

Progress towards prohibiting all corporal punishment of children in the Caribbean

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Summary

This briefing highlights the human rights imperative to prohibit all violent punishment of children in all Caribbean states and territories. For each Caribbean state and territory, it summarises the progress made towards prohibition and what remains to be done. Aiming to promote national action for prohibition, it emphasises the many immediate opportunities for working to fulfil children's right to protection in law from all corporal punishment in the penal system, care settings, schools and the family home.

The reality of violent punishment of children

Across the Caribbean, violent punishment is a near-universal childhood experience. The message from research in the region is clear and consistent: in nearly all studies on the topic in the past ten years, large majorities of the children involved experienced corporal punishment in the family home and other settings of their lives.¹ The childhood experience of corporal punishment which most adults share and the ongoing widespread social acceptance of violent punishment of children can make it difficult at first to see corporal punishment for what it is: a violation of children's fundamental rights to respect for their human dignity and physical integrity.

Corporal punishment, which includes children being hit with hands and objects, kicked, shaken and forced to maintain uncomfortable positions as well as a wide range of other humiliating and degrading treatment, is physically and emotionally painful and often leads to injury. Research has consistently found that the majority of incidents substantiated by authorities as physical "abuse" are cases of physical punishment. Yet in most Caribbean countries this violation of children's right to respect for their physical integrity and human dignity remains legally sanctioned in some or all settings of children's lives: the family home, alternative care, day care, schools and the penal system. Respect for children's rights requires prohibition in law of all corporal punishment.

Progress towards prohibition and opportunities for further action

Globally, progress towards prohibition is accelerating: as at March 2016, 49 states and six territories had prohibited all corporal punishment, including in the family home. There has also been progress across the Caribbean. In Trinidad and Tobago, legislation which prohibits corporal punishment in all settings outside the home was brought into force in May 2015. In Haiti, legislation which would prohibit in all settings including the family home has been tabled in Parliament. In other states, prohibition in some or all settings is under discussion. The CARICOM Regional Framework for Action for Children 2002-2015 included explicit legal prohibition of corporal punishment of children as a priority action for 2013-2015.

The tables overleaf summarise the progress made towards prohibition, what remains to be done in all Caribbean states and territories and some of the immediate opportunities for drafting and introducing legislation prohibiting corporal punishment which arise whenever legislation on children, the family, domestic violence, human rights, education, justice and other relevant topics is being drafted or is under review.

We welcome information on opportunities for action and comments and updates on the information in these tables: email elinor@endcorporalpunishment.org.

¹ For details of research into the prevalence of and attitudes towards corporal punishment in the Caribbean, see www.endcorporalpunishment.org



States

	Settings in which law reform is necessary	Indications of progress	Action needed
Antigua and Barbuda	Home, alternative care settings, day care, schools, penal institutions and as a sentence for crime.	The Child Justice Bill 2015 would abolish corporal punishment as a sentence for crime for juveniles. But the Children (Care and Adoption) Bill 2015 and the Domestic Violence Bill 2015 are silent on the issue of corporal punishment.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right "to administer reasonable punishment".
Bahamas	Home, alternative care settings, day care, schools, as a sentence for crime, and possibly in penal institutions.	During the UPR of its overall human rights record in 2008, the Government stated its intention to repeal corporal punishment as a sentence. During its UPR in 2013, it said it was actively reviewing the merit of corporal punishment and encouraging alternative methods of discipline. The Correctional Services Act 2014 repealed the Prisons Act 1943, which had authorised corporal punishment in penal institutions.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right to use force for "correction". Opportunities may include the review of the Constitution (expected to pay particular attention to the fundamental rights of individuals).
Barbados	Home, alternative care settings, some day care, schools, penal institutions and as a sentence for crime.	During the UPR of its overall human rights record in 2013, the Government stated that alternatives to corporal punishment were being encouraged and that the Code of Discipline in schools would be examined in relation to human rights.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right "to administer punishment". Opportunities will arise during the review of all legislation relating to children, including the Education Act and Regulations.
Belize	Home, some alternative care settings, some day care and some penal institutions.	During the UPR of its overall human rights record in 2009, the Government accepted recommendations to prohibit corporal punishment.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right to administer "reasonable" punishment and to use force for "correction".
Dominica	Home, alternative care settings, some day care, schools, penal institutions and as a sentence for crime.	During the UPR of its overall human rights record in 2014, the Government stated its goal is to "move away from the use of corporal punishment as far as possible".	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right "to administer reasonable punishment".
Dominican Republic	Home, alternative care settings and day care.	During the UPR of its overall human rights record in 2009, the Government accepted recommendations to prohibit corporal punishment in all settings. In 2014, the Government reported that it was drafting legislation to combat corporal punishment, and in 2015 launched a national roadmap on prevention and elimination of violence against children.	Drafting and introduction at the earliest opportunity of legislation to prohibit. Opportunities include the revision of the Civil Code and Penal Code, which aims to ensure their compliance with the new Constitution. The Constitution guarantees children protection from all forms of violence; the enactment of legislation explicitly prohibiting corporal punishment would confirm that this includes all corporal punishment.
Grenada	Home, some alternative care settings, day care, schools, penal institutions and as a sentence for crime.	The Juvenile Justice Act 2012 explicitly prohibits corporal punishment as a sentence for crime but appears not to have been brought into force yet.	Bringing into force of the Juvenile Justice Act 2012; drafting and introduction at the earliest opportunity of legislation to prohibit in all other settings, including explicit repeal of the right to use force "for correction". Opportunities may include the review of the Child Protection Act and the Education Act and the discussion of the draft new Constitution.
Guyana	Home, some alternative care settings, some day care, schools, some penal institutions and as a sentence for crime.	In January 2016, the President of Guyana declared corporal punishment as "ancient and backward" and called for removing it from the home and schools. The Juvenile Justice Bill would complete abolition of judicial corporal punishment.	Ensuring the Education Bill 2015 includes prohibition; enactment of the Juvenile Justice Bill; drafting and introduction of legislation to prohibit in all other settings, including explicit repeal of the right to administer "reasonable and proper punishment".

	Settings in which law reform is necessary	Indications of progress	Action needed
Haiti	Home, possibly alternative care settings and day care.	Current law prohibits corporal punishment but its application to the home and some care settings is not clear. The draft Children's Code includes clear prohibition.	Ensuring the draft Children's Code includes clear prohibition and is enacted and implemented as a matter of priority.
Jamaica	Home, some day care and schools.	In 2013, provisions for corporal punishment in the penal system were formally repealed. A review of the Child Care and Protection Act recommended prohibition in all education settings.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right to inflict "reasonable and moderate" punishment.
St Kitts and Nevis	Home, alternative care settings, day care, schools and penal institutions.	The Child Justice Act 2013 appears to have abolished judicial corporal punishment of children but some legislation is still to be formally repealed.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right to inflict "reasonable chastisement"; formal repeal of all legal provisions for judicial whipping of persons under 18.
St Lucia	Home, alternative care settings, day care, schools and penal institutions.	During the UPR of its overall human rights record in 2015, the Government acknowledged that corporal punishment has not been adequately addressed.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right "to administer reasonable punishment".
St Vincent and the Grenadines	Home, alternative care settings, day care, schools, penal institutions and as a sentence for crime.	No known moves towards reform.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right "to administer reasonable punishment".
Suriname	Home, alternative care settings, day care and schools.	During the UPR of its overall human rights record in 2011, the Government accepted recommendations to prohibit in schools.	Drafting and introduction at the earliest opportunity of legislation to prohibit.
Trinidad and Tobago	Home.	The Children Act 2012, which prohibits in all settings except the home, was brought into force in 2015.	Drafting and introduction at the earliest opportunity of legislation to prohibit in the home, including explicit repeal of the right "to administer reasonable punishment".

Territories

	Settings in which law reform is necessary	Indications of progress	Action needed
France	Note: The laws of France apply fully and automatically in French overseas departments and collectivities, which have very limited independent legislative powers. We believe that these limited powers do not allow for prohibition of corporal punishment: at present it appears that prohibition of corporal punishment of children in French Caribbean territories will only be achieved when France itself achieves prohibition.		
	Guadeloupe	Home, alternative care settings, day care and schools.	During the UPR of its overall human rights record in 2013, the French Government accepted recommendations to prohibit corporal punishment.
	Martinique		
	St Barthelemy		
	St Martin		
Netherlands	Note: Countries within the Kingdom of the Netherlands and Special Municipalities in the Netherlands have legislative power to prohibit corporal punishment. In international law, the Netherlands has final responsibility for ensuring that its obligations under international human rights law are fulfilled in its territories.		
	Aruba	Home, alternative care settings, day care and possibly penal institutions.	During the UPR of its overall human rights record in 2012, the Government of the Netherlands accepted recommendations to prohibit corporal punishment in the Caribbean parts of its territory. Amendments to the Civil Code which would achieve prohibition are under discussion.
	Curaçao	Prohibition in all settings including the home was achieved in 2012.	

		Settings in which law reform is necessary	Indications of progress	Action needed
Netherlands	Bonaire, St Eustatius and Saba	Home, alternative care settings, day care and schools.	During the UPR of its overall human rights record in 2012, the Government of the Netherlands accepted recommendations to prohibit corporal punishment in the Caribbean parts of its territory.	Adoption of the Civil Code of the Netherlands, which prohibits corporal punishment in all settings including the home.
	St Maarten	Prohibition in all settings including the home was achieved in 2011.		
Note: British Overseas Territories have legislative power to prohibit corporal punishment. In international law, the UK has final responsibility for ensuring that its obligations under international human rights law are fulfilled in its territories.				
UK	Anguilla	Home, alternative care settings, some day care settings and schools.	The Education Act 2012 achieved prohibition in schools.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the defence of “reasonable chastisement”.
	Bermuda	Home, alternative care settings, some day care and schools.	The Government stated in 2014 that corporal punishment would be prohibited in the next revision of the Education Act; amendments in 2015 did not include prohibition.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right to use force for “correction”.
	British Virgin Islands	Home, alternative care settings, day care and schools.	The Education (Amendment) Act 2014 repealed provisions for corporal punishment in the Education Act 2004; the Government has stated it is considering repealing the right of teachers “to administer punishment” so as to achieve clear prohibition in schools.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right “to administer punishment”.
	Cayman Islands	Home, some alternative care settings, day care, schools and penal institutions.	Regulations enacted in 2012 prohibit in community homes, children’s homes, voluntary homes and state arranged foster care. The draft Education Bill 2015 would prohibit in schools and early childhood care and education centres.	Enactment of the Education Bill 2015 ; drafting and introduction of legislation to prohibit in all other settings, including explicit repeal of the right “to administer punishment”.
	Montserrat	Home, alternative care settings, day care and schools.	No known moves towards reform.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right to administer “reasonable” punishment.
	Turks & Caicos Islands	Home, alternative care settings, day care and schools.	No known moves towards reform.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right “to administer reasonable punishment”.
	Note: Puerto Rico and the US Virgin Islands have legislative power to prohibit corporal punishment. In international law, the USA has final responsibility for ensuring that its obligations under international human rights law are fulfilled in its territories.			
USA	Puerto Rico	Home, alternative care settings and day care.	No known moves towards reform.	Drafting and introduction at the earliest opportunity of legislation to prohibit.
	US Virgin Islands	Home, alternative care settings, day care and schools.	No known moves towards reform.	Drafting and introduction at the earliest opportunity of legislation to prohibit, including explicit repeal of the right to “discipline” and “correct”.

Note: Opportunities for prohibition may be provided by the Organisation of Eastern Caribbean States (OECS) Juvenile Justice Reform Project, which aims to improve the legal and regulatory framework of the juvenile justice system in OECS member states, and by consideration of the model bills, including the Children (Care and Adoption) Bill and the Child Justice Bill, which were sent to the Attorneys General of some states and territories in 2007 as part of the OECS Family Law and Domestic Violence Reform Project. Although these model bills as drafted did not prohibit corporal punishment, the process of reviewing and amending them provides opportunities for prohibition in states and territories where they are under consideration.

Why prohibit corporal punishment?

Everyone has a right to protection in law from being hit and hurt, whoever the perpetrator and wherever the violence occurs. The UN Committee on the Rights of the Child² and other international and regional human rights bodies have made it very clear that all corporal punishment of children must be prohibited and eliminated in all settings including the family home. Nearly all Caribbean states have received recommendations to prohibit corporal punishment during the UN Universal Periodic Review of their overall human rights records; in many cases states have fully or partially accepted the recommendations. Corporal punishment of children has been raised – in many cases repeatedly – in the examinations by UN treaty bodies of every Caribbean state.³

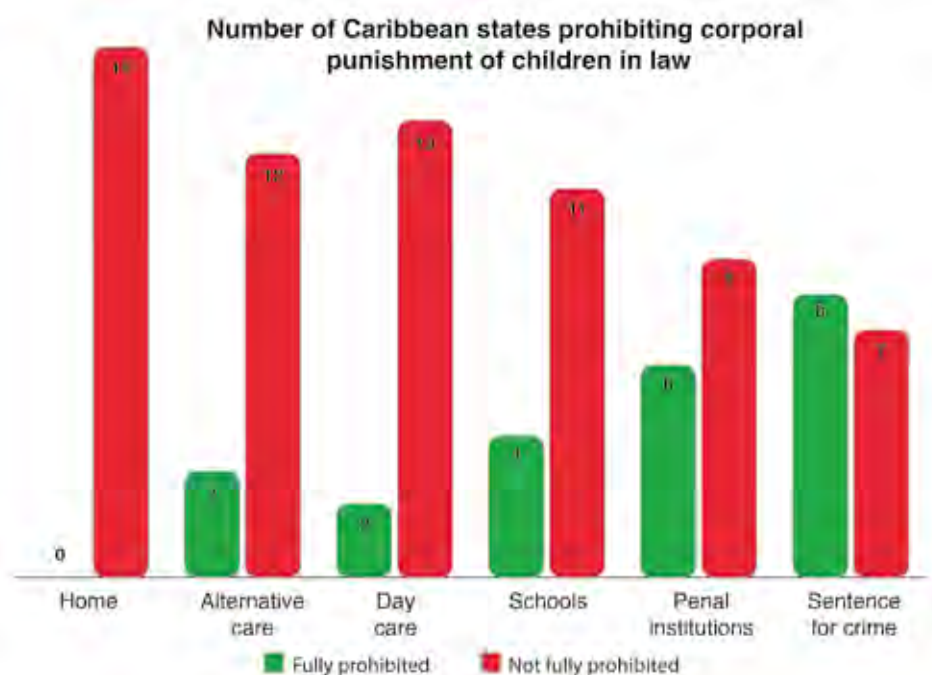
Legal protection from all corporal punishment is a right in itself. But prohibition is also critical for fulfilling children's rights to health, development and education. Experience of corporal punishment as a child is associated with poor mental health in childhood and adulthood. Physical punishment is linked to increased aggression and antisocial behaviour in children and an increased likelihood of perpetrating, experiencing and accepting violence as an adult. Corporal punishment damages family relationships and, far from teaching children how to behave, makes it less likely that they will learn to behave as adults want them to.⁴

The context: growing support for prohibition

Support for prohibition is building across the region, with ever more political and religious leaders and other prominent figures speaking out against corporal punishment. In 2015, the Global Movement for Children in Latin America and the Caribbean, an alliance of more than 15 child rights organisations which work together on advocacy at the regional level, selected achieving a region free of corporal and other humiliating punishment as its priority for at least two years. In 2012, prominent Christian leaders in the Caribbean region issued a statement supporting prohibition.⁵ The Caribbean Coalition for the Abolition of Corporal Punishment of Children (CCACPC) aims to speed the prohibition and elimination of all corporal punishment of children in Caribbean states and territories, including through working with governments, UN agencies, regional bodies, faith leaders and the many supportive NGOs in the region to build a strong Caribbean movement for prohibition (see www.endcorporalpunishmentcaribbean.org). The Coalition's Advisory

“... eliminating violent and humiliating punishment of children, through law reform and other necessary measures, is an immediate and unqualified obligation of States parties [to the Convention on the Rights of the Child].”

(Committee on the Rights of the Child, General Comment No. 8, 2006)



Group includes judges, religious leaders, doctors, human rights advocates and other prominent figures from across the region.⁶ The support of these and many others shows the recognition by key actors in the Caribbean that, despite the progress which has been made, much remains to be done. As the graphs show, children can lawfully be hit and hurt in their homes, schools and care settings in the majority of Caribbean states and territories.

2 Committee on the Rights of the Child (2006), *General Comment No. 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment* (arts. 19; 28, para. 2; and 37, inter alia) (CRC/C/GC/8)

3 For details of treaty body and Universal Periodic Review recommendations in Caribbean states, see www.endcorporalpunishment.org

4 For a review of research on the effects of corporal punishment, see www.endcorporalpunishmentcaribbean.org

5 For the statement, see www.endcorporalpunishmentcaribbean.org

6 For lists of Advisory Group members and other supporters in the Caribbean, see www.endcorporalpunishmentcaribbean.org

Taking action for children's right to legal protection from all violent punishment

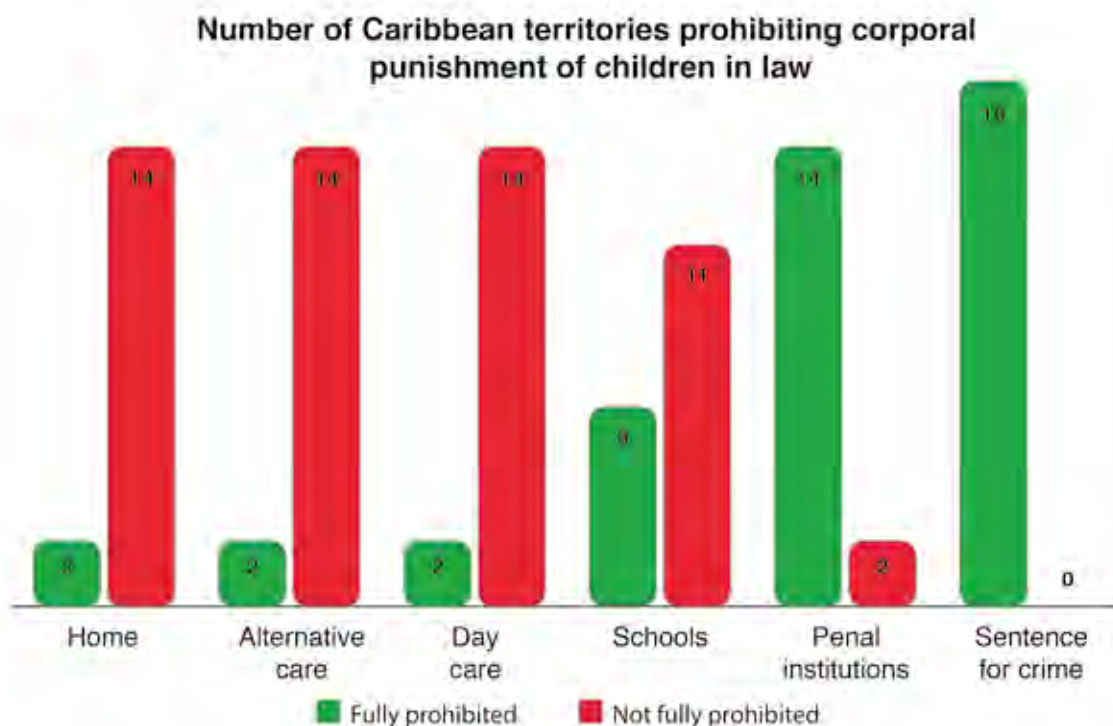
Many opportunities for prohibition exist across the region. Opportunities occur whenever relevant laws (for example, laws on children, the family, domestic violence, human rights, juvenile justice, education and other related topics) are introduced or reviewed. The tables in this briefing highlight some of the many current opportunities for enacting prohibition across the region.

Opportunities to prohibit must not be missed. When these opportunities arise, it is essential to propose that prohibition is included in the laws and retained as the legislation passes through parliament. Every opportunity to prohibit represents a chance to fulfil children's right to protection, stopping children from being hit and hurt by their parents and others.

Moving swiftly from discussion to action is key. National attention to corporal punishment – for example, through government consultations, new research or media reports on the issue – can be used to promote prohibition: proposals for law reform must be made and followed through. But, since prohibition is an immediate human rights imperative, it is not necessary to consult on the issue, nor is it legitimate to wait for public attitudes to change before prohibiting corporal punishment. Children have a right to protection now. Prohibition, accompanied by appropriate measures to raise awareness of and implement the law together with awareness-raising and promotion of positive, non-violent forms of discipline, is the most efficient way to change attitudes and the only way to fulfil children's right to protection in law and practice.

Prohibiting laws must be brought into force. In some states and territories, laws which prohibit corporal punishment in some settings of children's lives have been passed but are not yet in force. While the development of these laws is positive and represents progress, children are not protected until the laws are brought into force and their implementation linked to appropriate public and professional education: this must happen as soon as possible.

By prohibiting corporal punishment, governments and parliaments can lead the way. In all world regions, there is some opposition to prohibition, with opponents claiming, for example, that corporal punishment is part of their culture, required by their religion or necessary in childrearing. The experience of states which have achieved prohibition shows that this is an issue on which those in power must lead rather than follow public opinion. Governments and parliaments must take the opportunity to fulfil their human rights obligations by ensuring that children have the same protection as adults from assault in their family homes and elsewhere.



The CCACPC is supported by the Global Initiative to End all Corporal Punishment of Children (www.endcorporalpunishment.org). We are keen to make contact with those with an interest in this issue in any Caribbean state or territory. We welcome comments and updates on the information in this briefing and can provide technical assistance with the process of prohibition. For more information, see www.endcorporalpunishmentcaribbean.org.