



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

ANTIGUA AND BARBUDA – COUNTRY REPORT

Child population: 28,000 (UNICEF, 2010)

Summary of necessary legal reform to achieve full prohibition

Settings where explicit prohibition is necessary

home, schools, penal system, alternative care settings

Is there a legal defence for corporal punishment which must be repealed?

Yes – The “right” of parents, teachers and others with lawful control of a child “to administer reasonable punishment” is confirmed in article 5 of the Juvenile Act. The near universal social acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment can be considered “reasonable” or acceptable. This provision should be repealed, and explicit prohibition enacted of all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults have authority over children.

Other legislative measures necessary

Schools – Corporal punishment is lawful under article 50 of the Education Act and article 5 of the Juvenile Act. These provisions should be repealed, and explicit prohibition enacted in legislation applicable to all educational settings, public and private.

Penal system – Corporal punishment in the penal system is lawful under the Corporal Punishment Act, the Prison Act, the Training Schools Act and the Juvenile Act. The relevant provisions in these laws should be repealed, and explicit prohibition enacted of corporal punishment as a sentence of the courts for juvenile offenders and in relation to disciplinary measures in all institutions accommodating children in conflict with the law.

Alternative care settings – Explicit prohibition should be enacted in legislation applicable to all alternative care settings, including public and private day care, residential institutions, foster care, etc, in addition to the repeal of article 5 of the Juvenile Act.

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment of children is lawful in the home. Article 5 of the Juvenile Act (1951) addresses child cruelty and states: “(6) Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer reasonable punishment to him.” Provisions against violence and abuse in the Childcare and Protection Act (2003), the Offences Against the Person Act (1873), and the Domestic Violence (Summary Proceedings) Act (1999) are not interpreted as prohibiting corporal punishment in childrearing.

As part of an initiative to reform child laws in the region, the Organisation of Eastern Caribbean States (OECS) has circulated a number of draft laws for consideration by member states, including Antigua and Barbuda. The draft Children (Care and Adoption) Bill (2007), under consideration by the attorney-general, would protect children from “abuse” but not prohibit corporal punishment. It would define parental responsibility with reference to the duties, authority, rights and obligations “which by any law in force in [Antigua and Barbuda], the parent of a child has in relation to that child” (article 2).

The Government rejected recommendations to prohibit corporal punishment in the home and other settings during the Universal Periodic Review of Antigua and Barbuda in 2011 (A/HRC/19/5, Report of the Working Group, para. 69).

Schools

Corporal punishment is lawful in public and private schools. Article 50 of the Education Act (2008) states that “degrading or injurious punishment shall not be administered” but that corporal punishment may be administered “where no other punishment is considered suitable or effective, and only by the principal, deputy principal or any teacher appointed by the principal for that purpose, in a manner which is in conformity with the guidelines issued in writing by the Director of Education”; the punishment should be recorded in a punishment book. Article 51 provides for the Minister to abolish corporal punishment subject to Parliamentary approval.

Penal system

Corporal punishment is lawful as a **sentence for crime**. A number of laws allow whipping as part of, or as an alternative to, the specified punishment only if the offender is under the age of 16, including articles 54 and 62 of the Offences Against the Person Act (for child stealing and making or possessing gunpowder with intent to commit a crime), article 3(2) of the Criminal Law Amendment Act (1887) (for attempting to have “unlawful carnal knowledge” of a girl under 12), article 3 of the Railways Offences Act (1927) (e.g. for obstructing a railway), and article 105 of the Magistrates Code of Procedure Act (1892) (for unspecified offences). Article 12 of the Juvenile Act also allows for persons under 18 at the time of the offence to be sentenced to whipping.

According to articles 3, 10 and 15 of the Corporal punishment Act (1949) a juvenile may be sentenced by a High Court or a Magistrates Court to be whipped up to 12 strokes. The Court will determine where the punishment will be carried out; a medical practitioner must be present and must have certified that the person is fit to receive the punishment. Persons under 18 can be whipped but not flogged, using a tamarind rod applied to the buttocks. Females cannot be sentenced to be whipped or flogged. Under articles 2 and 5, corporal punishment may be ordered in addition to other punishment on any person convicted of certain offences of grievous bodily harm, being armed, robbery and assault.

A Child Justice Bill, drafted in 2007 by the OECS, has been considered by the Ministry of Social Transformation and the Ministry of Legal Affairs and circulated to relevant agencies for review, but this review was put on hold and as at April 2010 had not been resumed. The Bill does not include corporal punishment among permitted sentences, though it does not explicitly prohibit it. The Government did not refer to the Bill during the Universal Periodic Review of Antigua and Barbuda in 2011, but it did acknowledge that the Corporal Punishment Act should be repealed (A/HRC/19/5, Report of the Working Group, para. 19).

Corporal punishment is lawful as a **disciplinary measure** in penal institutions. The Corporal Punishment Act provides for flogging for breaches of prison discipline (article 4), and the Prison Act (1956) allows up to 12 strokes for persons below the age of 21 years (article 11). Young people convicted of an offence may be sent to a training school. The Training Schools Act (1891) allows for enforcement of regulations “by fine, whipping, imprisonment or other punishment” (article 5). Article 5 of the Juvenile Act (see above) also applies. The draft Child Justice Bill does not prohibit corporal punishment in institutions accommodating children in conflict with the law.

Alternative care

Corporal punishment is lawful in other institutions and forms of childcare. Article 5 of the Juvenile Act (see above) applies. Corporal punishment would not be explicitly prohibited by the OECS draft Children (Care and Adoption) Bill, which states that a person authorised to provide care for a child shall “correct and manage the behaviour of the child” (article 29(c)) and authorises the Minister to make regulations for “the management and discipline of an approved child care service” (article 140(2)(m)).

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:

- a) consider the immediate repeal of, or amendment to, the Corporal Punishment Act and the Education Act;
- b) expressly prohibit corporal punishment by law in the family, schools and other institutions;
- c) 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
- d) 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:

a) 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....”

Universal Periodic Review

Antigua and Barbuda was examined in the first cycle of the Universal Periodic Review in 2011. The Government stated that the Corporal Punishment Act should be repealed (A/HRC/19/5, Report of the Working Group, para. 19) but rejected recommendations to prohibit all corporal punishment of children including in the home (paras. 69(9), 69(10), 69(11), 69(12), 69(13), 69(14) and 69(15)). Examination in the second cycle is scheduled for 2016.

Report prepared by the Global Initiative to End All Corporal Punishment of Children
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