster, in respect of a child or ward;*

*(5) a person who is authorised to inflict correction as in this section mentioned may, in any particular case, delegate to any fit person the infliction of such correction....*

## **Moves towards law reform**

A **Child Protection Bill** 2006 is intended to replace the Children and Young Persons (Administration of Justice) Act (1947), but it appears not to be in force. It does not prohibit corporal punishment in penal institutions. Article 4 confirms a child's rights under the Convention on the Rights of the Child but with reservations:

*A child shall have the right ...*

*(c) to exercise, in addition to all the rights stated in this Act, all the rights set out in the United Nations Convention on the Rights of the Child (the Convention) subject to any reservations that apply to The Bahamas and with appropriate modifications to suit the circumstances that exist in The Bahamas with due regard to its laws.*

## **Recommendations by human rights treaty bodies**

Following examination of the state party's initial report in 2005, the **Committee on the Rights of the Child** recommended explicit prohibition of corporal punishment in institutions (CRC/C/15/Add.253, para. 36).

Recommendations to prohibit corporal punishment of children were made during the **Universal Periodic Review** of the Bahamas by the Human Rights Council in December 2008. The delegation noted the Government's intention to repeal legislation permitting corporal punishment of adults (A/HRC/10/70, Report of the Working Group, para. 16) but did not support the recommendations relating to prohibiting corporal punishment of children (para. 54(5)).

# Response to questionnaire on the rights of persons deprived of liberty: Barbados

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children  
([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## Basic information

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

On conviction of an offence, children (below the age of 14) and young people (below the age of 16) may be sent to a reformatory and industrial school (Juvenile Offenders Act, section 16). The **Reformatory and Industrial Schools Act** (1926) authorises the infliction of corporal punishment as a disciplinary measure on boys (not girls). Section 31 states:

*(1) Any boy detained in a School who wilfully neglects or wilfully refuses to conform to the rules thereof may for every such offence be ordered by the Principal to be whipped with a birch or tamarind rod or suitable cane, the punishment not to exceed 12 stripes in the case of a boy whose age does not exceed 16 years and 24 stripes in the case of a boy whose age exceeds 16, or to be kept in solitary confinement for such period not exceeding 5 days as the Minister may by any regulation determine.*

*(2) Such period of confinement shall not be computed as part of the boy's time of detention.*

*(3) No order under subsection (1) shall be carried out unless approved by the Minister, who shall have power to alter, vary or annul the order of the Principal.*

*(4) Any boy ordered by the Principal to be punished may be kept separate from the other boys until the Minister's will in the matter is communicated to the Principal.*

*(5) Notwithstanding the foregoing provisions of this section*

*(a) for maintaining discipline and for domestic offences, the Principal may impose immediate punishment not exceeding 10 stripes with a cane or slender rod or two days solitary confinement on punishment diet as the Minister may by any regulation determine;*

*(b) for maintaining discipline during school hours the instructor may with the approval of the Principal inflict not more than 6 stripes with a cane or slender rod.*

*(6) In every case in which action is taken under subsection (5) the Principal shall within 7 days make a report thereof with full particulars to the Minister.*

Section 34 authorises whipping as a punishment for attempted escape, ordered by a magistrate:

*(1) Any boy sentenced or ordered to be detained in a School who escapes therefrom may at any time before the expiration of his period of detention be apprehended without warrant, and if the Principal of the School think fit, but not otherwise, may, any other Act to the*

*contrary notwithstanding, be then brought before a magistrate of the district in which he is found or in which the School is situate.*

*(2) The boy shall thereupon be liable on summary conviction to be whipped, not exceeding twelve stripes in the case of a boy whose age does not exceed sixteen and twenty-four stripes in the case of a boy whose age exceeds sixteen, with a rod, and he shall be brought back to the School there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his escaping.*

Young people aged 16 and above are tried as adults and may be sentenced to imprisonment. The **Prisons Act** (1964), in section 20, allows the use of force for purposes of maintaining discipline:

*(1) A prison officer may use such force against a prisoner as is reasonably necessary in order to make him obey lawful orders which he refuses to obey or in order to maintain discipline in a prison.*

*(2) A prison officer who strikes or uses force against a prisoner shall have the prisoner as soon as possible examined by the medical officer and shall immediately report the incident to the Officer-in-Charge....*

Section 40 of the Act provides for corporal punishment for specific disciplinary offences, up to 12 strokes for persons below the age of 21:

*(1) Except as provided by this section, corporal punishment shall not be inflicted in any prison.*

*(2) Rules made under section 66 may authorise the infliction of corporal punishment for mutiny, incitement to mutiny or gross personal violence to a prison officer when committed by a male person serving a sentence for imprisonment.*

*(3) The rules shall not authorise the infliction of corporal punishment except by order of the Visiting Justice; and no such order shall be made except after an enquiry in which the evidence is given on oath.*

*(4) The Minister may, if he thinks fit in any particular case, direct that the functions exercisable under subsection (3) by the Visiting Justice shall be exercised by a magistrate appointed in that behalf.*

*(5) The punishment which may be awarded under such an order under subsection (3) shall not exceed*

*(a) in the case of a person appearing to the Visiting Justice or magistrate to be not less than 21 years of age, 24 strokes of a birch rod; or*

*(b) in the case of a person appearing to him to be under that age, 12 strokes of a birch rod, and if corporal punishment is inflicted, no further punishment by way of confinement in cells or restricted diet shall be imposed.*

*(6) Where an order for the infliction of corporal punishment has been made under this section, a copy of the notes of the evidence given at the enquiry, a copy of the order and a statement of the grounds on which it was made shall forthwith be given to the Minister; and the order shall be carried into effect only after confirmation by the Minister and, if the Minister confirms the order with modifications, in accordance with the modifications.*

*(7) A refusal by the Minister to confirm such an order shall not prejudice any power to impose another punishment for the offence for which the order was made.*

Also relevant is section 4 of the **Prevention of Cruelty to Children Act** (1904), which 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”.

## **Recommendations by human rights treaty bodies**

Following examination of the state party's initial report in 1999, the **Committee on the Rights of the Child** recommended abolition of flogging as a judicial sentence and as a disciplinary measure in the prison system (CRC/C/15/Add.103, para. 19). In 2007, the **Human Rights Committee** recommended abolition of corporal punishment in the penal system (CCPR/C/BRB/CO/3, Concluding observations on third report, para. 12).

Barbados was examined under the **Universal Periodic Review** process in 2008. The Government did not accept the recommendations to prohibit all corporal punishment of children (A/HRC/10/73 Report of the Working Group, para. 77(14) and A/HRC/10/73/Add.1, Views on the recommendations, para. 21).

# Response to questionnaire on the rights of persons deprived of liberty: Belize

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## Basic information

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

Corporal punishment is prohibited in the “Youth Hostel” detention centre under the Social Services Agencies (Operators of Residential Care Facilities for Children) (Registration, Licensing and Minimum Operating Requirements) Regulations (in effect 2004), but it is lawful in prisons.

Rule 7 of the **Prison Rules** (2000) provide for young prisoners, including those under 16, but do not exempt them from the provisions punishing disciplinary offences with corporal punishment. Rule 38 regulates the use of force by prison officers and makes an exception in the case of inflicting corporal punishment:

- (1) No officer in dealing with prisoners shall use force unnecessarily, and when the application of force to a prisoner is necessary no more force than is necessary shall be used.*
- (2) No officer shall strike a prisoner except in self defence or when ordered to inflict corporal punishment.*
- (3) No officer shall deliberately act in a manner calculated to provoke a prisoner.*

Rules 52 authorises Visiting Judges to order corporal punishment for specific offences, and Rule 53 specifies how this should be inflicted:

*52. (1) Where a prisoner is charged for one of the following offences, namely -*

- (a) mutiny or incitement to mutiny;*
- (b) gross personal violence to any other person;*
- (c) possession of a deadly weapon;*
- (d) unlawful escape from prison or other lawful custody, the Superintendent shall forthwith summon a special meeting of not more than three nor less than two Visiting Justices to inquire into the charge.*

*(2) The Visiting Justices summoned as aforesaid shall inquire into the charge and for this purpose may take evidence on oath and if they find the offence proved, may make one or more of the following awards –*

- (a) [Repealed by S.I. 50 of 1998.]*
- (b) cellular confinement with restricted diet No.1 for a period not exceeding twenty-eight days.*

*(3) In the case of a male prisoner serving a sentence of imprisonment the Visiting Justices acting under this rule may, subject to the restrictions imposed by paragraph (4) of this rule, order corporal punishment in place of the award set out in subparagraph (b) of paragraph (2) of this rule but such corporal punishment may be in addition to the award set out in subparagraph (a) of paragraph (2) of this rule.*

*(4) Where an order for the infliction of corporal punishment is made, the order shall specify the number of strokes and the instrument with which they are to be inflicted, shall be submitted to the Minister for confirmation, and shall be recorded in such manner as the Minister determines.*

*(5) The Visiting Justices may, when making an award for the infliction of corporal punishment, make such awards being awards set out in paragraph (2) of this rule as they consider ought properly to be made as alternative awards in the event of the Minister's refusing to confirm the order of the infliction of corporal punishment.*

*53. (1) All corporal punishment shall be attended by the Superintendent and the Medical Officer.*

*(2) The Medical Officer shall immediately before the punishment is inflicted examine the prisoner and satisfy himself that he is mentally and physically fit to undergo the punishment, and shall make such recommendations for preventing injury to the prisoner's health as he may deem necessary, and the Superintendent shall carry such recommendations into effect.*

*(3) At any time after the infliction of the punishment has begun the Medical Officer may, if he deems it necessary in order to prevent injury to the prisoner's health, recommend that no further punishment be inflicted, and the Superintendent shall thereupon remit the remainder of the punishment.*

*(4) The Superintendent shall enter in the corporal punishment book the number of lashes or strokes inflicted and any remission which he may have ordered.*

*(5) Every instrument used for the infliction of corporal punishment shall be of a pattern approved by the Minister.*

*54. (1) Cellular confinement, corporal punishment, or restriction of diet shall in no case be awarded unless the Medical Officer has certified that the prisoner is in a fit condition of health to sustain it.*

*(2) Every prisoner undergoing cellular confinement or subjected to restricted diet No. 1 shall be visited at least once a day by the Superintendent and the Medical Officer, and if he is undergoing cellular confinement he shall be visited by an officer appointed for that purpose at intervals of not more than three hours during the day.*

Other relevant rules are 56 and 170:

*56. (1) The Superintendent shall, in January of each year, submit to the Minister a return of all cases of corporal punishment inflicted at the prison which were awarded by the Court or for offences against prison discipline.*

*(2) Such return shall contain the following particulars -*

*(a) name of the prisoner;*

*(b) age of the prisoner;*

*(c) number of strokes awarded;*

*(d) instrument used;*

*(e) the offence for which the award was made;*

*(f) the legislative authority for the award;*

*(g) any remarks which the Superintendent may deem fit to make.*

...

*170. The Superintendent shall take care that no prisoner is subjected to any corporal, cellular, or dietary punishment unless the Medical Officer has certified that such prisoner is capable of undergoing such punishment.*

Also relevant is section 39 of the **Criminal Code** (1981):

*39. (1) A blow or other force not in any case extending to a wound or grievous harm may be justified for the purpose of correction, as follows-*

*(a) A parent may correct his child being under sixteen years of age, or any guardian or person acting as a guardian may correct his ward being under sixteen years of age, for misconduct, or for disobedience to any lawful command....*

And the **Summary Jurisdiction (Procedure) Act** states in section 6:

*“Nothing in the Summary Jurisdiction (Offences) Act, shall be construed to take away or affect the right of the parent, teacher or other person having the lawful control or charge of a child or young person to administer punishment to him.”*

## **Recommendations by human rights treaty bodies**

In 2005, in its concluding observations on the state party's second report, the **Committee on the Rights of the Child** recommended a critical review of legislation with a view to abolishing the use of force for the purpose of correction and prohibiting all corporal punishment of children, including in all institutions (CRC/C/15/Add.252, para. 41). The Committee had previously recommended prohibition of corporal punishment in the juvenile justice system in 1999, following examination of the state party's initial report (CRC/C/15/Add.99, para. 19).

Belize was examined under the **Universal Periodic Review** process in May 2009. The Government accepted recommendations to review its legislation with a view to prohibiting corporal punishment of children (A/HRC/12/4/Add.1, Views on recommendations, para. 32).

# Response to questionnaire on the rights of persons deprived of liberty: Bolivia

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## Basic information

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions. In the summary of the examination of Bolivia by the Committee on the Rights of the Child in September 2009, the delegation is reported as indicating that corporal punishment is unlawful under the new Constitution but that further action is needed to bring legislation/practice into line with this.<sup>1</sup> The **Constitution** (2009) prohibits violence but does not explicitly prohibit corporal punishment, stating in article 61:

*I. Se prohíbe y sanciona toda forma de violencia contra las niñas, niños y adolescentes, tanto en la familia como en la sociedad.*

Article 109 of the **Children and Adolescents Code** (1999) prohibits only corporal punishment which is considered harmful:

*Se considera que el niño, niña o adolescente es víctima de maltrato cuando:*

*I. Se le cause daño físico, psíquico, mental o moral, así sea a título de medidas disciplinarias o educativas....*

## Recommendations by human rights treaty bodies

In its concluding observations on the state party's fourth report in 2009, the **Committee on the Rights of the Child** recommended explicit prohibition of corporal punishment in all settings, including all institutions (CRC/C/BOL/CO/4 Advance Unedited Version, paras. 40, 41 and 42). In 2005, following examination of the second report, and in 1998 following examination of the initial report, the Committee recommended prohibition of corporal punishment in institutions (CRC/C/15/Add.256, para. 36 and CRC/C/15/Add.95, para. 21 respectively).

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<sup>1</sup> At

[www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear\\_en\)/0758D7BF3F30B84DC1257634004F6A4E?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/0758D7BF3F30B84DC1257634004F6A4E?OpenDocument), accessed 18 September 2009

# Response to questionnaire on the rights of persons deprived of liberty: Brazil

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## Basic information

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

Corporal punishment is lawful as a disciplinary measure in penal institutions. The **Code on Children and Adolescents** (1990) recognises the right of adolescents deprived of their liberty to be treated with respect and dignity (article 124) and charges the state with responsibility for ensuring their physical and mental integrity (article 125):

*124. São direitos do adolescente privado de liberdade, entre outros, os seguintes: ...*

*V - ser tratado com respeito e dignidade;...*

*125. É dever do Estado zelar pela integridade física e mental dos internos, cabendo-lhe adotar as medidas adequadas de contenção e segurança.*

But there is no explicit prohibition of physical punishment in detention centres.

Research by Human Rights Watch in 17 detention centres in Northern Brazil, including four girls and including interviews with 44 detained young people, found that children are routinely beaten by police. Beatings both during and after arrest were found to be common. Children complaining of beatings reported that military police hit them with rubber batons with a metal core.<sup>1</sup>

Research in five juvenile detention centres in the State of Rio de Janeiro found that beatings, and impunity for offenders, were common. Verbal violence was also common, and youths experienced lengthy periods of lock-up and being forced to stand for long periods of time in uncomfortable positions.<sup>2</sup>

## Moves towards law reform

The Government is committed to prohibiting corporal punishment of children in all settings. Draft legislation which would have achieved this was dropped in 2008, but a major new campaign was launched in December 2009.

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<sup>1</sup> Human Rights Watch (2003), *Cruel Confinement: Abuses against detained children in Northern Brazil*

<sup>2</sup> Human Rights Watch (2004), "Real dungeons": *Juvenile Detention in the State of Rio de Janeiro*, vol.16, no.7

## **Recommendations by human rights treaty bodies**

Following examination of the state party's initial report in 2004, the **Committee on the Rights of the Child** expressed concern at the use of corporal punishment as a disciplinary measure in penal institutions and recommended explicit prohibition (CRC/C/15/Add.241, paras. 42 and 43).

# Response to questionnaire on the rights of persons deprived of liberty: Colombia

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

There is no explicit prohibition on corporal punishment as a disciplinary measure in penal institutions. A number of provisions prohibit violence generally and protect the detainees human dignity, but we have no evidence that they are interpreted as prohibiting all corporal punishment. The **Juvenile Code** (1989) states that a minor in detention “shall receive humanitarian treatment” (article 16):

*Todo menor tiene derecho a que se proteja su integridad personal. En consecuencia, no podrá ser sometido a tortura, a tratos crueles o degradantes ni a detención arbitraria. El menor privado de su libertad recibirá un tratamiento humanitario, estará separado de los infractores mayores de edad y tendrán derecho a mantener contacto con su familia.*

The **Penitentiary Law** prohibits all forms of violence (articles 5 and 45):

*Art. 5. Respeto a la dignidad humana. En los establecimientos de reclusión prevalecerá el respeto a la dignidad humana, a las garantías constitucionales y a los derechos humanos universalmente reconocidos. Se prohíbe toda forma de violencia síquica, física o moral.*

*Art. 45. prohibiciones. Los miembros del Cuerpo de Custodia y Vigilancia tienen las siguientes prohibiciones: ...*

*d) Inflingir castigos a los internos, emplear con ellos violencia o maltratamientos....*

In the **Law on Children** passed in 2006, a general provision on the right to personal integrity refers to punishment in the context of abuse (article 18), but this appears to prohibit only corporal punishment which is considered abusive, i.e. that which causes injury: we have no evidence that the provision is interpreted as prohibiting all forms of corporal punishment, however light:

*Los niños, las niñas y los adolescentes tienen derecho a ser protegidos contra todas las acciones o conductas que causen muerte, daño o sufrimiento físico, sexual o psicológico. En especial, tienen derecho a la protección contra el maltrato y los abusos de toda índole por parte de sus padres, de sus representantes legales, de las personas responsables de su cuidado y de los miembros de su grupo familiar, escolar y comunitario.*

*Para los efectos de este Código, se entiende por maltrato infantil toda forma de perjuicio, castigo, humillación o abuso físico o psicológico, descuido, omisión o trato negligente, malos tratos o explotación sexual, incluidos los actos sexuales abusivos y la violación y en*

*general toda forma de violencia o agresión sobre el niño, la niña o el adolescente por parte de sus padres, representantes legales o cualquier otra persona.*

Also relevant is article 262 of the **Civil Code** (1883, as amended 1974), which confirms the right of parents and others in charge of children to “correct them and sanction them moderately”:

*Los padres o la persona encargada del cuidado personal de los hijos, tendrán la facultad de vigilar su conducta, corregirlos y sancionarlos moderadamente.*

### **Recommendations by human rights treaty bodies**

Following examination of the state party’s third report in 2006, the **Committee on the Rights of the Child** expressed concern at the continued use of corporal punishment in institutions (CRC/C/COL/CO/3, para. 61).

# Response to questionnaire on the rights of persons deprived of liberty: Cuba

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

Article 30 of the **Penal Code** states:

*(8) El sancionado no puede ser objeto de castigos corporales ni es admisible emplear contra él medida alguna que signifique humillación o que redunde en menoscabo de su dignidad.*

This would seem to prohibit corporal punishment as a disciplinary measure in penal institutions, but there is no explicit prohibition in relation to all institutions accommodating children conflict with the law. There is no prohibition of corporal punishment of children in detention in the **Code on Children and Youth** (1968). Also relevant is article 152 of the **Family Code** which authorises “moderate” punishment of children by guardians.

## Recommendations by human rights treaty bodies

Following examination of the state party’s initial report in 1997, the **Committee on the Rights of the Child** recommended measures to prevent corporal punishment of children (CRC/C/14/Add.72, para. 35).

# Response to questionnaire on the rights of persons deprived of liberty: **Dominica**

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

Under sections 16, 21 and 23 of the **Children and Young Persons Act** (1970), a juvenile in conflict with the law may be detained in a government training school or a prison.

Government training schools are governed by the **Children and Young Persons Welfare Act** (1972) and the **Government Training School Act** (1970), under which the Minister may make regulations for discipline (sections 20 and 2 respectively). These Acts do not prohibit corporal punishment. We have no details of the regulations but we understand that corporal punishment is a permitted disciplinary measure in penal institutions.

Part VIII of the **Prisons Act** (1877) covers prison offences, with most punishments comprising fines and/or further imprisonment, but visiting justices may order corporal punishment for breaches of discipline (section 33):

*(1)(a) On complaint made before the visiting justices of any prison of disorderly conduct or wilful breach of prison discipline on the part of any prisoner, the justices, or any two of them, may hear and determine the complaint, and sentence the offender to solitary confinement for any term not exceeding thirty days, or, if a male, sentence the offender to be punished by such confinement, or, subject to the provisions of the Corporal Punishment Act by whipping; but the sentence of whipping shall not be carried into execution until reported to and sanctioned by the Minister, who may either lessen the number of strokes which the prisoner is sentenced to receive or may commute the same to solitary confinement....*

*(c) In every case of whipping, the convicting justices shall, in their sentence, specify the number of strokes to be inflicted.*

*(2) Every prison-breach, escape, or absconsion, and every attempt to break prison, escape or abscond, and every offence whatsoever specified, described, or comprised in sections 17, 20, 24, 26, 29 and 30 and every offence whatsoever relating to prisons, prisoners or imprisonment, when committed by a prisoner is hereby declared to be a wilful breach of discipline on the part of the prisoner within the meaning of this section; but nothing in this subsection shall abrogate or affect any jurisdiction or liability conferred or imposed by any other Part of this Act.*

The **Prison Rules** (1956) pursuant to section 6 of the Prisons Act, include a long list of offences against discipline (section 44), for which the Superintendent can order a number of measures including solitary confinement and dietary restrictions but not corporal punishment (section 45).

The Superintendent must report certain offences to the visiting committee or visiting justice (section 46). Where the report concerns mutiny or attempted mutiny or violence towards an officer and the prisoner involved is male, the visiting justices may order corporal punishment (section 47), to be inflicted according to section 48:

*(1) All corporal punishment shall be attended by the Superintendent and the medical officer.*

*(2) The medical officer shall immediately before the punishment is inflicted examine the prisoner and satisfy himself that he is both mentally and physically fit to undergo the punishment, and shall make such recommendations for preventing injury to the prisoner's health as he may consider necessary, and the Superintendent shall carry such recommendations into effect.*

*(3) At any time after the infliction of the punishment has begun the medical officer may, if he considers it necessary in order to prevent injury to the prisoner's health, recommend that no further punishment be inflicted, and the Superintendent shall thereupon remit the remainder of the punishment.*

*(4) The Superintendent shall enter into the corporal punishment book the number of lashes or strokes inflicted and any remission which he may have ordered.*

*(5) Every instrument used for the infliction of corporal punishment shall be of a pattern approved by the Minister.*

Also relevant is the confirmation in section 5 of the **Children and Young Persons Act (1970)** of “the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer reasonable punishment to him”.

## **Moves towards law reform**

The Organisation of Eastern Caribbean States has drafted a Child Justice Bill (2007) for consideration by the attorney general. It does not prohibit corporal punishment in institutions accommodating children in conflict with the law.

## **Recommendations by human rights treaty bodies**

Following examination of the state party's initial report in 2004, the **Committee on the Rights of the Child** recommended the abolition of sentences of whipping, the removal from legislation of all provisions allowing for corporal punishment and explicit prohibition in institutions (CRC/C/15/Add.238, paras. 29 and 48).

# Response to questionnaire on the rights of persons deprived of liberty: Grenada

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

Corporal punishment is lawful as a disciplinary measure in penal institutions, including under the Prisons Act, but we have no details of applicable legislation. Section 54 of the Criminal Code confirms the right of adults to use “justifiable force” on children and young people under the “authority to correct a child, servant or similar person for misconduct”. We have been unable to obtain the full texts of relevant legislation.

## Moves towards law reform

The Organisation of Eastern Caribbean States has drafted a Child Justice Bill (2007) for consideration by the attorney general. It does not prohibit corporal punishment in institutions accommodating children in conflict with the law.

## Recommendations by human rights treaty bodies

In June 2010, following examination of the state party’s second report, the **Committee on the Rights of the Child** recommended explicit prohibition of corporal punishment of children in places of detention (CRC/C/GRD/CO/2 Advance Unedited Version, para. 33). Following examination of the state party’s initial report in 2000, the Committee recommended the prohibition of corporal punishment (whipping) in the juvenile justice system (CRC/C/15/Add.121, para. 28). In 2009, the **Human Rights Committee** recommended prohibition of corporal punishment in places of detention (CCPR/C/GRD/CO/1, Concluding observations in the absence of a report, para. 11).

# Response to questionnaire on the rights of persons deprived of liberty: Guyana

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

Corporal punishment is lawful as a disciplinary measure in penal institutions. In the training school, corporal punishment has been forbidden by ministerial directive, but it remains lawful under the **Training School Act** (1907), which authorises whipping and solitary confinement as disciplinary measures for boys and solitary confinement for girls (section 20):

*(1) Any boy detained in a school who wilfully refuses or neglects to conform to the regulations thereof, may, for every offence, be ordered by the headmaster or the person in charge, to be whipped with such instrument as the minister may prescribe, the punishment not to exceed six strokes, or to be kept in solitary confinement for a period not exceeding one day:*

*Provided that for maintaining discipline in the schoolroom the person in charge of it with the approval of the headmaster, may inflict not more than three strokes with such instrument as the Minister may prescribe.*

*(2) Any girl detained in a school who wilfully refuses or neglects to conform to the regulations thereof, may, for every offence, be ordered by the headmaster to be kept in solitary confinement for a period not exceeding one day:*

*Provided that nothing in this section shall be construed as empowering a headmaster to keep a boy or girl in solitary confinement for more than twenty-four consecutive hours under any circumstances.*

The **Prison Act** (1957) provides for whipping and flogging as punishments for certain offences in prisons; the punishment must have the approval of the Minister (section 37):

*Where any prisoner commits any of the following major prison offences, that is to say –*

*(a) mutiny or incitement to mutiny;*

*(b) escape or attempt to escape;*

*(c) taking part in any assault or attack on any member of the prison staff or medical officer;*

*(d) aggravated or repeated assault on any other prisoner,*

*then, on such prisoner being found guilty thereof, on an enquiry before the Director, the Director may impose any or all of the following punishments:*

*(i) in the case of an offence specified in paragraphs (1), (c) or (d), whipping or flogging:*

*Provided that no sentence of whipping or flogging shall be imposed except with the approval of the Minister....*

Also relevant is section 9 of the **Criminal Law (Offences) Act** (1894), which confirms “*the right of the guardian or teacher of a child to administer reasonable and proper punishment to the child*”, and section 7 of the **Summary Jurisdiction (Offences) Act** (section 7):

*Nothing in this Act shall be construed to take away or affect the right of the guardian or teacher of any child to administer reasonable and proper punishment to the child.*

## **Moves towards law reform**

Guyana has recently enacted a number of laws aimed at updating the legal framework for children, including the Protection of Children Act 2009, but it has not explicitly prohibited corporal punishment in any setting. In 2007, a Juvenile Offenders (Amendment) Bill (2007) was before Parliament, but we have been unable to obtain details of its provisions or progress.

## **Recommendations by human rights treaty bodies**

In 2004, following examination of the state party’s initial report, the **Committee on the Rights of the Child** recommended prohibition of corporal punishment in institutions (CRC/C/15/Add.224, para. 32). In 2006, after examining the state party’s initial report, the **Committee Against Torture** recommended abolition of all legal provisions allowing flogging, whipping and reduction of diet, in particular section 37 of the Prison Act (CAT/C/GUY/CO/1, para. 13). In 2000, the **Human Rights Committee** recommended legal measures to eliminate corporal punishment (CCPR/C/79/Add.121, Concluding observations on second report, para.12).

# Response to questionnaire on the rights of persons deprived of liberty: Honduras

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions. Article 24 of the **Code on Children and Adolescents** (1996) states:

*La dignidad forma parte de la personalidad de los niños. Es deber, por consiguiente, de todas las personas, velar por el respeto de tal derecho y de proteger a los niños contra cualquier trato inhumano, violento, aterrorizante, humillante o destructivo, aun cuando se pretenda que el mismo se debe a razones disciplinarias o correctivas y quien quiera que sea el agente activo.*

We have no evidence that this is interpreted as prohibiting all corporal punishment. Article 199 of the Code states:

*Los niños internados conservarán los siguientes derechos: ...*

*ñ) Recibir un tratamiento adecuado de parte de las autoridades encargadas de su custodia, las que procurarán evitar el uso de la fuerza o el empleo de cualquier clase de armas en cumplimiento de sus cometidos. El tratamiento adecuado implicará que a los niños no se les podrán aplicar sanciones colectivas ni exigirles que actúen como agentes mantenedores del orden o de la disciplina....*

## Recommendations by human rights treaty bodies

In 2007, following examination of the state party's third report, the **Committee on the Rights of the Child** recommended that the state party introduce and enforce legislation explicitly prohibiting corporal punishment in all settings (CRC/C/HND/CO/3, para. 55).

# Response to questionnaire on the rights of persons deprived of liberty: Mexico

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions in the **Federal Law for the Treatment of Juvenile Offenders** (1991).

The **Law on the Protection of the Rights of Children and Adolescents** prohibits cruel and degrading treatment of young people in conflict with the law but does not explicitly prohibit corporal punishment (article 45):

*A fin de dar cumplimiento a lo establecido en el artículo anterior, las normas establecerán las bases para asegurar a niñas, niños y adolescentes, lo siguiente:*

*A. Que no sean sometidos a torturas ni a otros tratos o penas crueles, inhumanas o degradantes....*

*J. Que a quienes se prive legalmente de su libertad, sean tratados respetando sus derechos humanos y la dignidad inherente a toda persona....*

## Recommendations by human rights treaty bodies

In 2006, following examination of the state party's third report, the **Committee on the Rights of the Child** expressed concern that corporal punishment is not explicitly prohibited in penal institutions and that it continues to be used, and recommended explicit prohibition in all relevant federal and state laws (CRC/C/MEX/CO/3 Unedited Version, paras. 35 and 36). The Committee also recommended that the problem of corporal punishment be addressed in relation to indigenous children (para. 73). The Committee had previously recommended prohibition of corporal punishment in institutions in 1999 (CRC/C/15/Add.112, Concluding observations on second report, para. 25).

Mexico was examined under the **Universal Periodic Review** process in 2009. The Government accepted the recommendations concerning protecting children from corporal punishment (A/HRC/11/27, Report of the Working Group, para. 93(30)).

# Response to questionnaire on the rights of persons deprived of liberty: Peru

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

There is no explicit prohibition of corporal punishment of children and young persons as a disciplinary measure in penal institutions. Article 240 of the **Code on Children and Adolescents** provides for good treatment in detention but does not explicitly prohibit corporal punishment:

*Durante la internación el adolescente tiene derecho a:*

- a) Un trato digno;*
  - b) Ocupar establecimientos que satisfagan las exigencias de higiene y estén adecuados a sus necesidades;*
  - c) Recibir educación y formación profesional o técnica;*
  - d) Realizar actividades recreativas;*
  - e) Profesar su religión;*
  - f) Recibir atención médica;*
  - g) Realizar un trabajo remunerado que complemente la instrucción impartida;*
  - h) Tener contacto con su familia por medio de visitas, dos veces a la semana, o por teléfono;*
  - i) Comunicarse en forma reservada con su abogado y a solicitar entrevista con el Fiscal y Juez;*
  - j) Tener acceso a la información de los medios de comunicación social;*
  - k) Recibir, cuando sea externado los documentos personales necesarios para su desenvolvimiento en la sociedad; y*
  - l) A impugnar las medidas disciplinarias adoptadas por las autoridades de la institución.*
- Estos derechos no excluyen otros que les pudieran favorecer.*

There is no provision for corporal punishment in the **Penal Execution Code**.

## Moves towards law reform

The Government is committed to prohibition of corporal punishment of children in all settings. A bill which would achieve this, including in penal institutions, was under discussion in December 2008. It stated:

*1. Modifíquese el artículo 4° del Código de Niños y Adolescentes, en los términos siguientes:*

*Artículo 4°.- A su integridad personal*

*“El niño y el adolescente tienen derecho a que se respete su integridad moral, psíquica y física y a su libre desarrollo y bienestar. No podrán ser sometidos a ningún tipo de castigo corporal, tortura, tratos crueles u otras formas de tratos degradantes y humillantes.*

*Son consideradas también como formas que afectan su integridad personal el abuso sexual, el trabajo forzado, la explotación económica, el reclutamiento forzado, así como cualquier tipo de explotación sexual comercial, la trata y el tráfico de niños y adolescentes y todos los demás tipos de explotación”.*

*2. Modifíquese el artículo 74° literal d) del Código de Niños y Adolescentes, en los siguientes términos:*

*Artículo 74°.- Son deberes y derechos de los padres que ejercen la patria potestad:  
(...)*

*d) “Fomentar la participación y adecuada formación de sus hijos. No deben utilizar como mecanismo de crianza, el castigo corporal u otra forma de trato humillante y degradante”.*

*3. Derogatorias y adecuaciones*

*Déjese sin efecto las normas que se opongan o contravengan la presente Ley y adecúese la legislación existente a lo previsto en esta Ley.*

We have no up to date information on the progress of the bill.

## Recommendations by human rights treaty bodies

In 2006, following examination of the state party's third report, the **Committee on the Rights of the Child** recommended explicit prohibition of corporal punishment in all settings (CRC/C/PER/CO/3, para. 43). The Committee had previously recommended prohibition in 2000, in its concluding observations on the second report (CRC/C/15/Add.120, para. 22).

# **Response to questionnaire on the rights of persons deprived of liberty: St Kitts and Nevis**

**Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law**

**Submitted by the Global Initiative to End All Corporal Punishment of Children**  
([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## **Basic information**

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Date of report: 21 June 2010

## **Legality of corporal punishment as a disciplinary measure in penal institutions**

There is no prohibition of corporal punishment as a disciplinary measure in penal institutions, but we have no details of applicable law.

## **Moves towards law reform**

The Organisation of Eastern Caribbean States has drafted a Child Justice Bill (2007) for consideration by the attorney general. It does not prohibit corporal punishment in institutions accommodating children in conflict with the law.

## **Recommendations by human rights treaty bodies**

In 1999, following examination of the state party's initial report, the **Committee on the Rights of the Child** recommended prohibition of all corporal punishment in the juvenile justice system (CRC/C/15/Add.104, para. 32).

# Response to questionnaire on the rights of persons deprived of liberty: St Lucia

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## Basic information

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

Corporal punishment is lawful as a disciplinary method in penal institutions. Males convicted of offences 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, section 13).

The **Prison Rules and Orders** (1964) also provide for the administration of corporal punishment (section 54). As at April 2006 the provision was under review but we have no further information.

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.

Also relevant is the confirmation in the **Children and Young Persons Act** (1972) of “*the right of any parent, teacher or other person having the lawful control or charge of a child to administer reasonable punishment to him*” (article 5).

## Moves towards law reform

The Organisation of Eastern Caribbean States has drafted a Child Justice Bill (2007) for consideration by the attorney general. It does not prohibit corporal punishment in institutions accommodating children in conflict with the law.

## Recommendations by human rights treaty bodies

In 2005, in its concluding observations on the state party’s initial report, the **Committee on the Rights of the Child** recommended explicit prohibition in law of corporal punishment in institutions (CRC/C/15/Add.258, para. 35).

# **Response to questionnaire on the rights of persons deprived of liberty: St Vincent and the Grenadines**

**Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law**

**Submitted by the Global Initiative to End All Corporal Punishment of Children**  
([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## **Basic information**

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Date of report: 21 June 2010

## **Legality of corporal punishment as a disciplinary measure in penal institutions**

Corporal punishment is lawful as a disciplinary measure in penal institutions. The **Juveniles Act** and the **Juveniles (Approved Schools) Rules** allow corporal punishment to be administered on males within approved schools.

Also relevant is section 8 of the **Juveniles Act**, which allows any person having control of the juvenile to administer “reasonable” punishment.

## **Moves towards law reform**

The Organisation of Eastern Caribbean States has drafted a Child Justice Bill (2007) for consideration by the attorney general. It does not prohibit corporal punishment in institutions accommodating children in conflict with the law.

## **Recommendations by human rights treaty bodies**

In 2002, following examination of the state party’s initial report, the **Committee on the Rights of the Child** recommended prohibition of corporal punishment in the administration of justice (CRC/C/15/Add.184, paras. 29 and 53). In 2008, the **Human Rights Committee** expressed concern that the Corporal Punishment of Juveniles Act permits caning and recommended repeal of this Act (CCPR/C/VCT/CO/2, Concluding observations in the absence of a report, para. 11).

# Response to questionnaire on the rights of persons deprived of liberty: Trinidad and Tobago

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## Basic information

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

Children convicted of offences may be sent to a certified industrial school or a certified orphanage under the **Children Act**. Corporal punishment is lawful as a disciplinary measure in these institutions under section 22 of the Act, which confirms the right of parents, teachers and other persons having lawful control of a child to administer “reasonable punishment”.

## Moves towards law reform

A Children Bill 2010 is under discussion which would prohibit corporal punishment by all persons except parents (section 102):

*(1) Subject to subsection (2), nothing in this Part shall be construed as taking away or 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.*

*(2) Reasonable punishment referred to in subsection (1), in relation to any person other than a parent, does not include corporal punishment.*

Under article 100 of the Children Bill, the Minister would be able to make rules regarding the control of children in places of detention. The Bill lapsed in April 2010.

## Recommendations by human rights treaty bodies

In 2006, following examination of the state party’s second report, the **Committee on the Rights of the Child** recommended explicit prohibition of corporal punishment in all settings, including institutions (CRC/C/TTO/CO/2, par. 40). In its concluding observations on the initial report in 1997, the Committee had drawn attention to the problem of corporal punishment in the juvenile justice system, and recommended its prohibition by law both as a sentence and as a means of discipline in places of detention. The **Committee on Economic, Social and Cultural Rights** and the **Human Rights Committee** have recommended abolition of judicial corporal punishment for adult males (respectively E/C.12/1/Add.80, 2002, Concluding observations on second report, para. 52 and CCPR/CO/70/TTO, 2000, Concluding observations on joint third and fourth reports, para.13).

# Response to questionnaire on the rights of persons deprived of liberty: USA

Information regarding the legality of corporal punishment as a disciplinary measure in penal institutions accommodating children and young people in conflict with the law

Submitted by the Global Initiative to End All Corporal Punishment of Children ([www.endcorporalpunishment.org](http://www.endcorporalpunishment.org))

## Basic information

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Date of report: 21 June 2010

## Legality of corporal punishment as a disciplinary measure in penal institutions

In 1977, the US Supreme Court found that the Eighth Amendment, which prohibits cruel and unusual punishment, did not apply to school students, and that teachers could punish children without parental permission (*Ingraham v Wright*, 430 U.S. 651 (1977)). The ruling also stated that the Eighth Amendment protected convicted criminals from corporal punishment.

The **Detainee Treatment Act** (2005) prohibits cruel, inhuman or degrading treatment and punishment of any person under the physical control of the state. But we have been able to identify only 31 states which have prohibited all corporal punishment of children as a disciplinary measure in juvenile detention by law (see following table).

State	Corporal punishment prohibited in penal institutions
Alabama	NO <sup>1</sup>
Alaska	YES
Arizona	NO
Arkansas	NO <sup>2</sup>
California	YES
Colorado	YES
Connecticut	[NO]
Delaware	NO
District of Columbia	NO <sup>3</sup>
Florida	YES
Georgia	NO <sup>4</sup>
Hawaii	[YES]
Idaho	YES
Illinois	YES
Indiana	[NO]
Iowa	YES
Kansas	YES
Kentucky	YES
Louisiana	YES

<sup>1</sup> But prohibited as a matter of policy

<sup>2</sup> Prohibited for adult prisoners but permitted for juveniles

<sup>3</sup> But prohibited by policy

<sup>4</sup> But prohibited by policy

State	Corporal punishment prohibited in penal institutions
Maine	YES
Maryland	NO <sup>5</sup>
Massachusetts	[NO]
Michigan	YES
Minnesota	YES
Mississippi	NO <sup>6</sup>
Missouri	YES
Montana	YES
Nebraska	YES
Nevada	YES
New Hampshire	NO <sup>7</sup>
New Jersey	YES
New Mexico	NO <sup>8</sup>
New York	YES
North Carolina	YES
North Dakota	NO <sup>9</sup>
Ohio	YES
Oklahoma	YES
Oregon	YES
Pennsylvania	YES
Rhode Island	???
South Carolina	[NO] <sup>10</sup>
South Dakota	[YES]
Tennessee	NO <sup>11</sup>
Texas	YES
Utah	YES
Vermont	??? <sup>12</sup>
Virginia	YES
Washington	??? <sup>13</sup>
West Virginia	YES
Wisconsin	YES
Wyoming	[NO] <sup>14</sup>

## Recommendations by human rights treaty bodies

The USA has signed but not ratified the UN Convention on the Rights of the Child.

<sup>5</sup> But possibly prohibited by policy

<sup>6</sup> But possibly prohibited by policy

<sup>7</sup> Information unconfirmed

<sup>8</sup> But possibly prohibited by policy

<sup>9</sup> But law prohibits “excessive corporal punishment”

<sup>10</sup> Law prohibits “excessive corporal punishment”

<sup>11</sup> Permitted in schools for children in detention run by the penal system but prohibited out of school hours

<sup>12</sup> Prohibited by law for adult inmates, but possibly only by policy for juveniles

<sup>13</sup> Prohibited by law for adult inmates, but possibly only by policy for juveniles

<sup>14</sup> Law prohibits “excessive or unreasonable” corporal punishment