



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

BARBADOS

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 3rd session, 2008

From Peter Newell, Coordinator, Global Initiative

info@endcorporalpunishment.org

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

The Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies, and regional human rights mechanisms, have condemned all corporal punishment. In October 2006, the report of the UN Secretary General's Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment, setting a goal of 2009.

Summary

This briefing describes the legality of corporal punishment of children in Barbados, despite recommendations to prohibit in all settings by the Committee on the Rights of the Child and the Human Rights Committee. We hope the Review will highlight with concern Barbados' disregard for the Committees' recommendations, and strongly recommend that the government introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including the home.

1 Legality of corporal punishment in Barbados

1.1 Corporal punishment is lawful in the **home**. The Prevention of Cruelty to Children Act (amended 1996) punishes assault, neglect and “unnecessary suffering” of children under 16 years, but states that “nothing in this Act shall be construed to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child” (section 4).

1.2 Corporal punishment is lawful in **schools** under the Education Act (1981, amended 2002). The Education Regulations (1982) state that it should be carried out by the headteacher or other authorised teacher. Under examination by the Human Rights Committee in March 2007, the government delegation stated that “the Government and people of Barbados did not view corporal punishment as torture, or inhumane or degrading in itself” and that there were no plans to review its legality.

1.3 In the **penal system**, corporal punishment is lawful as a sentence for crime under the Juvenile Offenders Act (1932, amended 1998) and the Corporal Punishment Act (1967), which provides for up to 12 strokes for a person under 16 years of age and up to 24 strokes for a person over that age. The Magistrate’s Court Act (2001) allows for boys between the ages of 7 and 16 to be whipped at a police station, with the parent present if desired. Corporal punishment is lawful as a disciplinary measure in penal institutions under the Prisons Act (1964, amended 2002) and the Reformatory and Industrial Schools Act (1926, amended 1998).

1.4 In **alternative care settings**, corporal punishment is prohibited in state-arranged foster care and in pre-school settings, and in day care centres and residential children’s homes run by the Child Care Board (Child Care Board Regulations 1985), but it is lawful in private foster care.

2 Recommendations by human rights treaty monitoring bodies

2.1 Following examination of the state party’s initial report in 1999, the **Committee on the Rights of the Child** expressed concern 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” and about “the subjective element involved in legislation that permits a ‘reasonable degree’ of physical chastisement as a disciplinary method”, and recommended its explicit prohibition (CRC/C/15/Add.103, paras.19 and 22).

2.2 In 2007, in its concluding observations on the state party’s third report, the **Human Rights Committee** recommended that corporal punishment be prohibited by law and that the state party “take all necessary measures towards the eventual total abolition of corporal punishment” (CCPR/C/BRB/CO/3/CRP.1, Unedited version, para. 12).