



**Ending  
legalised  
violence  
against  
children**



Global Initiative to  
End All Corporal Punishment  
of Children

**Report for Caribbean Regional Consultation**  
– the UN Secretary General's Study on Violence against Children

Trinidad 2005

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**H**itting people is wrong – and children are people too. Corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity. Its legality breaches their right to equal protection under the law. Urgent action is needed in every region of the world to respect fully the rights of all children – the smallest and most fragile of people.

This report reviews law and policy in relation to corporal punishment and deliberate humiliation of children in each state and dependent territory in the Caribbean. It makes recommendations for law reform and other measures which it is hoped will be adopted at the Consultation and pursued at a national, regional and international level.

# Foreword

Jaap E. Doek

Chairperson

United Nations Committee on the Rights of the Child

**O**ne hundred and ninety two governments, including all those in this region, have accepted an obligation to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of violence (article 19 of the United Nations Convention on the Rights of the Child).

The Committee on the Rights of the Child, which monitors implementation of this Convention, has recommended to governments across the region and the world that they should systematically:

- Prohibit all forms of violence, including all corporal punishment however light, in the upbringing of children in their homes, in schools, in care institutions, penal systems and any other place;
- Undertake – at the same time – educational and awareness-raising campaigns to inform parents and others about children's right to protection and about non-violent methods of disciplining and raising children.

Many citizens and politicians express deep concern about increasing violence in their societies. The credibility of this concern is questionable as long as they are not willing to seriously and systematically address the use of violence against children. And nobody should suggest that a little bit of violence is acceptable. That applies equally for adults and children.

If we all want a violence-free society, we must hope that the context of the UN Secretary General's Study on Violence against Children will accelerate moves to prohibit and eliminate all corporal punishment as an unacceptable violation of human dignity and physical integrity.

**Jaap E. Doek**  
**Chairperson**  
**Committee on the Rights of the Child**  
**March 2005**

# The human rights imperative to end all corporal punishment

**R**ights to respect for human dignity and physical integrity and to equal protection under the law are upheld for everyone – including children – in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The Convention on the Rights of the Child (CRC) re-emphasises that children, too, are holders of human rights. The Convention also requires states to protect children from “all forms of physical or mental violence” while in the care of parents or others (article 19).

The Committee on the Rights of the Child – the monitoring treaty body for the CRC – consistently interprets the Convention as requiring prohibition of all corporal punishment, including in the family, linked to awareness-raising and public education. This interpretation is supported by other human rights treaty bodies, both international and regional, and by high-level court judgments in a growing number of states.

States’ human rights obligations to end all currently legalised violence against children are clear and immediate; there can be no justification for delay. Humanity and logic suggest that children should be the first, not the last, members of human societies to be effectively protected from assault and deliberate humiliation.

The case against corporal punishment does not have to be proved. We do not look for evidence of harm to justify prohibition and other measures to end domestic violence against women or elderly people. The issue is one of fundamental rights. But in any case there is overwhelming research evidence to support the human rights imperative for eliminating corporal punishment. Hitting babies and children is dangerous. Harsh and humiliating forms of discipline are associated with the development of violent and anti-social attitudes and actions in childhood and later life and also with psychological difficulties for the victims.

**“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child...”**

UN Convention on the Rights of the Child, article 19



Hitting children is a lesson in bad behaviour; it teaches them that adults who demand their respect believe that violence is a legitimate way to sort out conflicts or impose authority.

Some adults like to suggest that corporal punishment and child “abuse” are two quite separate phenomena. In fact, more or less all physical “abuse” is administered in a context of punishment or control – it is corporal punishment. There are different degrees of severity, but all corporal punishment breaches children’s right to respect for their human dignity and physical integrity. We do not try to draw lines and justify any level of violence against women or elderly people – so why children? Zero tolerance is generally accepted as a target for ending domestic violence between adults in the home – so why not for children?

Defenders of corporal punishment suggest that children are different. But their differences – their dependence, developmental state and fragility – certainly do not reduce their human rights or justify less protection from violence. Parents and other carers need to use physical actions to protect and restrain children, especially babies and young children. But such actions are clearly distinguishable from causing pain or humiliation as a form of discipline or control.

# Human rights standards in the region

**A**ll states in the region have ratified the Convention on the Rights of the Child. None has entered any reservation to reduce their obligation to protect children from all forms of violence. The Committee on the Rights of the Child has expressed concern over the prevalence of corporal punishment and recommended prohibition to 13 states in the region (St Lucia's first report is due to be examined in May 2005).

Other treaty bodies have recommended prohibition (the Human Rights Committee to Guyana (2000) and with reference to penal corporal punishment to Trinidad and Tobago (2000); the Committee on Economic, Social and Cultural Rights with reference to corporal punishment in the home and various settings to Jamaica (2001) and to Trinidad and Tobago (2002)).

Some states in the region (Barbados, Dominica, Dominican Republic, Grenada, Haiti, Jamaica, Suriname, Trinidad and Tobago) have ratified the Inter-American Convention on Human Rights. The Inter-American Court of Human Rights in San José, Costa Rica has emphasised states' obligations to protect children from all forms of violence, including by "private" individuals, referring to the Convention on the Rights of the Child and the conclusions of the Committee on the Rights of the Child. It did this in an advisory opinion on "The legal status and human rights of the child", requested by the Inter-American Commission on Human Rights in 2002 (Advisory Opinion OC-17/2002, 28 August 2002).

# Global progress towards ending all corporal punishment

**G**lobally, less than 20 of the 190-plus states have as yet prohibited all corporal punishment, including in the family (for details see [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)). So only 52 million children out of the world's 2,195 million live in countries where the law gives them equal protection from being assaulted. In about 60 states worldwide, including 13 states (and nine dependent territories) in the Caribbean region, corporal punishment is still authorised in schools and other institutions. In almost 100 states, including 10 (and one dependent territory) in this region, whipping or caning is still permitted as a sentence of the courts or as a punishment in penal institutions for young offenders. All this state-authorised deliberate and severe violence against children ironically co-exists in these countries with child protection systems. Corporal punishment is also reported in domestic and other situations of child labour.

## Prevalence of corporal punishment

**O**ne indication of the low priority accorded to this issue is the lack of research into the violent victimisation of children by adults in their homes, schools, other institutions and situations of child labour. No state can judge to what extent it is fulfilling its human rights obligations to children without this basic research.

Where corporal punishment in the family has not been systematically challenged through law reform linked to public education, research from a number of states in each continent suggests that a majority of children are being hit regularly by one or both parents and that up to a third are being punished “severely” – beaten with belts or sticks.

In the Caribbean region there has been small-scale research in a few states (see state-by-state analysis beginning on page 16). This suggests that corporal punishment remains socially approved by a majority and severe punishment is still common.



## Promoting positive discipline

In states in all continents there are developed programmes and materials to promote positive, non-violent forms of discipline and child-rearing for parents, other carers and teachers. In some states, the government has taken a lead with public education. In others, non-governmental organisations, human rights institutions and private sector publishers and media have taken initiatives (for links to a variety of programmes and materials, see [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org)).

# Challenging the concept of “Biblical discipline”

In all regions of the world there are groups of Christians who defend corporal punishment of children as their parental duty. Texts from the book of Proverbs are frequently cited to support this form of punishment, which is often called “Biblical discipline”.

Christians look to the example of Jesus for the way to live their lives, so what did Jesus say about hitting children? Jesus was a teacher and Rabbi, and an expert in interpreting the scriptures. There is no evidence to suggest that he cited the scriptures to justify hitting children. Christians who apply the words of Proverbs 9:10 “The fear of the Lord is the beginning of wisdom,” and the shorthand version of Proverbs 13:24 “Spare the rod and spoil the child,” are suggesting that small, fragile children are deserving of such punishment and that the deliberate infliction of fear and pain is a necessary part of childhood experience.

This attitude to children fails to match up to the approach taken by Jesus who always treated the vulnerable and defenceless with love and compassion. All the recorded encounters between children and Jesus were kind, gentle and respectful, and his reported words about those causing children to stumble, and the consequences for doing so (Matthew 18:6), are amongst the strongest in the New Testament. When he set a little child in the midst of the disciples and said “The kingdom of God belongs to such as these,” (Mark 10:14) he demonstrated enormous regard for children.

Christians who take these accounts seriously have a duty to challenge the harmful practice of hitting children, just as Jesus challenged so many of the cultural and social aspects of his own time. Positive non-violent parenting best models Christ’s teachings.

The ancient English common law defence of “reasonable chastisement” has been incorporated into law in many Caribbean countries. In the UK there is a strong campaign by more than 400 organisations to remove the defence and give children equal protection under the law. This is backed by the Methodist and United Reformed Churches, Roman Catholics, Quakers and a number of Anglican Bishops.

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# RECOMMENDATIONS

THE GLOBAL INITIATIVE URGES THE CARIBBEAN REGIONAL CONSULTATION TO ADOPT AND PROMOTE THE FOLLOWING RECOMMENDATIONS FOR IMMEDIATE ACTION IN ALL STATES IN THE REGION. THE AIM SHOULD BE TO ADOPT THE DEADLINE OF THE CONCLUSION OF THE UN SECRETARY GENERAL'S STUDY ON VIOLENCE AGAINST CHILDREN IN 2006 FOR IMPLEMENTATION OF LAW REFORM AND PUBLIC EDUCATION TO ELIMINATE CORPORAL PUNISHMENT.

**1** Explicitly prohibit all violence against children, including all corporal punishment, in the family and in all other settings. This requires repeal of any existing defences that can be used to justify violent punishment and of any laws that authorise corporal punishment in any setting. Explicit prohibition in sectoral laws applying within the family and to alternative care, schools and the penal system is required to send a clear message.

This action, taken to date by less than 20 countries worldwide, sends a clear signal that children have an equal right to respect for their human dignity and physical integrity. The extent to which the law is respected and effectively and appropriately enforced may vary between states. But no state will make significant progress towards preventing and eliminating violence against children until it has a clear and well-publicised legal framework prohibiting all violence. All states have criminal laws against assault; some have constitutions outlawing inhuman or degrading treatment; most have laws prohibiting "abuse" or cruelty; many have incorporated the Convention on the Rights of the Child and other international instruments into their domestic law. But none of this is adequate to challenge the traditional acceptance of violent and humiliating punishment of children.

**2** Ensure that awareness-raising of children's right to protection, promotion of non-violent child-rearing and education and the principles of non-violent conflict resolution are built into all the points of contact with future parents and parents and into the training of all those working with or for children and families. Encourage political, community and faith leaders and educators to support this awareness-raising and public education.

Promoting non-violence does not have to be a separate and expensive process. All those in contact with future parents and parents can build messages into their programmes and activities, from ante-natal classes, through birth registration, immunisation, health surveillance and treatment, pre-school and school and so on. There is no shortage of models of programmes and materials which can be adapted for all states and cultures.

**3** Review the extent of violent victimisation of children, including in the family, through interview studies with children themselves, parents and other carers.

Making the true extent of violence against children visible is an essential step towards gaining public support and political priority for its elimination. The methodology exists for such studies, involving confidential interviews with parents and with children, with appropriate ethical safeguards. Studies can be quite small-scale, but must cover children of all ages and children in institutions and other forms of care, as well as children living and/or working on the street and in other situations of child labour.

**4** Review safeguards to protect children from all forms of violence in the full range of residential institutions and other forms of alternative care, state and private, and implement any necessary improvements.

Studies in states in all continents suggest that children in institutions and alternative care have suffered physical, mental and sexual violence on a huge scale and remain at risk unless a range of safeguards are implemented. These include effective training and vetting of all staff, regular, confidential reviews of all children's placement and treatment, independent inspection including interviewing of children and staff in private and protection of whistle-blowers.

# What is the purpose of law reform against corporal punishment and how will it be implemented?

**C**hildren's rights to respect for their human dignity and physical integrity and to equal protection under the law require that the law effectively and equally protects them from all forms of corporal punishment and other humiliating punishment or treatment.

Equal protection for children **does** mean that any assault of a child that would be considered a criminal assault if directed at an adult should be considered and dealt with under the criminal law as a crime. All countries have laws which define and prohibit criminal assault and this definition should include all corporal punishment as a form of assault.

But this principle of equal protection for both adults and children in cases of assault **does not** necessarily mean that cases involving corporal punishment should result in prosecution of parents. This is very seldom in the interests of children, because of children's dependent status, and should only be used as an intervention of last resort.

In every case in which corporal punishment in the family comes to light, the aim must be first to seek to help parents and children through voluntary positive interventions – offers of advice, discussions with other parents and so on – which aim to stop violent and humiliating treatment of children.

In extreme cases of serious and continuing abuse, separating children from their parents may be the only way to protect them. And in those cases, according to the Convention on the Rights of the Child (article 9), there must be a court hearing, focusing on the best interests of the child and with the parents and child represented. In exceptional cases, where it is believed the child is at risk of severe violence, it may be necessary immediately to remove the child or the perpetrator to protect the child. But such measures should be temporary and only continued following a court hearing.

## Equal protection under the law

Efforts to reform the law to prohibit all corporal punishment as a form of assault often meet with strong opposition. One of the fears expressed is that it will lead to thousands of parents being prosecuted and put in prison, or children will be taken away and put in institutions; it will turn children against their parents, and so on. But in the growing number of states in which the law has been changed, this has not been the experience. The first aim of these reforms, linked to awareness-raising and public education, is to raise awareness of the right of the child to equal protection. Changing the law and linking this to awareness-raising is likely to change attitudes and reduce violence against children. Adults' sensitivity to violence against children is likely to increase and this may lead to more reporting of such violence.

## Controlling prosecution policy in relation to parental corporal punishment

In most countries, there is a code or advice to decide when prosecution for a crime should go ahead. This usually requires certain tests to be satisfied. For example:

- that there is sufficient evidence to make conviction likely;
- that the prosecution is in the public interest.

The prosecution of parents and other close family carers should only proceed when it appears to be the only way to provide the child with effective protection and other supportive interventions have failed. It is important that guidelines are developed and implemented which set out conditions for prosecution in these cases. In addition, detailed guidance is required for all those involved in child protection, including for example social workers, health workers, teachers and police. This should focus on the need for interventions to emphasise the dangers and illegality of hitting children and to seek to provide appropriate support for positive, non-violent parenting.

In advocating law reform, it can be emphasised that minor assaults on adults by adults, while clearly unlawful, very seldom get to court (in many states, the *de minimis* principle is recognised: that the law does not concern itself with trivial matters).

Some opponents of law reform will then respond: "But what is the point of a law if it is unenforceable?" The first answer is that the real purpose of law is education and deterrence to achieve protection, rather than prosecution. Prosecution is always a sign of the failure of the law effectively to deter and prevent a child being assaulted.

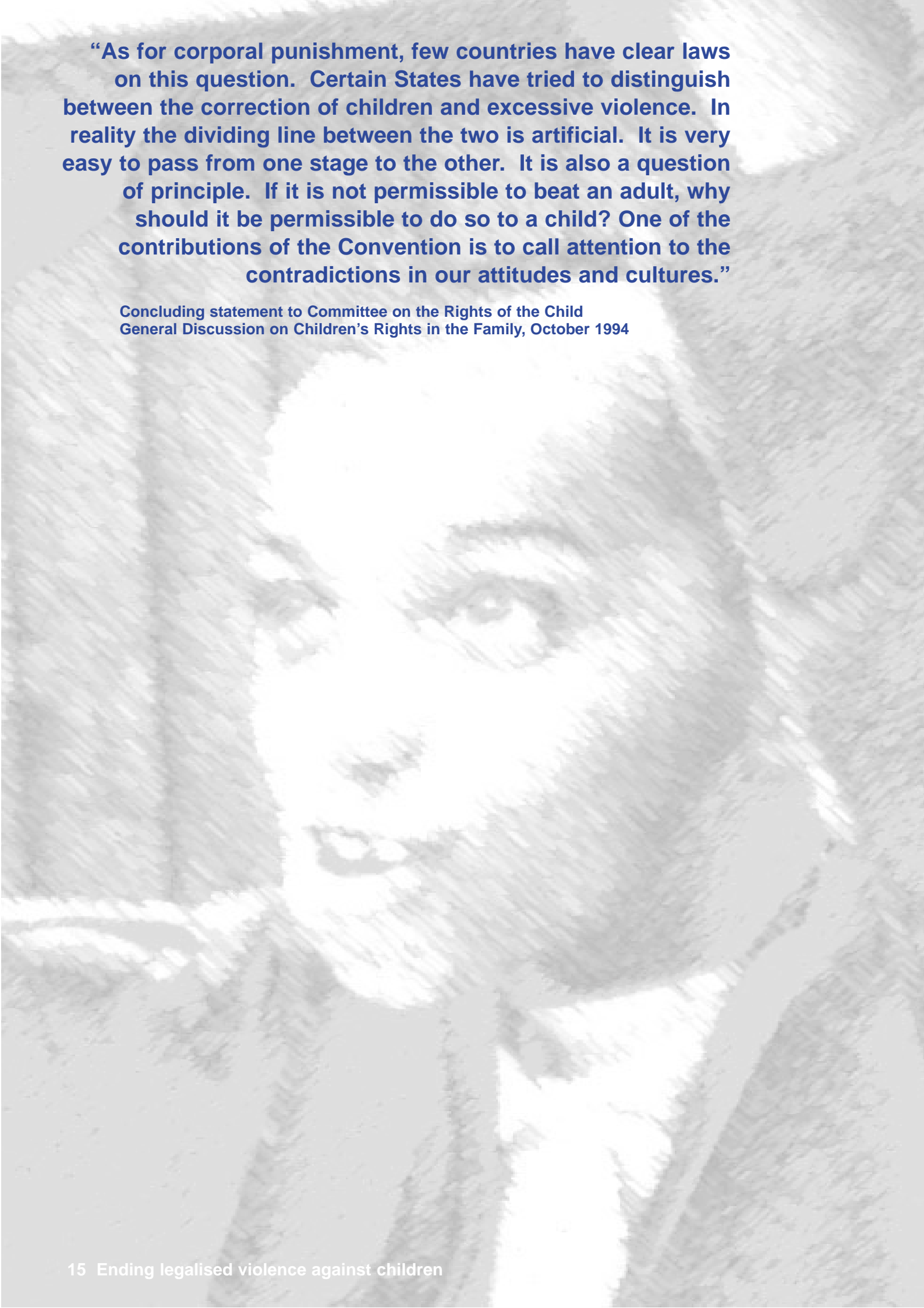
The law will be as enforceable as the law on assault between adults, if the necessary evidence exists – but there will need to be consideration to determine whether prosecution is in the best interests of the victim child as well as in the public interest. In the few cases in which prosecution is considered necessary to protect a child, and in the child’s best interests, it will be easier to pursue if parents can no longer defend assault before the courts as “reasonable punishment”.

In order to deter parents from using corporal punishment in the privacy of their homes, the law needs to send a very clear message. That is the real purpose of explicit law reform. Having clear law that prohibits all corporal punishment enables all those working with and for families and children to promote this clear message.

## **Enforcing prohibition of corporal punishment outside the family**

**C**orporal punishment in schools, other institutions and forms of care and places of employment must be prohibited explicitly in legislation. Prohibition through administrative circular or guidance is not adequate. Implementation and enforcement of prohibition requires proper administrative measures including awareness-raising of the law among adults and children; building knowledge of the prohibition into training, both initial and in-service, for teachers and other school personnel; rigorous inspection by trained inspectors independent of the institution (including interviews in private with children and adults); and access to advice, advocacy and independent complaints procedures for children and parents and ultimately access to the courts.

Respecting the law will or should become a contractual condition, so that teachers and others who continue to use corporal punishment risk losing their jobs. This in itself will act as a strong deterrent. In cases in which teachers and others, after warning, continue to use corporal punishment, prosecution is a legitimate and necessary response.



**“As for corporal punishment, few countries have clear laws on this question. Certain States have tried to distinguish between the correction of children and excessive violence. In reality the dividing line between the two is artificial. It is very easy to pass from one stage to the other. It is also a question of principle. If it is not permissible to beat an adult, why should it be permissible to do so to a child? One of the contributions of the Convention is to call attention to the contradictions in our attitudes and cultures.”**

**Concluding statement to Committee on the Rights of the Child  
General Discussion on Children’s Rights in the Family, October 1994**



# CORPORAL PUNISHMENT IN THE CARIBBEAN

## State-by-state analysis of legality and prevalence

The information in this section was compiled by the Global Initiative from many sources including reports to and by the United Nations human rights treaty bodies. We are very grateful to government officials, UNICEF and other UN agencies, NGOs and human rights institutions and many individuals who have helped to compile and check information. Please let us know if you believe any of the information to be incorrect: [info@endcorporalpunishment.org](mailto:info@endcorporalpunishment.org)

## ANTIGUA AND BARBUDA

### Lawfulness of corporal punishment

#### Home

Corporal punishment of children is lawful in the home.

Children have limited protection from abuse and neglect under the Childcare and Protection Act (2003, in force 2004).

#### Schools

Corporal punishment is lawful in schools under the Education Act (1973), which allows its administration by a principal, deputy or delegated person.

#### Penal system

Corporal punishment is lawful as a **sentence for crime** for males under the Corporal Punishment Act. The constitutional prohibition of torture and inhuman or degrading punishment or treatment does not apply to any law which “authorises the infliction of any description of punishment that was lawful in Antigua on 31st October 1981” (Constitution Order, 1981, article 7).

Corporal punishment is lawful as a **disciplinary measure** in penal institutions. Prisons are governed by the Prison Act (Cap.341), amended by the Prison (Amendment) Act (1998).

#### Alternative care

Corporal punishment is lawful in other institutions and forms of childcare.

### Prevalence research

None identified.

### Recommendations by human rights treaty bodies

#### *Committee on the Rights of the Child*

(3 November 2004, CRC/C/15/Add.247, Concluding observations on initial report, paras. 35, 36 and 48)

“The Committee is seriously concerned about the Corporal Punishment Act and the 1973 Education Act which provides for corporal punishment, which is in clear contravention of article 19 of the Convention. The Committee is concerned that corporal punishment is still widely practised in the family, in schools and in other institutions.

The Committee recommends that the State party:

- consider the immediate repeal of, or amendment to, the Corporal Punishment Act and the Education Act;
- expressly prohibit corporal punishment by law in the family, schools and other institutions;
- conduct awareness-raising campaigns to inform the public about the negative impact of corporal punishment on children and actively involve children and the media in the process; and
- ensure that positive, participatory, non-violent forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28, paragraph 2, as an alternative to corporal punishment at all levels of society.

The Committee recommends that the State party take the necessary measures to prevent child abuse and neglect by, inter alia:

- carrying out public education campaigns that raise awareness of the consequences of ill-treatment of children and alternative measures of disciplining children, addressing sociocultural barriers that inhibit victims from seeking assistance....”



# BAHAMAS

## Lawfulness of corporal punishment

### Home

Corporal punishment is lawful in the home.

The Children and Young Persons (Administration of Justice) Act punishes “any person who has attained the age of eighteen years and has the custody, charge or care of any child or young person under that age [who] wilfully assaults, ill-treats, neglects, abandons or exposes him, or causes or permits him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement)”.

### Schools

Corporal punishment is lawful in schools, which are governed by the Education Act (1962, amended 2001).

### Penal system

Corporal punishment is lawful as a **sentence for crime** under the Criminal Law (Measures) Act (1991), which allows male children to be sentenced to whipping (but not flogging), and prohibits both flogging and whipping for female offenders (sections 4 and 6).

There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions. The Children and Young Persons (Administration of Justice) Act (see above) applies.

### Alternative care

There is no explicit prohibition of corporal punishment in alternative care settings. The Early Childhood Care Act (2004) provides for the regulation and management of daycare centres and pre-schools but does not prohibit corporal punishment in those settings. The provisions against abuse and neglect in the Children and Young Persons (Administration of Justice) Act (see above) apply.

### Prevalence research

None identified.

### Recommendations by human rights treaty bodies

*Committee on the Rights of the Child*

(28 January 2005, CRC/C/15/Add.253 Unedited version, Concluding observations on initial report, paras. 35 and 36) “The Committee expresses its concern at the fact that corporal punishment is still widely practiced in the family, in schools, and in institutions, and that domestic legislation does not explicitly prohibit its use.

The Committee recommends that the State party:

- a) expressly prohibit corporal punishment by law in the family, schools and other institutions; and
- b) conduct awareness raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28.1.”

# BARBADOS

## Lawfulness of corporal punishment

### Home

Corporal punishment is lawful in the home. The Prevention of Cruelty to Children Act (1996) punishes assault, neglect and “unnecessary suffering” of children under 16 years (section 5), but allows for “moderate chastisement”.

Children have limited protection from abuse under the Domestic Violence (Protection Orders) Act (1994), the Protection of Children Act (1990), the Employment (Miscellaneous Provisions) Act (1977) and the Offences Against the Person Act (1994).

### Schools

Corporal punishment is lawful in schools under the Education Act (1981), confirmed in a Supreme Court decision (*Mayers v the Attorney-General of Barbados and King*). The Education Regulations (1982), as summarised by the Barbados Union of Teachers’ *Teachers Handbook*, state that it should be carried out by the headteacher or other authorised teacher and must be “moderate and reasonable using a proper instrument” if teachers are to avoid criminal proceedings. Citing “the old English case” of *Cleary v Booth* (1893), the handbook states that teachers may cane pupils for misbehaviour on the way to or from school, as well as within the school. In August 2004, the Minister of Education approved the recommendation of the National Commission on Law and Order to retain the use of corporal punishment in schools.



## Penal system

Corporal punishment is lawful as a **sentence for crime** under section 16 of the Juvenile Offenders Act and under the Corporal Punishment Act (1971), which permits up to 12 strokes for a person under 16 years of age and up to 24 strokes for a person over that age.

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

## Alternative care

Corporal punishment is prohibited in state-arranged foster care and in pre-school settings. 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. Corporal punishment is lawful in private foster care.

## Prevalence research

A questionnaire survey of 499 Barbadian adults (236 men, 263 women) aged 20-59 in 1987 found that 70% approved of corporal punishment as a way of disciplining children.<sup>1</sup> Most of those who approved (76.5%) endorsed "flogging/lashing with a belt or strap" as a method, with the buttocks most frequently endorsed as the part of the body to which it should be administered. Other methods approved included slapping with the hand (14.4%), spanking with a shoe or similar object (14.2%), and using a rod or cane (13.3%). Only 23.3% considered that corporal punishment should never be used. Another questionnaire survey was administered to 290 pupils aged 10-11 years (125 boys, 165 girls), from 11 elementary schools from urban, suburban, and rural districts, in 1989-90.<sup>2</sup> The research found that nearly 75% of pupils surveyed approved of corporal punishment at junior level, around 50% at secondary level and around 30% at infant level, but did not approve of routine (and illegal) "flogging" or "lashing" by regular classroom teachers. A survey of over 1,000 secondary school pupils reported in 1988 revealed that just over 60% were in favour of flogging or caning, but only about 3% approved of "unofficial" random hitting and cuffing by classroom teachers.<sup>3</sup>

## Recommendations by human rights treaty bodies

### *Committee on the Rights of the Child*

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

"The Committee is concerned about legislation and policies that allow the use of flogging of children as a disciplinary measure in prisons and its use as a judicial sentence. In this respect, the Committee welcomes the commitment of the State party to give prompt consideration to the possibility of ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee encourages the State party to conduct a public awareness-raising campaign and to review its legislation and policies in order to eliminate flogging as a judicial sentence and as a disciplinary measure in the prison system.

The Committee is seriously concerned about the high proportion of children who appear to be victims of physical abuse, in most instances accompanied by psychological and emotional abuse. The Committee is highly concerned about the subjective element involved in legislation that permits a "reasonable degree" of physical chastisement as a disciplinary method. The Committee is concerned that the tolerance of corporal punishment in schools will make it extremely difficult to educate parents about alternative forms of discipline, and wishes to point out that there is usually a connection between the social and legal acceptability of corporal punishment and the high level of child abuse which is of serious concern. The Committee encourages the State party to review its policies and legislation in order to eliminate corporal punishment as a method of discipline and to implement fully the provisions of articles 19 and 39 of the Convention; it recommends that the State party increase its efforts to educate the public about the negative impact of corporal punishment on the development of the child and on the effort to prevent child abuse; finally, the Committee encourages the State party to seek international assistance and advice on successful examples of how to overcome traditional social attitudes regarding corporal punishment."

# BELIZE

## Lawfulness of corporal punishment

### Home

Corporal punishment is lawful in the home under the Criminal Code, which allows those with authority over children under 16 years of age to use "justifiable force" in correcting them. According to the 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" (section 39.1) but "no correction can be justified which is unreasonable in kind or in degree, regard being had to the age and physical and mental condition of the person on whom it is inflicted, and no correction can be justified in the case of a person who, by reason of tender years or otherwise, is incapable of understanding the purpose for which it is inflicted" (section 39.3). The Summary Jurisdiction (Procedure) Act (1953, amended 2000, section 6) reaffirms the right of parents and others with authority to "administer punishment". The Families and Children (Child Abuse) (Reporting) Regulations (1999, section 2) state that "reasonable disciplinary measures" do not constitute abuse if they are administered "reasonably and in moderation, and do not cause physical, psychological or emotional harm or injury to the child".

Children are given limited protection from abuse by the Domestic Violence Act (1992, amended 2000) and the Families and Children Act (1998, amended 2000). However, according to the NGO alternative report to the Committee on the Rights of the Child in 2004, parents' ability to delegate to any other adult their powers to use physical punishment makes their children potentially vulnerable to violence by any adult.<sup>4</sup>

### Schools

Corporal punishment is lawful in schools. The Criminal Code (section 39) allows a parent or guardian to delegate "authority for correction", and this is presumed in the case of teachers. The use of corporal punishment in schools should be a "last resort" and for "serious and repeated offences" (Education Act, 1991, amended 2000, sections 24 and 27; Primary Education Rules, 1972, para. XVIII 79), but in practice the regulations are frequently breached. In 1999 the Ministry of Education drafted new Education Rules which did not allow for corporal punishment, but following resistance by the Belize National Teachers' Union corporal punishment was reinstated in the current Education Rules (2000, section 141.2), which cover pre-school, primary and secondary settings. As of November 2003, there were no written guidelines applicable to special schools or private residential schools, where corporal punishment is also used.

### Penal system

Corporal punishment is unlawful as a **sentence for crime** (Social Services Act, 1993), but is lawful as a **disciplinary measure** in penal institutions under the Prison Rules (2000, section 52) and the delegation of parental authority to those given custody of young offenders in the Juvenile Offenders Act (1936, section 14). The Criminal Code (section 35) allows law enforcement officials to use "any necessary force not extending to a blow, wound or grievous harm". Police are reportedly regularly called in to some schools to beat children.<sup>5</sup>

The Social Services Agencies (Operators of Residential Care Facilities for Children) (Registration, Licensing and Minimum Operating Requirements) Regulations, which came into effect in April 2004, prohibit corporal punishment in the "Youth Hostel" detention centre, where parents can refer their children for "uncontrollable behaviour" under the Certified Institutions (Children's Reformation) Act (1939, amended 2000).

### Alternative care

Corporal punishment is prohibited in residential care facilities by the Social Services Agencies (Operators of Residential Care Facilities for Children) (Registration, Licensing and Minimum Operating Requirements) Regulations, in effect from April 2004. It had previously been lawful under the delegation of parental authority in the Families and Children Act (sections 100 and 125). It is prohibited in day care centres by the Families and Children Social Services Agencies (Operators of Day Care Facilities) (Registration, Licensing and Minimum Operating Requirements) (Regulations) (1998, section 15).

### Prevalence research

A survey of 939 school students concerning absenteeism and child-friendly primary schools by the Human Rights Commission of Belize (NGO) found that 39% of children's opinions identified violent behaviour, including corporal punishment by teachers, as the aspect of school children liked the least.<sup>6</sup>

In consultation for a report on the laws relating to corporal punishment, a group of seven 12-16-year-old children reported that children are beaten by parents, teachers, siblings, classmates and policemen, because these adults are angry, frustrated, sad, stressed, under pressure, drunk, on drugs, or have low self esteem.<sup>7</sup> The beatings take place in the home, in school, on the street; they involve all parts of the bodies but especially children's backs, buttocks, head, hands and legs; and they occur almost every day. Beatings are done with a variety of instruments, including broomsticks, belts, electric cords, paddles and shoes.

### Recommendations by human rights treaty bodies

#### *Committee on the Rights of the Child*

(28 January 2005, Unedited version, CRC/C/15/Add.252, Concluding observations on second report, paras. 7,40 and 41) "The Committee notes with satisfaction that various concerns and recommendations (CRC/C/15/Add.99) made upon the consideration of the State party's initial report (CRC/C/3/Add.46) have been addressed through legislative measures and policies. However, some of the concerns it expressed and recommendations it had made regarding, inter alia, ... the prohibition of corporal punishment (para.19) ... have not been sufficiently addressed.

While noting the awareness raising campaigns and promotion of alternative methods of discipline, the Committee reiterates its deep concern that corporal punishment is still frequently practiced in the family, in schools and in other institutions, that the domestic legislation does not prohibit the use of corporal punishment and that the provisions of the Criminal Code and the Education Act legitimize the use of it.

The Committee, reiterating its previous recommendations, urges the State party:

- a) to critically review its current legislation to abolish the use of force for the purpose of correction and to introduce new legislation to prohibit all forms of corporal punishment of children in the family and within all institutions, including schools and the alternative care system;
- b) to extend and strengthen public education and social mobilization campaigns on alternative non-violent forms of discipline and child-rearing, with the participation of children, in order to change public attitudes about corporal punishment and to strengthen its cooperation with the non-governmental organizations in this respect;
- c) to seek international technical assistance from, among others, the United Nations Children's Fund (UNICEF) in this regard."

### *Committee on the Rights of the Child*

(10 May 1999, CRC/C/15/Add.99, Concluding observations on initial report, para. 19)

“The Committee expresses grave concern that corporal punishment is still widely practised within the State party and that domestic legislation does not prohibit its use within schools, the family, the juvenile justice and alternative care systems and generally within the society. In this regard, the Committee recommends that the State party take all appropriate measures, including of a legislative nature, to prohibit corporal punishment within school, the family, the juvenile justice and alternative care systems and generally within the society. It further suggests that awareness-raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28.2.”

## DOMINICA

### **Lawfulness of corporal punishment**

#### **Home**

Corporal punishment of children is lawful in the home.

Children have protection from some violence and abuse under the Children and Young Persons Act (section 5), the Protection Against Domestic Violence Act (2001), the Offences Against the Person Act and the Small Charges Act.

#### **Schools**

Corporal punishment is lawful in public and private schools and regulated by the Education Act (1997, section 49). It must be administered by principals or their delegates and in conformity with guidelines issued by the Chief Education Officer.

#### **Penal system**

Corporal punishment (whipping up to 12 strokes) is lawful as a **sentence for crime** for young male offenders under the Penal Code, the Magistrate Code of Procedure (1961) and the Corporal Punishment Act (section 7).

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

#### **Alternative care**

There is no prohibition of corporal punishment in the alternative care system.

#### **Prevalence research**

None identified.

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

#### *Committee on the Rights of the Child*

(30 June 2004, CRC/C/15/Add.238, Concluding observations on initial report, paras. 28, 29, 46 and 48)

“The Committee is deeply concerned at the wide use of corporal punishment in the State party. It also notes with concern that corporal punishment is mentioned in the Education Act of 1997 and that the Magistrate Code of Procedure allows the whipping of a male child or a young person.

The Committee recommends that the State party:

- a) remove all provisions from laws that allow corporal punishment and explicitly prohibit corporal punishment by law in the family, schools and other institutions;
- b) continue the constructive dialogue with political leaders and the judiciary with the aim of abolishing corporal punishment;
- c) continue to strengthen public education campaigns among community leaders, school administrators and parents about the negative consequences of corporal punishment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment;
- d) establish an effective mechanism, either separate or as a part of a mechanism that includes dealing with child abuse, to receive, monitor and investigate complaints, including intervening where necessary, and ensure that victims of corporal punishment have access to assistance for recovery....

The Committee is concerned at the lack of juvenile courts and at the fact that children may be sentenced to a penalty at the “President’s pleasure”, to life imprisonment and to whipping in private.

The Committee also recommends that the State party:

- b) abolish the sentences of whipping and life imprisonment....”

# DOMINICAN REPUBLIC

## Lawfulness of corporal punishment

### Home

Corporal punishment is lawful in the home.

Children are protected from some violence and abuse by the Code for the Protection of Children and Adolescents (1994), which states in Principle V that “no child’s or adolescent’s fundamental rights shall be threatened by... violence, cruelty or oppression, or through punishment or any kind of assault, whether caused by action or omission”. Other laws giving protection are the Regulations for the Implementation of the Code for the Protection of Children and Adolescents (1995), the Law Against Domestic Violence (1997), the Constitution (2002), and the Criminal Code and the Code of Criminal Procedure. Abuse is defined in the legislation as acts of violence that harm the child’s physical and psychological health and well-being (Regulations for the Implementation of the Code for the Protection of Children and Adolescents, article 126), but this is not interpreted as prohibiting all forms of corporal punishment by parents.

### Schools

Corporal punishment is unlawful in schools under the Education Reform Law Act (1997).

### Penal system

Corporal punishment is prohibited as a **sentence for crime** and as a **disciplinary measure** in penal institutions. The Code for the Protection of Children and Adolescents prohibits the use of torture and degrading treatment against children. Article 8 of the Constitution (2002) prohibits punishment which violates physical integrity.

### Alternative care

Unable to obtain any information.

### Prevalence research

None identified.

## Recommendations by human rights treaty bodies

### *Committee on the Rights of the Child*

(21 February 2001, CRC/C/15/Add.150, Concluding observations on initial report, paras. 33 and 34)

“While the Committee welcomes the adoption of special legislation criminalizing domestic violence, the designation of April as the Month of Child Abuse Prevention and the creation of a hotline for abused children, it expresses its concern that physical and sexual abuse – within and outside the family – widely exist in society. Concern is also expressed at the insufficient allocation of resources, both financial and human, as well as at the lack of adequately trained personnel to prevent and combat such abuse. The insufficiency of rehabilitation measures and facilities for victims and their limited access to justice are also matters of concern.

In the light of articles 19 and 39 of the Convention, the Committee recommends that the State party take effective measures, including reinforcing current multi-disciplinary programmes and rehabilitation measures, to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It suggests that law enforcement should be strengthened with respect to such crimes; adequate procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and to avoid impunity for the offenders. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue....”

# GRENADA

## Lawfulness of corporal punishment

### Home

Corporal punishment is lawful in the home.

Children have limited protection from abuse and violence under the Child Protection Act (1998), the Domestic Violence Act (2001), the Criminal Code (sections 182-187 and 191-194) and the Criminal Code (Amendment) Act (1993).

### Schools

The Education Act (2004) permits the use of corporal punishment. Under the Act, parents may indicate their objection to its use on their child, in writing, to the school Principal.

### Penal system

Corporal punishment is lawful in the penal system as a **sentence for crime** and as a **disciplinary measure** in penal institutions. Whipping is available as an alternative to imprisonment for offenders under the age of 18 under the Criminal Code, the only constraint being the use of “reasonable force”. The constitutional prohibition of torture and

inhuman or degrading punishment or treatment is not considered to conflict with any law which “authorises the infliction of any description of punishment that was lawful in Grenada immediately before the coming into operation of this Constitution” (Grenada Constitution Order, 1973, section 5).

### Alternative care

The Requirements of the Approval and Licensing of Child Care Homes, Grenada Bureau of Standards GDS 654:2002 prohibit the corporal punishment of children in any institution for which they are housed for care and protection reasons. Provisions relating to abuse and violence in the Child Protection Act, the Criminal Code and the Criminal Code (Amendment) Act (see above) also apply. We have been unable to ascertain information relevant to foster care.

### Prevalence research

None identified.

### Recommendations by human rights treaty bodies

*Committee on the Rights of the Child*

(28 February 2000, CRC/C/15/Add.121, Concluding observations on initial report, paras. 21 and 28)

“The Committee expresses grave concern that corporal punishment is still widely practised in the State party and that domestic legislation does not prohibit its use. In this regard, the Committee recommends that the State party take all appropriate measures, including of a legislative nature, to prohibit corporal punishment within the family, schools, the juvenile justice and alternative care systems and generally within the society. It further suggests that awareness raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28.2.

...The Committee recommends that the State party:

b) ... prohibit and eradicate the use of corporal punishment (whipping) in the juvenile justice system....”

## GUYANA

### Lawfulness of corporal punishment

#### Home

Corporal punishment is lawful in the home.

Children are given limited protection from violence and abuse by the Infancy Act, the Juvenile Offenders Act, the Criminal Law (Offences) Act (amended 2002), the Summary Jurisdiction (Offences) Act (amended 1998) and the Domestic Violence Act (1996). As at February 2005, the Children’s Bill had not come into force.

#### Schools

Corporal punishment is lawful in schools, regulated by the Education Act, Laws of Guyana Chapter 39:01 (sections 93-94). In response to reports of regulations being regularly flouted, even to the point of serious injury to children, the Ministry of Education in 2002 distributed the *Manual of Guidelines for the Maintenance of Order and Discipline in Schools* which “restricts” but does not abolish the use of corporal punishment.

#### Penal system

Corporal punishment is lawful as a **sentence for crime** for males under the Whipping and Flogging Act. The prohibition against inhuman or degrading punishment in the Constitution is not considered to be breached by any treatment that was lawful before the commencement of the Constitution.

Corporal punishment is lawful as a **disciplinary measure** in penal institutions. Custodial sentences for young people are carried out at the “New Opportunity Corps” training school where the emphasis is on “corrective treatment” and corporal punishment (whipping) of boys is lawful under section 20 of the Training School Act.

### Alternative care

There is no prohibition of corporal punishment in the alternative care system. Children are protected from some violence and abuse by the Infancy Act, the Juvenile Offenders Act, the Criminal Law (Offences) Act and the Summary Jurisdiction (Offences) Act (see above). Corporal punishment is prohibited in childcare and childminding services in the Children’s Bill (Part IX) but this is not yet (February 2005) in force.

### Prevalence research

A survey in 1998 of 250 women on their experiences of childhood abuse found that 92% reported being beaten sometimes and often as children.<sup>8</sup> When asked whether and how children should be punished, the most common response was by hitting, slapping and/or lashing. Of the 42.5% who answered a question on the age at which hitting should begin, most indicated that toddler and pre-school ages were most appropriate; 16.9% stated that hitting should begin when children are aged 1-2 years; 16.7% indicated when children are school aged (6 and over); 5.1% felt hitting should begin for babies aged 6-12 months, 2.9% from birth. Around 70% of the women who had children reported hitting them.

In an interview survey of 1,200 pupils aged 9-17 in 24 secondary schools, 56.1% reported being whipped by their teachers (55.7% boys, 57.8% girls), using branches from trees, pieces of wood, rulers, metal strips from old tables and other parts of old school furniture, or hands.<sup>9</sup> 18% reported being made to kneel down by teachers, 20.2% being shaken, and 26.3% being slapped. 26.2% reported suffering injuries as a result of abuse by teachers.

### Recommendations by human rights treaty bodies

#### *Committee on the Rights of the Child*

(26 February 2004, CRC/C/15/Add.224, Concluding observations on initial report, paras. 31 and 32)

“The Committee expresses its concern at the fact that corporal punishment is still widely practised in the family, in schools, and in institutions, and that domestic legislation does not prohibit its use.

The Committee recommends that the State party:

- a) expressly prohibit corporal punishment by law in the family, schools and other institutions;
- b) conduct awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28(2);
- c) seek international technical assistance from, among others, UNICEF in this regard.”

#### *Human Rights Committee*

(25 April 2000, CCPR/C/79/Add.121, Concluding observations on second report, para.12)

“The Committee is concerned that corporal punishment is still resorted to in the State party and regrets the lack of specific information on this issue.

The State party should take legal and other measures to eliminate this practice (art.7).”

## HAITI

### Lawfulness of corporal punishment

#### Home

It is unclear whether or not corporal punishment is lawful in the home. In its concluding observations on the initial state party report in 2003, the Committee on the Rights of the Child welcomed the 2001 law prohibiting corporal punishment in the home (see below). Articles 1 and 2 of the law state: “1: The inhuman treatment of any nature comprising corporal punishment of a child is forbidden. 2: Inhuman treatment is defined by any action that causes a bodily or emotional shock to a child, such as hitting or pushing, or inflicting any punishment that causes damage to the child, using or without the intermediary of an object, weapon or abusive physical force” (unofficial translation). But the remainder of the law appears to apply to organisations, schools and other institutions. There is some legal opinion that the prohibition does apply to parental corporal punishment, but there is uncertainty among NGOs and we have been unable to identify any associated public education and awareness raising campaigns. As at 2004, the Criminal Code (1836) had not been amended to make corporal punishment of children a crime. A Family Code is yet (February 2005) to be adopted. Children have limited protection from physical violence under the general provisions of the Criminal Code on violence leading to injury or death (articles 254-257).

#### Schools

Corporal punishment has been prohibited in schools since 1853. It is prohibited in the 2001 law (see above), but it continues to be threatened and inflicted (by a whip or a ruler) and by 2004 the Codes of Conduct and disciplinary commissions for schools envisaged by the new law had not been established.

#### Penal system

Corporal punishment is unlawful as a **sentence for crime**. There is no provision for corporal punishment in the Penal Code (articles 6-43 covering penalties). Article 25 of the Constitution (1987) states: “Any unnecessary force or restraint in the apprehension of a person or in keeping him under arrest, or any psychological pressure or physical brutality, especially during interrogation, is forbidden.”

Corporal punishment is prohibited as a **disciplinary measure** in penal institutions by the 2001 law (see above).

However, there have been reports of ill-treatment of street children by law enforcement officers.<sup>10</sup> Article 44-1 of the Constitution states: “Prisons must be operated in accordance with standards reflecting respect for human dignity according to the law on this subject.”

#### Alternative care

Corporal punishment is prohibited in the 2001 law (see above). However, by 2004 the Codes of Conduct and disciplinary commissions for foster centres envisaged by the new law had not been established.

#### Prevalence research

None identified.



## Recommendations by human rights treaty bodies

*Committee on the Rights of the Child*

(18 March 2003, CRC/C/15/Add.202, Concluding observations on initial report, paras. 3, 36 and 37)

“The Committee welcomes:

a) the adoption of the 2001 Law prohibiting the use of corporal punishment within the family and in schools....

The Committee welcomes the Act prohibiting corporal punishment (August 2001) within the family and at schools, but remains concerned at the persistent practice of corporal punishment by parents or teachers and the ill-treatment of child domestics (*restaveks*). The Committee is further deeply concerned about instances of ill-treatment of street children by law enforcement officers.

The Committee recommends that the State party:

- a) take all necessary measures for the effective implementation of the law prohibiting corporal punishment, in particular by making use of information and education campaigns to sensitize parents, teachers, other professionals working with children and the public at large to the harm caused by corporal punishment and to the importance of alternative, non-violent forms of discipline, as foreseen in article 28, paragraph 2, of the Convention;
- b) investigate in an effective way reported cases of ill-treatment of children by law enforcement officers and ensure that alleged offenders are transferred from active duty or suspended while they are under investigation, dismissed and punished if convicted;
- c) provide for the care, recovery and reintegration of child victims.”

# JAMAICA

## Lawfulness of corporal punishment

### Home

Corporal punishment is lawful in the home where parents have the right to administer “reasonable” punishment. Limited protection from violence and abuse is given by the Child Care and Protection Act (2003, section 9), the Offences Against the Person Act (sections 39-40), the Juveniles Act (section 9), the Domestic Violence Act (1996) and the Constitution (1962, amended 2001).

### Schools

Corporal punishment is lawful in schools. The Education Act allows teachers to administer “reasonable punishment”, although the Jamaican Teachers Association and the Jamaica Independent Schools Association have advised teachers not to flog or whip students but to leave the administration of such punishment to school principals.

### Penal system

Corporal punishment is unlawful as a **sentence for crime** and as a **disciplinary measure** in penal institutions. Its use as a sentence for crime was ruled unconstitutional by the Jamaica Court of Appeal in December 1998. It had been revived in 1994 after not being used as a sentence since the mid-1970s. The Criminal Justice (Reform) Act makes no provision for corporal punishment and the Constitution includes the right to fair and humane treatment by any public authority or essential entity in the exercise of any of its functions. The Juveniles Act, applicable to persons under the age of 17, is repealed by the Child Care and Protection Act, which makes no provision for corporal punishment in the penal system (sections 13, 63, 76 and 78).

### Alternative care

Corporal punishment of children up to the age of 6 years in early childhood institutions (known as basic schools) is prohibited under the Act to Provide for the Regulation and Management of Early Childhood Institutions and for other Connected Matters, passed in January 2005. Under the Act, the use of corporal punishment and beatings on children is a punishable offence. Corporal punishment is prohibited in other institutions and forms of childcare in section 62 of the Child Care and Protection Act (see above).

### Prevalence research

A study of disciplinary practices by parents of children aged 6, reported in 2004, found that corporal punishment was widely used at every level of society, regardless of socio-economic background.<sup>11</sup> Analysis of exposure to corporal punishment by children aged 11-12, also reported in 2004, found that 97.2% of children reported a lifetime experience of verbal aggression or violence due to conflict with adults in the home, with 82.3% reporting verbal aggression, 87.4% minor violence and 84.8% severe violence.<sup>12</sup> Boys were more likely to report severe forms of violence (“being beaten up”).

## Recommendations by human rights treaty bodies

*Committee on the Rights of the Child*

(4 July 2003, CRC/C/15/Add.210, Concluding observations on second report, paras. 33, 48 and 49)

“The Committee urges the State party to considerably strengthen its efforts to address and condemn violence in society, including violence against women and children, particularly in the context of the family, as well as in schools and other environments. Further, it recommends that the State party take steps to monitor and address any incidents of violence



and sexual or other abuse against children and take measures to ensure the rehabilitation of traumatized and victimized children by, inter alia:

- a) carrying out public education campaigns about the negative consequences of violence and ill-treatment of children and promoting positive, non-violent forms of conflict resolution and discipline, especially within the family and in the educational system;
- b) taking all legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse, against children in all contexts in society as well as taking effective measures for the prevention of violent acts committed within the family, in schools and by the police and other State agents, making sure that perpetrators of these violent acts are brought to justice, putting an end to the practice of impunity;
- c) providing care, recovery and reintegration for child victims of direct or indirect violence and ensuring that the child victim is not revictimized in legal proceedings and that his/her privacy is protected;
- d) taking into consideration the recommendations of the Committee adopted on its days of general discussion on children and violence (CRC/C/100, para.866 and CRC/C/111, paras.701-745);

The Committee welcomes the State party's progress in the field of education, but remains concerned about:

- e) the use of corporal punishment in schools.

The Committee recommends that the State party, in the light of the Committee's general comment on article 29 (1) of the Convention (aims of education):

- e) adopt appropriate legislative measures to combat the use of corporal punishment in the schools...."

#### *Committee on the Rights of the Child*

(15 February 1995, CRC/C/15/Add.32, Concluding observations on initial report, paras. 7 and 25)

"The Committee is concerned that in the framework of the legislative reform under way, a number of areas remain where national legislation has not yet been brought into full conformity with the provisions of the Convention, including its general principles, as reflected in articles 2, 3, 6 and 12. In this regard, the Committee's concerns relate in particular to the definition of the child, the need to protect children against corporal punishment....

The Committee suggests that the State party take additional measures to combat violence and abuse of children, including sexual abuse. Comprehensive school guidance programmes to address the needs of children exposed to violent conditions and crisis services for children should be expanded...."

#### *Committee on Economic, Social and Cultural Rights*

(30 November 2001, E/C.12/1/Add.75, Concluding observations on second report, para. 14)

"The Committee is profoundly concerned about the violence that has apparently become widespread in the State party. It is reported that over 1,000 people have been murdered in the year 2001 alone and that "tribal" politics is such that warlords rule large sections of the capital city where they are involved in extortion, drugs and prostitution. The Committee is particularly concerned that violence – including domestic and sexual violence – is committed against women of all ages and against children. According to reports from non-governmental organizations, children are regularly flogged and even threatened with weapons and child-rearing practices include corporal punishment of children in the home and in schools. The fact that these acts are committed with impunity constitutes a serious violation by the State party of its Covenant obligations."

## ST KITTS AND NEVIS

### Lawfulness of corporal punishment

#### Home

Corporal punishment is lawful in the home.

Children have limited protection from violence and abuse under the Probation and Child Welfare Act (1994).

#### Schools

Corporal punishment is lawful in schools. It is not provided for in the Education Act (1975) but is permitted under the Corporal Punishment Act (1967) and the common law disciplinary power of teachers.

#### Penal system

In the penal system, the Corporal Punishment Act and section 103 of the Magistrate Code of Procedure (1961) permit young male offenders to be whipped up to twelve strokes as a **sentence for crime**. Lashes are usually administered by a policeman using a tree whip. The Constitution (1983) prohibits "inhuman or degrading punishment or other like treatment" (article 7) but also states that "nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of section 7 of the Constitution to the extent that the law in question authorizes the infliction of punishment that was lawful immediately before 27th February 1967" (article 9, schedule 2).

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

## Alternative care

There is no statutory provision prohibiting corporal punishment in alternative care settings, and the common law power to chastise may be exercised by a person acting *in loco parentis*. The Probation and Child Welfare Act applies.

## Prevalence research

As part of a large scale ethnographic study reported in 1991, 349 children aged 9-16 were given questionnaires and information sheets concerning physical punishment and children and caretakers were interviewed.<sup>13</sup> 61% of children (69% of caretakers) agreed with the statement “Beatings are a good and normal part of raising children”; 73% of children (86% of caretakers) agreed with “It is for children’s own good that parents beat them”; 67% of children (80% of caretakers) agreed “I know my mother loves me because she beats me”; 93% of caretakers believed that parents should beat their children for misbehaviour and 94% agreed with the statement “He who spares the rod spoils the child”. The frequency and severity of physical punishment (including slapping, spanking, cuffing, thumping, burning, shoving, and beating with an implement) were also researched. Children reported being punished on average over four times in a two week period, though some reported being punished several times daily. Younger children and boys were punished more often and more severely than older children and girls. Higher socio-economic status caretakers punished children less frequently and less severely than lower status caretakers.

## Recommendations by human rights treaty bodies

### *Committee on the Rights of the Child*

(24 August 1999, CRC/C/15/Add.104, Concluding observations on initial report, paras. 20 and 32)

“The Committee remains gravely concerned that corporal punishment is still widely practised within the State party and that domestic legislation does not prohibit its use. In this regard, the Committee recommends that the State party take all appropriate measures, including of a legislative nature, to prohibit corporal punishment within school, the family, the juvenile justice and alternative care systems and generally within the society. It further suggests that awareness-raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28.2.

While the Committee notes the establishment of a national committee to regulate the use of corporal punishment within the juvenile justice system, it remains gravely concerned that the Corporal Punishment Act (1967) continues to allow the corporal punishment of a male juvenile convicted of an offence and to empower the magistrate’s court to order a juvenile convicted of an offence to be “whipped”. The Committee recommends that the State party take all necessary measures to prohibit the use of corporal punishment within the juvenile justice system, including the repeal of the Corporal Punishment Act (1967).”

# ST LUCIA

## Lawfulness of corporal punishment

### Home

Corporal punishment is lawful in the home. The Children and Young Persons Act (1972) refers to “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).

Children have some protection from abuse and neglect under other provisions in the Children and Young Persons Act, the Domestic Violence Act (1995) and the Criminal Code (1957, revised 1992). In the Domestic Violence Act, violence is defined as any act of physical or verbal abuse perpetrated by a household member upon a member of the same household which causes or is likely to cause physical, mental or emotional injury or harm.

### Schools

Corporal punishment is lawful in public and private schools under articles 49-54 of the Education Act (1999), which allow up to 6 strokes to be administered on the palm using a leather strap of specified dimensions. The right to administer “reasonable punishment” enshrined in the Children and Young Persons Act (see above) also applies.

### Penal system

Corporal punishment is lawful as a **sentence for crime**. Under sections 1312 and 1313 of the Criminal Code, persons under the age of 18 may be sentenced to be whipped once with a tamarind rod. Section 16 of the Children and Young Persons Act provides for sentences for persons under the age of 16. The Constitution (1978, article 5) prohibits torture or inhumane or degrading punishment or other treatment.

Corporal punishment is lawful as a **disciplinary measure** in penal institutions. The Correctional Services Act (2003) provides for the establishment and management of correctional facilities, and part 6 (section 29) covers juvenile delinquency. Males convicted of offences may be sent to the Boys Training Centre, where “for minor offences committed in the schoolroom” they may be caned up to 2 strokes on each hand (Statutory Rules and Orders No.23, 1976, section 13). The right of those “having lawful control or charge of a juvenile to administer reasonable punishment” in the Children and Young Persons Act (see above) applies.

### Alternative care

Corporal punishment is lawful in other institutions and forms of childcare. The right to administer “reasonable punishment” in the Children and Young Persons Act (see above) applies. The Boys Training Centre houses boys in need of care and protection, as well as those in conflict with the law (see above), and the use of the cane is permitted.

### Prevalence research

A UNICEF study on Child Rights in Saint Lucia (2000) found that the method of discipline of children most favoured by respondents was corporal punishment (59%), marginally greater among lower socio-economic respondents and males.<sup>14</sup>

### Recommendations by human rights treaty bodies

*Committee on the Rights of the Child*

Initial report to be examined in May 2005.

## ST VINCENT AND THE GRENADINES

### Lawfulness of corporal punishment

#### Home

Corporal punishment is lawful in the home.

Limited protection from violence is given by the Domestic Violence Summary Proceedings Act.

#### Schools

Corporal punishment is lawful in schools under the Regulations to the Education Act (1992), and in government and government assisted primary schools children as young as 5 years of age can be given up to six strokes using a leather strap, “as a last resort”, by the head teacher or an Assisted Teacher in the presence of the head (Statutory Rules and Orders, 1959, section 9, in force from 1960). In practice, all types of teachers apply corporal punishment.<sup>15</sup>

#### Penal system

Corporal punishment is lawful as a **sentence for crime**. The Corporal Punishment of Juveniles Act (Cap.123) permits a juvenile convicted of a crime to be caned up to 12 strokes on the buttocks using a light rod, and the court should state who is to carry out the punishment and where. If this is not stated, it is administered by a policeman at a police station. A juvenile is defined as someone under the age of 16 (Juveniles Act, 1990).

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.

### Alternative care

Corporal punishment is lawful in other institutions and forms of childcare. Corporal punishment of males is permitted and regulated in approved schools under the Juveniles Act and the Juveniles (Approved Schools) Rules. There is no legislation covering children’s homes or foster care.

### Prevalence research

None identified.

### Recommendations by human rights treaty bodies

*Committee on the Rights of the Child*

(13 June 2002, CRC/C/15/Add.184, Concluding observations on initial report, paras. 28, 29, 52 and 53)

“The Committee is deeply concerned that corporal punishment is widely practised in schools, in the administration of justice, in other institutions and within the family, and that it is regulated by law and used against children from an early age.

The Committee recommends that the State party urgently:

- a) prohibit through legislative and administrative provisions the use of corporal punishment in all contexts, including in schools, in the administration of justice, in other institutions and within the family;
- b) make use of information and education campaigns to sensitize parents, professionals working with children and the public in general to the harm caused by corporal punishment and to the importance of alternative, non-violent, forms of discipline, as provided for in article 28.2 of the Convention.

While recognizing the State party’s efforts in this domain the Committee remains concerned that:

- h) the Corporal Punishment of Juveniles Act allows for the caning of juveniles who have been found guilty of crime.

The Committee recommends that the State party:

- f) urgently prohibit the corporal punishment of children in the context of the juvenile justice system....”

# SURINAME

## Lawfulness of corporal punishment

### Home

Corporal punishment is lawful in the home. There is no defence for its use enshrined in law, but it is not explicitly prohibited.

Under the Civil Code, parents have an obligation to maintain and educate their children (articles 157 and 351). The Code of Criminal Law prohibits physical and mental violence, injury, abuse and neglect (titles XIII, XIV, XV, XVIII, XIX and XX). The Constitution (1987, amended 1992) states that “every child shall have the right to protection without any form of discrimination” (article 35) and that “everyone has the right to physical, mental and moral integrity; no one may be submitted to torture, degrading or inhuman treatment or punishment” (article 9).

### Schools

Corporal punishment is prohibited in schools under directives issued by the Ministry of Education and Community Development, though it continues to be used and the prohibition has not been confirmed in legislation.

### Penal system

Corporal punishment is unlawful as a **sentence for crime**. It is not among the permitted sanctions in the Criminal Code (articles 9, 17, 34, 40 and 57) and the Constitutional provisions (see above) apply.

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions. It is not listed as a permitted measure in the internal regulations governing the penal institution, although there have been reports of ill-treatment of children in detention.<sup>16</sup>

### Alternative care

According to the Child Rights Bureau, corporal punishment is unlawful in childcare settings outside the home but we have been unable to obtain details of applicable law. A Children’s Home Bill has been drafted, to be discussed by the Board of Ministries in early 2005, which prohibits corporal punishment in both private and state institutions for children. The Constitutional provisions and protections in the Criminal Code (see above) apply.

### Prevalence research

None identified.

### Recommendations by human rights treaty bodies

#### *Committee on the Rights of the Child*

(28 June 2000, CRC/C/15/Add.130, Concluding observations on initial report, paras. 41 and 42)

“While the Committee notes that corporal punishment is prohibited in schools, it is concerned that it continues to be used in schools, families and care institutions.

The Committee recommends that the State party take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment, within the family, schools and care institutions. The Committee encourages the State party to intensify its public-awareness campaigns to promote positive, non-violent forms of discipline as an alternative to corporal punishment at all levels of society.”

# TRINIDAD AND TOBAGO

## Lawfulness of corporal punishment

### Home

Corporal punishment is lawful in the home under the right of parents, teachers and other persons having lawful control of a child or young person under the age of 16 to administer “reasonable punishment” in section 22 of the Children Act, confirmed in the Children (Amendment) Act (2000, not yet (February 2005) in force).

Children have some protection from violence under other provisions in the Children Act and under the Domestic Violence Act (1999). The Second Schedule Part B of the Children (Amendment) Act states that parents and others acting *in loco parentis* must “guide and direct the child without the use of any cruel, inhuman or humiliating punishment” and “protect the child from unlawful physical violence and all forms of physical or emotional abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the parent’s care” (sections 4 and 7). The Act amends the definition of a child to cover all persons under the age of 18.

## Schools

Corporal punishment of children is lawful in public and private schools under section 22 of the Children Act (see above). It is prohibited by the Children (Amendment) Act which states that for teachers, “reasonable punishment” does not include corporal punishment (section 10A), but this Act is not yet (February 2005) in force, and there have been numerous calls from teachers, parents and teaching unions for corporal punishment to be reintroduced into schools. In June 2004, the Education Minister released government-commissioned research into indiscipline in schools which recommended the reintroduction of corporal punishment.

## Penal system

Corporal punishment is prohibited as a **sentence for crime** by young offenders under the age of 18 in the Miscellaneous Provisions (Children) Act (2000), in force from November 2000, which repeals the Corporal Punishment (Offenders Not Over Sixteen) Act and amends the Children Act (section 83) and the Corporal Punishment (Offenders Over Sixteen) Act. Under the Constitution (1976, amended 2000) Parliament may not “impose or authorise the imposition of cruel and unusual treatment or punishment” (article 5).

Children convicted of offences may be sent to a certified industrial school or a certified orphanage (Children Act). Corporal punishment is lawful as a **disciplinary measure** in these institutions under the provisions relating to “reasonable punishment” in section 22 of the Children Act (see above).

## Alternative care

The right to administer “reasonable punishment” under the Children (Amendment) Act (see above) applies to persons having control of a child in childcare settings outside the home. There is no explicit prohibition of corporal punishment in children’s institutions, although in health care and psychiatric institutions it is prohibited as a matter of policy.<sup>17</sup> There is no prohibition of corporal punishment in the Adoption of Children Act (2000), the Children’s Authority Act (2000), or the Children’s Community Residences, Foster Homes and Nurseries Act (2000), though the latter allows for the Authority and the manager of a community residence to make Rules for the management and discipline of children in such a residence (sections 23 and 53). All of these Acts have yet (February 2005) to come into force.

## Prevalence research

None identified.

## Recommendations by human rights treaty bodies

### *Committee on the Rights of the Child*

(10 October 1997, CRC/C/15/Add.82, Concluding observations on initial report, paras. 17, 23, 32 and 39)

“The Committee is deeply concerned by the use of corporal punishment within the family, at school and in care institutions, as well as at the absence of a law that clearly prohibits the use of both mental and physical torture or other cruel, inhuman or degrading treatment or punishment against children.

The situation in relation to the administration of juvenile justice, in particular its compatibility with articles 37, 39 and 40 of the Convention as well as other relevant standards such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, is a matter of concern to the Committee. In particular, the Committee is concerned... that flogging is allowed by the law as a means of punishment and corporal punishment is allowed as a means of discipline in detention centre...

In light of articles 3, 19 and 28.2, the Committee strongly recommends that corporal punishment within the family, at school and in care institutions be prohibited by law. It further recommends that the authorities develop and implement appropriate creative and socio-educational measures of discipline which respect all the rights of the child, as well as establish sensitization programmes for parents.

...The Committee also recommends that corporal punishment in detention as a means of discipline, and flogging as a means of punishment, be abolished in the legislation and in practice.”

### *Committee on Economic, Social and Cultural Rights*

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

“While the Committee welcomes the abolition of corporal punishment in schools, it is concerned at the continued resort to corporal punishment at home and for adult males in the justice system.

The Committee calls on the State party to prohibit effectively the use of corporal punishment in all areas of life.”

### *Human Rights Committee*

(3 November 2000, CCPR/CO/70/TTO, Concluding observations on joint third and fourth reports, para. 13)

“The Committee is disturbed to learn that apart from prohibiting corporal punishment for persons under 18 years of age, the State party is still practising the punishments of flogging and whipping which are cruel and inhuman punishments prohibited by article 7.

Sentences of flogging or whipping should immediately be abolished.”

# DEPENDENT TERRITORIES

## FRANCE OVERSEAS DEPARTMENTS

### GUADELOUPE

#### **Lawfulness of corporal punishment**

##### **Home**

French law applies in Guadeloupe, including the Penal and Civil Codes. Corporal punishment is lawful in the home, under the parental “right of correction” in customary law.

Children are protected from severe corporal punishment by articles 222-8 to 222-14 of the Criminal Code, which prohibit violence or ill treatment that endangers a child or damages his or her physical integrity. Under article 375 of the Civil Code, a child may be taken into public care if his or her health, security or morality is in danger, or if the conditions of the child’s education are gravely compromised.

##### **Schools**

Corporal punishment is prohibited in schools.

##### **Penal system**

Corporal punishment is unlawful in the penal system.

##### **Alternative care**

Corporal punishment is not explicitly prohibited in other institutions and forms of care but prosecution is possible under the Criminal Code (see above).

##### **Prevalence research**

None identified.

### MARTINIQUE

#### **Lawfulness of corporal punishment**

##### **Home**

French law applies in Guadeloupe, including the Penal and Civil Codes. Corporal punishment is lawful in the home, under the parental “right of correction” in customary law.

Children are protected from severe corporal punishment by articles 222-8 to 222-14 of the Criminal Code, which prohibit violence or ill treatment that endangers a child or damages his or her physical integrity. Under article 375 of the Civil Code, a child may be taken into public care if his or her health, security or morality is in danger, or if the conditions of the child’s education are gravely compromised.

##### **Schools**

Corporal punishment is prohibited in schools.

##### **Penal system**

Corporal punishment is unlawful in the penal system.

##### **Alternative care**

Corporal punishment is not explicitly prohibited in other institutions and forms of care but prosecution is possible under the Criminal Code (see above).

##### **Prevalence research**

None identified.

#### **Recommendations by human rights treaty bodies relating to France overseas departments**

None identified.

# KINGDOM OF THE NETHERLANDS

## NETHERLANDS ANTILLES

### Lawfulness of corporal punishment

#### Home

Corporal punishment is lawful in the home.

#### Schools

Corporal punishment is prohibited in schools as a matter of policy, but we have been unable to obtain information on legislation.

#### Penal system

Corporal punishment is unlawful in the penal system as a **sentence for crime** and as a **disciplinary measure** in penal institutions, though it continues to be practised in prisons.

#### Alternative care

Corporal punishment is unlawful in alternative care, though it continues to be practised.

### Prevalence research

None identified.

### Recommendations by human rights treaty bodies

#### *Committee on the Rights of the Child*

(7 June 2002, CRC/C/15/Add.186, Concluding observations on initial report, paras. 36 and 37)

“...The Committee is concerned, however, that there is insufficient information and awareness of the ill-treatment and abuse of children and that whilst corporal punishment has been formally banned and made a punishable offence in schools as a matter of policy, this form of punishment continues to be practised in schools, as well as in the home and in other public institutions such as prisons and in alternative care contexts.

The Committee recommends that the Netherlands Antilles:

- a) take all legislative measures to prohibit all forms of physical and mental violence, including corporal punishment against children (boys as well as girls) in the home, schools and in all other contexts;
- b) conduct a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address it;
- c) carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment....
- g) take into consideration the recommendations of the Committee adopted on its days of general discussion on children and violence in September 2000 (CRC/C/100, para.688) and September 2001 (CRC/C/111, paras.701-745)....”

## NETHERLANDS ARUBA

### Lawfulness of corporal punishment

#### Home

Corporal punishment is lawful in the home.

Under the Civil Code parents are responsible for their child’s psychological and physical well-being and for nurturing their development. Children are protected from some violence and abuse by the Criminal Code.

#### Schools

There are no specific laws or regulations prohibiting corporal punishment in schools.

#### Penal system

Corporal punishment is unlawful as a **sentence for crime**. It is not a permitted sanction for crime under the Criminal Code, which allows for only a fine or a warning for persons under the age of 18.

There are no specific laws or regulations prohibiting corporal punishment as a **disciplinary measure** in correctional institutions, though prosecution is possible under the provisions against battery in the Criminal Code. A review of juvenile criminal law was due for completion early in 2003; up-to-date information unobtainable.

#### Alternative care

There is no explicit prohibition of corporal punishment in alternative care. The Criminal Code provisions against violence and abuse apply.



## Prevalence research

None identified.

## Recommendations by human rights treaty bodies

*Committee on the Rights of the Child*

(26 February 2004, CRC/C/15/Add.227, Concluding observations on initial report of Aruba and second report of Netherlands, paras. 43 and 44)

“...The Committee is also concerned that there is no legal prohibition on corporal punishment in the family.

The Committee recommends that the State party:

d) explicitly prohibit corporal punishment in law throughout the State party and carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment.”

# UK OVERSEAS TERRITORIES

## ANGUILLA

### Lawfulness of corporal punishment

#### Home

Corporal punishment of children by parents is lawful under common law.

Children have limited protection from violence and abuse under provisions in the Juvenile Act, the Criminal Law (Amendment) Act, the Offences Against the Person Act (Cap.56) and the Maintenance of Children Ordinance.

#### Schools

Corporal punishment is lawful in schools under section 74 of the Education Act.

#### Penal system

Corporal punishment was explicitly abolished as a **sentence for crime** by article 363 (“Abolition of corporal punishment”) of the Criminal Code (2000). Previously, the courts could impose corporal punishment on male offenders under the Corporal Punishment Ordinance (1967).

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions. Young people in detention are held in a special block of the prison. The Prison Regulations (2001) under the Prison Act limit the amount of force used by a prison officer to what is considered “necessary” (section 27) and do not include corporal punishment in the list of punishments for disciplinary offences (section 33).

#### Alternative care

We have been unable to ascertain the legal status of corporal punishment in other institutions and forms of childcare.

## Prevalence research

None identified.

## BERMUDA

### Lawfulness of corporal punishment

#### Home

Corporal punishment is lawful in the home. The Criminal Code (1907, article 266, “Domestic and school discipline”) allows the use of “reasonable” force by parents, persons in place of parents, and teachers “by way of correction”.

Children have limited protection from abuse and neglect under the Protection of Children Act, the Children Act (1998), the Matrimonial Causes Act (1974) and the Domestic Violence (Protection Orders) Act (1997). The Children Act (section 3), prohibits “significant harm”, including physical harm inflicted by a parent, demonstrable emotional harm, and physical or emotional harm caused by repeated exposure to domestic violence. The Act makes it an offence for anyone having parental responsibility to abuse, mistreat, neglect, desert or abandon the child (section 19). Protection from domestic violence, including actual or threatened physical, sexual or psychological abuse, but not including corporal punishment, is given by the Domestic Violence (Protection Orders) Act.



## Schools

Corporal punishment is lawful in schools and article 266 of the Criminal Code applies (see above). It is not mentioned in the 1996 Education Act, but the Education Rules (1974) made under the 1954 Education Act allow for it to be administered by the head or a teacher in his or her presence (section 36). It should be limited to four straps given on the hand and in private. A 1997 report commissioned by the Ministry of Health and Social Services Task Force on Child Abuse recommended banning school corporal punishment but this was not adopted into law. A governmental committee report in the 1980s making a similar recommendation remained unpublished.

## Penal system

Corporal punishment is prohibited as a **sentence for crime** and as a **disciplinary measure** in penal institutions under the Abolition of Capital and Corporal Punishment Act (1999, section 3), which amended provisions for corporal punishment in the Criminal Code (1907), Criminal Appeal Act (1952), Court of Appeal Act (1964), Prisons Act (1979), Prison Rules (1980), Senior Training School Rules (1951) and Young Offenders Act (1950).

## Alternative care

There is no explicit prohibition of corporal punishment in the Children Act (see above), which governs registered children's homes, foster care, day care and residential homes. Article 266 of the Criminal Code (see above) also applies.

## Prevalence research

A telephone poll carried out in June 1998 for the Bermuda Sun newspaper by Research Innovations Ltd found strong public support among 395 respondents for corporal punishment in schools.<sup>18</sup> This support was higher among blacks (71%, cf whites 52.6%), men (69%, cf women 60%), lower- and middle-income earners (61.2% and 65.6% respectively, cf higher-income 52.2%) and older people. Overall, corporal punishment in schools was supported by 64.1% (66.6% among registered voters).

# BRITISH VIRGIN ISLANDS

## Lawfulness of corporal punishment

### Home

Corporal punishment is lawful in the home.

Children are protected from some violence and abuse by the Juvenile Act, under which it is an offence for anyone with the custody or care of a juvenile wilfully to assault, ill-treat or neglect the juvenile in such a way as to cause unnecessary suffering or injury to health. These provisions are penalised under sections 190-192 of the Criminal Code. Protection is also given by the Domestic Violence (Summary Proceedings) Act 1996.

### Schools

Corporal punishment is lawful in schools. It must be carried out by the principal, deputy principal or by one senior teacher appointed in writing.

### Penal system

Corporal punishment is prohibited as a **sentence for crime** and as a **disciplinary measure** in penal institutions by the Corporal Punishment (Abolition) Act (2000), which repeals the Corporal Punishment Act (1949) under which young people under the age of 14 could be sentenced to whipping by a tamarind rod up to a maximum of 12 strokes.

### Alternative care

We have been unable to ascertain the legal status of corporal punishment in other institutions and forms of childcare.

### Prevalence research

None identified.

# CAYMAN ISLANDS

## Lawfulness of corporal punishment

### Home

Corporal punishment is lawful in the home.

Children have limited protection from violence and abuse under the Juveniles Law (1975, revised 1990) and by Part VIA "Offences relating to children" of the Penal Code as contained in Schedule 3 of the Youth Justice Law.



### Schools

Corporal punishment is lawful in schools. It must be administered by the principal or by any other teacher appointed in writing for the purpose.

### Penal system

Corporal punishment has long been unlawful as a **sentence for crime**, and it was prohibited as a **disciplinary measure** in penal institutions by the Prisons (Amendment) Law (1998).

### Alternative care

There is no explicit prohibition of corporal punishment in alternative care settings. The Penal Code provisions on assault apply.

### Prevalence research

None identified.

## MONTSERRAT

### Lawfulness of corporal punishment

#### Home

Corporal punishment of children is lawful in the home. Children are protected from some abuse and neglect by the Juveniles Ordinance.

#### Schools

Corporal punishment is unlawful in schools.

#### Penal system

Corporal punishment has been prohibited as a **sentence for crime** and as a **disciplinary measure** in penal institutions since 1992.

#### Alternative care

We have been unable to ascertain the legal status of corporal punishment in other institutions and forms of childcare. The provisions relating to abuse and neglect in the Juveniles Ordinance apply.

#### Prevalence research

None identified.

## TURKS AND CAICOS ISLANDS

### Lawfulness of corporal punishment

#### Home

Corporal punishment is lawful in the home, where “reasonable chastisement” is permitted. Children have some protection from violence and abuse under the Juveniles Ordinance (1998), which makes it an offence for any person over the age of 17 who has custody or care of a juvenile wilfully to assault, ill-treat or neglect a juvenile in a way likely to cause unnecessary suffering or injury to health, and the Summary Offences Ordinance, which makes it an offence to wilfully neglect, ill-treat or abandon a boy under 14 or a girl under 16, in a manner likely to cause unnecessary suffering or injury to health.

#### Schools

Corporal punishment is lawful in schools, which are governed by the Education Ordinance (1998).

#### Penal system

Corporal punishment was abolished as a **sentence for crime** in 1998. Section 69 of the Constitution prohibits torture and inhuman or degrading punishment or other treatment. Under the Juveniles Ordinance, applicable to persons under 16, the courts may dismiss the case, give probation, commit the juvenile to the care of a fit person, or order the parent or guardian to enter into recognizance for the juvenile’s good behaviour. The Young Offenders Punishment Ordinance provides for detention (under 14) and imprisonment (between 14 and 16). Persons between 16 and 19 are tried as adults. Corporal punishment is unlawful as a **disciplinary measure** in penal institutions. Discipline in prisons is governed by the Prison Regulations (1995, in force 1996). Other provision is made according to section 15 of the Juveniles Ordinance.

## Alternative care

There is no prohibition of corporal punishment in alternative care settings. There are no government or voluntary homes for children in care, but children may be accommodated in a residential children's home in Jamaica.

## Prevalence research

None identified.

## Recommendations by human rights treaty bodies relating to UK overseas territories

### *Committee on the Rights of the Child*

(16 October 2000, CRC/C/15/Add.135, Concluding observations on initial report, paras. 35, 36, 55 and 57)

“The Committee expresses grave concern that corporal punishment is still widely practised in many of the Overseas Territories and that domestic legislation generally does not prohibit and eliminate its use in schools, care institutions and homes. It also notes with concern that the British Virgin Islands is the only remaining Territory that has not yet prohibited by law the use of judicial corporal punishment.

The Committee recommends that all appropriate measures, including of a legislative nature, be taken to prohibit and eliminate all forms of corporal punishment within the school, juvenile justice and alternative care systems and in the home. The Committee further suggests that awareness raising and education campaigns be conducted to change public attitudes and ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention, especially articles 19 and 28.2.

The Committee notes that legislation relating to juvenile justice has been enacted in all of the Overseas Territories. While the Committee appreciates the legal abolition of judicial corporal punishment in most of the Overseas Territories, it is concerned that the bill to abolish it in the British Virgin Islands has not yet been enacted....

The Committee further recommends that the British Virgin Islands reinforce efforts to enact the bill introduced into the Legislative Council to abolish the use of judicial corporal punishment in the islands.”

### *Committee on Economic, Social and Cultural Rights*

(5 June 2002, E/C.12/1/Add.79, Concluding observations on fourth report of UK, the Crown Dependencies and the Overseas Dependent Territories, para. 36)

“Given the principle of the dignity of the individual, which provides the foundation for international human rights law (see paragraph 41 of the Committee's General Comment No.13) and in the light of article 10.1 and 10.3 of the Covenant, the Committee recommends that the physical punishment of children in families be prohibited, in line with the recommendation of the Committee on the Rights of the Child (see paragraph 31 of the 1995 concluding observations of that Committee (CRC/C/15/Add.34)).”

### *Committee Against Torture*

(17 November 1998, A/54/44, Concluding observations on third report, para. 74)

“Positive aspects:

d) the removal of corporal punishment as a penalty in several of the Dependent Territories.”

### *Committee Against Torture*

(9 July 1996, A/51/44, Concluding observations on second report, para. 65)

“The Committee recommends that the Government of the United Kingdom take the following measures:

i) reconsidering corporal punishment with a view to determining if it should be abolished in those dependencies that still retain it.”

### *Committee Against Torture*

(26 June 1993, A/48/44, Concluding observations on initial report, para. 283)

“... The territories appeared to be governed in accordance with the obligations on the Convention and the Committee congratulated the Government of the United Kingdom in this respect. The Committee was, however, interested in receiving more detail pertaining to cases of corporal punishment in the territories retaining it. The nature and incidence of such punishment, together with details of the crime and the characteristics of the offender, should be forwarded to the Committee when the information is gathered....”

# UNITED STATES TERRITORIES

## GUAM

### Lawfulness of corporal punishment

#### Home

Corporal punishment is lawful in the home.



### Schools

Corporal punishment is lawful in schools. The policy published by the Education Policy Board, last amended 1991, states that it must be used only as a last resort, only by the principal, and only for children whose parents sign a notarised consent form. In 2003, the Board was considering revising the policy such that enrolment into the public school system would itself constitute consent by parents for corporal punishment.

### Penal system

Corporal punishment is prohibited as a **disciplinary measure** in penal institutions, but unable to ascertain its legal status as a **sentence for crime**.

### Alternative care

Unable to obtain information relating to other institutions and forms of childcare.

### Prevalence research

None identified.

## PUERTO RICO (commonwealth associated with the US)

### Lawfulness of corporal punishment

#### Home

Corporal punishment is not prohibited in the home.

Children are protected from violence and abuse under the Welfare and Integral Protection of Childhood Act (2003).

#### Schools

Corporal punishment is prohibited in schools. The Welfare and Integral Protection of Childhood Act (see above) applies to education institutions.

#### Penal system

Corporal punishment is prohibited as a **sentence for crime** under the Constitutions of Puerto Rico and of the USA, which prohibit cruel and unusual punishments, and the Penal Code. It is explicitly prohibited as a **disciplinary measure** in penal institutions under the regulations of the Corrections Administration (section 1255, "Rights of Inmates, Women Prisoners and Minors"). The Welfare and Integral Protection of Childhood Act applies to detention institutions.

#### Alternative care

There is no explicit prohibition of all forms of corporal punishment in all alternative care settings, but the provisions against abuse in the Welfare and Integral Protection of Childhood Act apply to residential homes, foster care, day care centres and any other institutions.

#### Prevalence research

None identified.

## US VIRGIN ISLANDS

### Lawfulness of corporal punishment

#### Home

Corporal punishment is lawful in the home.

#### Schools

Corporal punishment is lawful in schools.

#### Penal system

Corporal punishment is unlawful in the penal system.

#### Alternative care

Corporal punishment is lawful in other institutions and forms of childcare.

#### Prevalence research

None identified.

### Recommendations by human rights treaty bodies relating to US territories

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

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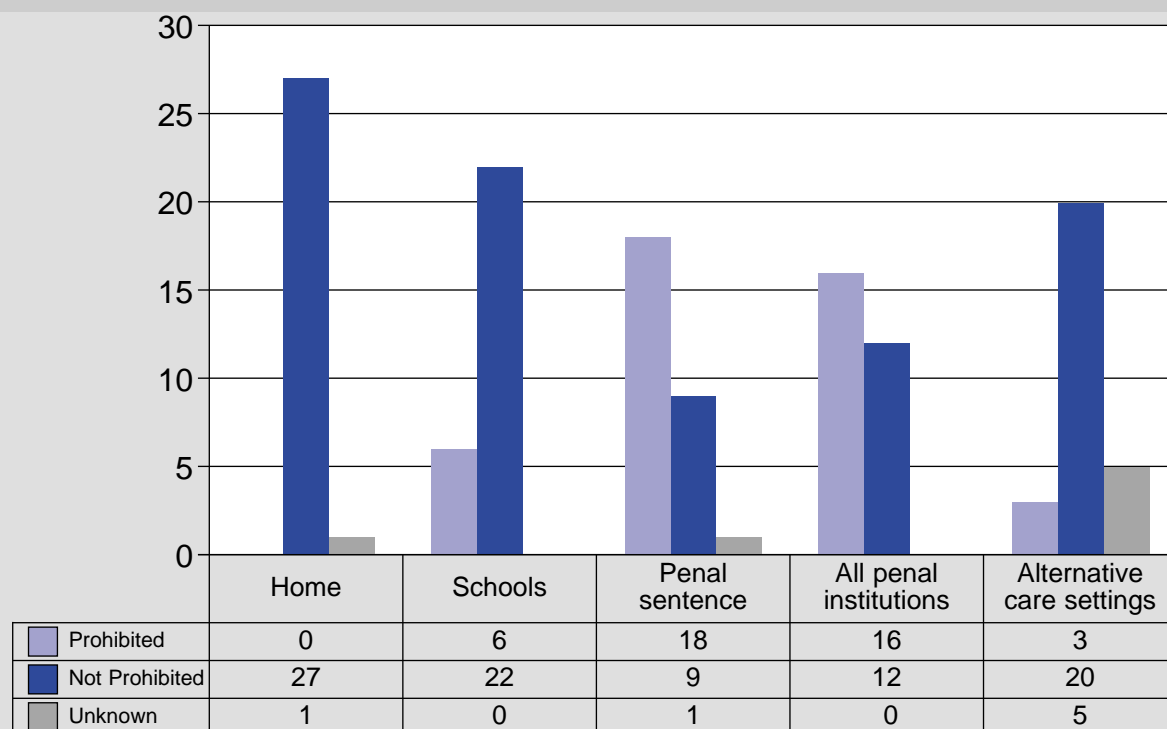
## SUMMARY TABLE

### LEGAL STATUS OF CORPORAL PUNISHMENT OF CHILDREN

	Prohibited in the home	Prohibited in schools	Prohibited in the penal system As a sentence for crime	Prohibited in the penal system As a disciplinary measure in penal institutions	Prohibited in alternative care
Antigua & Barbuda	NO	NO	NO	NO	NO
Bahamas	NO	NO	NO	NO	NO
Barbados	NO	NO	NO	NO	SOME <sup>1</sup>
Belize	NO	NO	YES	SOME <sup>2</sup>	SOME <sup>3</sup>
Dominica	NO	NO	NO	NO	NO
Dominican Republic	NO	YES	YES	YES	?
Grenada	NO	NO	NO	NO	SOME <sup>4</sup>
Guyana	NO	NO	NO	NO	NO <sup>5</sup>
Haiti	? <sup>6</sup>	YES	YES	YES	YES
Jamaica	NO	NO	YES	YES	YES
St Kitts & Nevis	NO	NO	NO	NO	NO
St Lucia	NO	NO	NO	NO	NO
St Vincent & the Grenadines	NO	NO	NO	NO	NO
Suriname	NO	NO <sup>7</sup>	YES	YES	NO <sup>8</sup>
Trinidad & Tobago	NO	NO <sup>9</sup>	YES	NO	NO <sup>10</sup>
France – Guadeloupe	NO	YES	YES	YES	NO
France – Martinique	NO	YES	YES	YES	NO
Netherlands Antilles	NO	NO <sup>11</sup>	YES	YES	YES
Netherlands Aruba	NO	NO	YES	NO	NO
UK – Anguilla	NO	NO	YES	YES	?
UK – Bermuda	NO	NO	YES	YES	NO
UK – British Virgin Islands	NO	NO	YES	YES	?
UK – Cayman Islands	NO	NO	YES	YES	NO
UK – Montserrat	NO	YES	YES	YES	?
UK – Turks & Caicos Islands	NO	NO	YES	YES	NO
US – Guam	NO	NO	?	YES	?
US – Puerto Rico	NO	YES	YES	YES	NO
US – Virgin Islands	NO	NO	YES	YES	NO

**TABLE NOTES** <sup>1</sup>Prohibited in state-arranged foster care and pre-school settings, and in day care centres and children's residential centres run by the Child Care Board, but lawful in private foster care. <sup>2</sup>Prohibited in the "Youth Hostel" detention centre, but lawful in prisons and by law enforcement officials. <sup>3</sup>Prohibited in residential care facilities and in day care centres. <sup>4</sup>Prohibited in child care homes by licensing requirements. <sup>5</sup>Prohibited in childcare and childminding services in the Children's Bill. <sup>6</sup>Possibly prohibited by 2001 law, but unable to obtain unequivocal confirmation. <sup>7</sup>Prohibited by government directives but not in law. <sup>8</sup>Prohibited in a draft Children's Home Bill for presentation in early 2005. <sup>9</sup>Prohibited by the Children (Amendment) Act 2000, not yet (February 2005) in force. <sup>10</sup>But prohibited in health care and psychiatric institutions as a matter of policy. <sup>11</sup>Prohibited as a matter of policy.

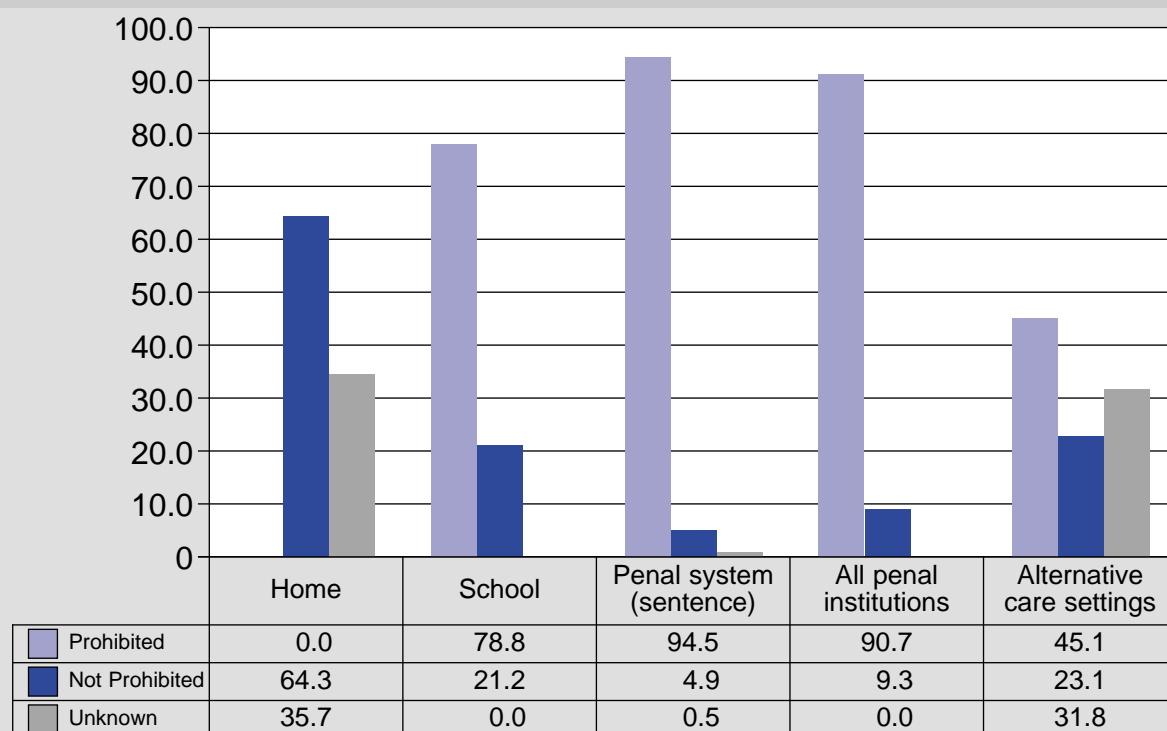
# Caribbean states and dependent territories prohibiting corporal punishment of children



“Penal sentence” refers to corporal punishment administered as a sentence of the courts. “All penal institutions” refers to the use of corporal punishment as a disciplinary measure within penal institutions. Penal institutions include prisons, juvenile detention institutions, correctional institutions and institutions for children considered to be “beyond parental control”.

Alternative care settings include residential institutions, day care centres and foster care, public and private.

# Percentage of child population legally protected from corporal punishment



Figures available for 22 out of 28 countries. Source <http://esa.un.org/unpp/p2k0data.asp> (World Population Prospects: The 2002 Revision), for 2005, medium variant; and for Anguilla, Bermuda, British Virgin Islands, Montserrat, Turks and Caicos estimated from figures published in UK Overseas Dependent Territories and Crown Dependencies Core Document (2001), HRI/CORE/1/Add.62/Rev.1

The 35.7% of children for whom the legal status of corporal punishment in the home is unknown represent a single State (Haiti).

“Penal system (sentence)” refers to corporal punishment administered as a sentence of the courts. “All penal institutions” refers to the use of corporal punishment as a disciplinary measure within penal institutions. Penal institutions include prisons, juvenile detention institutions, correctional institutions and institutions for children considered to be “beyond parental control”.

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**T**his report is the first in a series prepared by the Global Initiative for submission to each of the nine regional consultations being held in connection with the UN Secretary General's Study on Violence against Children.

The Global Initiative was launched during the Commission on Human Rights in Geneva in 2001. It aims to act as a catalyst to encourage more action and progress towards ending all corporal punishment in all continents; to encourage governments and other organisations to "own" the issue and work actively on it; and to support national campaigns with relevant information and assistance. The context for all its work is implementation of the Convention on the Rights of the Child. We believe ending all corporal punishment is fundamental to improving the status of children and realising their rights to respect for their human dignity and physical integrity and to equal protection under the law.



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

The aims of the Global Initiative are to:

- forge a strong alliance of human rights agencies, key individuals and international and national non-governmental organisations against corporal punishment;
- make corporal punishment of children visible by building a global map of its prevalence and legal status, ensuring that children's views are heard and charting progress towards ending it;
- lobby governments systematically to ban all forms of violence including corporal punishment and to develop public education programmes;
- promote awareness-raising of children's rights to protection and public education on positive, non-violent forms of discipline for children;
- provide detailed technical assistance to support states with these reforms.

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

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