

Corporal punishment of children in Belize

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Child population 140,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings, day care and penal institutions.

The right of a parent, teacher or other person to punish a child is confirmed in the Summary Jurisdiction (Procedure) Act 1953 (art. 6), the Families and Children (Child Abuse) (Reporting) Regulations 1999 allows for “reasonable disciplinary measures” (art. 2), and the Criminal Code 1981 provides for the use of force “for the purpose of correction” (art. 39). These provisions should be repealed, and the law should clearly state that all forms of corporal punishment and other cruel and degrading treatment are unacceptable, including by parents and others with parental authority.

Alternative care settings – 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 repeal of all legal defences for the use of corporal punishment.

Day care – Prohibition should be enacted in legislation applicable to all early childhood care, including nurseries, crèches, etc, and all day care for older children, including day centres, childminders, after-school childcare, etc.

Penal institutions – All provisions authorising corporal punishment as a disciplinary measure in institutions should be repealed, in addition to repeal of legal defences in criminal and other law. Prohibition should be enacted in relation to disciplinary corporal punishment in all institutions accommodating children in conflict with the law.

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home under provisions for “justifiable force” in the Criminal Code 1981. Article 39 states that “a blow or other force not in any case extending to a wound or grievous harm may be justified for the purpose of correction” but that “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”. The Summary Jurisdiction (Procedure) Act 1953 states in article 6: “Nothing in the Summary Jurisdiction (Offences) Act, shall be construed to take away or affect the right of the parent, teacher or other person having the lawful control or charge of a child or young person to administer punishment to him.” The Families and Children (Child Abuse) (Reporting) Regulations 1999 (art. 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”. Provisions against violence and abuse in the Domestic Violence Act 2007 and the Families and Children Act 1998 (amended 2000) are not interpreted as prohibiting corporal punishment in childrearing.

The Government had initially expressed its commitment to full prohibition by accepting recommendations to review legislation with a view to prohibiting all corporal punishment made during its first cycle Universal Periodic Review in 2009.¹ However, it reported to the Human Rights Committee in 2013 that there had been no initiative to repeal the provision in the Criminal Code which allows corporal punishment.² The recommendation to prohibit all forms of corporal punishment made during the second cycle review in 2013 was not clearly accepted or rejected.³

In March 2016, the 15th annual report of the Ombudsman was introduced to parliament and reportedly included a recommendation to criminalise corporal punishment in the home, stating: “It was brought to our attention that corporal punishment of minors is still allowed, and practiced. This violates the rights of the child. Therefore, it is recommended that all corporal punishment of minors be criminalized – in the home, prisons, schools and elsewhere. Domestic laws such as the Criminal Code (See Section 39) and the Prisons Act should be modified to bring them in alignment with the Convention on the Rights of the Child.” The recommendation was said to have been rejected by ministers.⁴ Universal Periodic Review recommendations to prohibit all corporal punishment of children made in 2018 were ‘noted’, with the Government stating: “Belize had legally abolished corporal punishment in institutional settings, including the education system. The complete abolition of corporal punishment in the home remained an issue of national discussion and efforts had been made to raise the awareness of parents of alternative forms of discipline.”⁵

The Global Initiative no longer considers Belize committed to prohibiting all corporal punishment of children without delay, as the Universal Periodic Review recommendations to do so in 2013 and 2018 were not accepted and the Government has indicated that it does not intend to pursue law reform.

¹ 18 September 2009, A/HRC/12/4/Add.1, Report of the working group: Addendum, para. 32

² [n.d.], Reply to list of issues, para. 57

³ 6 March 2014, A/HRC/25/13/Add.1, Report of the working group: Addendum, page 2

⁴ Reported in *Amandala*, 2 April 2016, <http://amandala.com.bz/news/criminalize-corporal-punishment-ombudsman-arzu/>, accessed 4 April 2016

⁵ 18 December 2018, A/HRC/40/14, Report of the Working Group, paras. 12, 79(16), 79(17) and 79(18)

Alternative care settings

Corporal punishment is prohibited in some but not all alternative care settings. It is prohibited in residential care facilities by the Social Service Agencies (Operators of Residential Care Facilities for Children) (Registration, Licensing and Minimum Operating Requirements) Regulations 2004. But there is no explicit prohibition of corporal punishment in other alternative care settings, including foster care.

Day care

Corporal punishment is prohibited in some but not all forms of day care. It is prohibited in day care centres by the Social Service Agencies (Operators of Day Care Facilities) (Registration, Licensing and Minimum Operating Requirements) (Regulations) 1998, article 15 of which states: “(1) Every operator registered and licensed under these Regulations shall ensure that the child is adequately protected while at the day care facility by complying with the minimum requirements for the protection of children specified in subregulation (2).... (2) The minimum requirements ... are: (a) ensuring that no corporal punishment is inflicted on a child attending the day care facility; (b) ensuring that no cruel, inhuman or degrading punishment or any other harsh or degrading measures which would humiliate a child or undermine his self-esteem and confidence, are inflicted on a child attending the day care facility...”

Corporal punishment is prohibited in educational preschool institutions in the Education and Training Act 2010 (arts. 50 and 51) (see under “Schools”). There is no explicit prohibition of corporal punishment in other forms of day care (nurseries, crèches, children’s centres, childminding, etc).

Schools

Corporal punishment is prohibited in schools in articles 50(2) and 51(4) of the Education and Training Act 2010: “50(2) School authorities shall ensure that pupils are free at school from physical, sexual or other forms of harassment, from intimidation and corporal punishment.... 51(4) ... nothing in the statement of general principles and measures or measures for regulating the conduct of students shall authorise anything to be done in relation to a student which constitutes harassment, intimidation, the administering of corporal punishment or any other actions harmful to a student.” The prohibition came into force on 6 May 2011, after Minister of Education Patrick Faber signed Statutory Instrument 40, thus lifting a 15-month suspension which had been imposed on these provisions pending the work of a Task Force on implementing the prohibition and introducing alternatives to corporal punishment in schools.

Penal institutions

Corporal punishment is lawful as a disciplinary measure in penal institutions under the Prison Rules 2000 (Rules 38, 52, 53, 56 and 170), the Certified Institutions (Children’s Reformation) Rules 1990 (arts. 11 and 13) and the delegation of parental authority to those with custody of young offenders under article 14 of the Juvenile Offenders Act 1936. The Criminal Code 1981 allows law enforcement officials to use “any necessary force not extending to a blow, wound or grievous harm” (art. 35). Corporal punishment is prohibited in the “Youth Hostel” detention centre by the Social Service Agencies (Operators of Residential Care Facilities for Children) (Registration, Licensing and Minimum Operating Requirements) Regulations 2004. The Government reported in 2017 that corporal

punishment had not been used in penal institutions since 2000 but that it “remains as part of the laws of Belize”.⁶

Sentence for crime

Corporal punishment is prohibited as a sentence for crime in the Abolition of Judicial Corporal Punishment Act 1978.

Universal Periodic Review of Belize’s human rights record

Belize was examined in the first cycle of the Universal Periodic Review in 2009 (session 5). During the review the Government stated that the issue of corporal punishment of children “merits thorough national debate”, that it had already been abolished in children’s institutions and that abolition in schools was in progress.⁷ The following recommendations were made:⁸

“Review its legislation with a view to prohibiting all forms of corporal punishment of children (Slovenia);

“Abolish corporal punishment for children (Germany)”

The Government accepted the recommendations, stating: “Government has instituted strict limitations to the use of corporal punishment. Corporal punishment has been abolished from all child care institutions, and the relevant authorities are actively exploring measures to effect the complete abolition of corporal punishment.”⁹

Examination in the second cycle took place in 2013 (session 17). The following recommendation was made:¹⁰

“Amend the relevant provisions of the Criminal Code in order to achieve the full prohibition of all forms of corporal punishment, including at home (Slovenia)”

The Government “noted” this recommendation, not clearly accepting or rejecting it.¹¹ The Government explained that recommendations which were noted are regarded as requiring further national consultation or have other implications which require further consideration.¹² These recommendations will be kept under review and the Government remains committed to fulfilling its international human rights treaty obligations.¹³

Third cycle examination took place in 2018 (session 31). During the interactive dialogue, the Government stated that “Belize had legally abolished corporal punishment in institutional settings, including the education system. The complete abolition of corporal punishment in the home remained an issue of national discussion and efforts had been made to raise the awareness of

⁶ 26 September 2017, CCPR/C/BLZ/1, Initial report, para. 109

⁷ 4 June 2009, A/HRC/12/4, Report of the working group, para. 63

⁸ 4 June 2009, A/HRC/12/4, Report of the working group, paras. 67(30) and 68(7)

⁹ 18 September 2009, A/HRC/12/4/Add.1, Report of the working group: Addendum, para. 32

¹⁰ 11 December 2013, A/HRC/25/13, Report of the working group, para. 99(26)

¹¹ 6 March 2014, A/HRC/25/13/Add.1, Report of the working group: Addendum, page 2

¹² 27 March 2014, A/HRC/25/2, Draft report of the Human Rights Council on its twenty-fifth session, paras. 536 and 537

¹³ 27 March 2014, A/HRC/25/2, Draft report of the Human Rights Council on its twenty-fifth session, para. 539

parents of alternative forms of discipline”.¹⁴ The following recommendations were noted (not supported):¹⁵

“Prohibit corporal punishment at home (Ukraine);

“Prohibit explicitly corporal punishment of children in all settings through enacting legislation (Montenegro);

“Adopt legislation with a view to prohibit all forms of corporal punishment of children in all settings (Slovenia)”

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(31 March 2005, 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 the promotion of alternative methods of discipline, the Committee reiterates its deep concern that corporal punishment is still frequently practised in the family, in schools and in other institutions, that 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 recommendation, urges the State party:

- a) to critically review its current legislation with a view to abolishing the use of force for the purpose of correction and to introduce new legislation prohibiting 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 to corporal punishment and to strengthen its cooperation with the NGOs in this respect;
- c) to seek international technical assistance from, among others, 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

¹⁴ 18 December 2018, A/HRC/40/14, Report of the Working Group, para. 12

¹⁵ 18 December 2018, A/HRC/40/14, Report of the Working Group, paras. 12, 79(16), 79(17) and 79(18)

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."

Human Rights Committee

(1 November 2018, CCPR/C/BLZ/CO/1/Add.1 Advance unedited version, Concluding observations on initial report, paras. 43 and 44)

"... While noting the implementation of statutory instruments that prohibit corporal punishment in schools, the Committee also reiterates its regret (CCPR/C/BLZ/CO/1, para. 18) that corporal punishment is still lawful in the home, in alternative and day care settings, and in juvenile penal institutions (arts. 7, 16 and 24).

"The State party should: ... (b) take all measures to put an end to corporal punishment in all settings, including through the repeal of the provisions of the Criminal Code which permit the use of corporal punishment; and (c) raise awareness campaigns about the harmful effects of corporal punishment."

Human Rights Committee

(26 April 2013, CCPR/C/BLZ/CO/1, Concluding observations in the absence of a report, para. 18)

"While welcoming the enactment of the Education and Training Act of 2010, which prohibits corporal punishment in schools, the Committee remains concerned that corporal punishment remains lawful under the Criminal Code. The Committee regrets the State party's response in the replies to the list of issues, that there has never been an initiative to repeal the provision in the Criminal Code which permits corporal punishment (arts. 7 and 24).

The State party should take practical steps to put an end to corporal punishment in all settings. In this regard, the State party should repeal the provisions of the Criminal Code, which permit the use of corporal punishment. The State party should act vigorously to prevent any use of corporal punishment under the Criminal Code as a form of punishment for criminal offences until it repeals the provisions in the Criminal Code."

Prevalence/attitudinal research in the last ten years

Research conducted in 2015 as part of UNICEF's Multiple Indicator Cluster Surveys (MICS) programme, found on average 65% of 1-14 year-old children experienced some form of violent discipline (psychological aggression and/or physical punishment) in the month prior to the survey. On average 52% of children experienced psychological aggression, 42% physical punishment and 6% severe physical punishment (hit or slapped on the face, head or ears, or hit repeatedly). Only 26% of children experienced only non-violent forms of discipline.

(Statistical Institute of Belize, Government of Belize & UNICEF (2016), *Multiple Indicator Cluster Survey 2015: Key Findings*, Belmopan, Belize: Statistical Institute of Belize, Government of Belize & UNICEF)

According to statistics collected in 2010 under round 4 of the UNICEF Multiple Indicator Cluster Survey programme (MICS4), 70.5% of children aged 2-14 experienced violent "discipline" (physical punishment and/or psychological aggression) in the home in the month prior to the survey. More than half (56.9%) experienced physical punishment, while a much smaller percentage (26.2%) of mothers and caregivers thought physical punishment was necessary in childrearing. Five per cent of children experienced severe physical punishment (being hit or slapped on the face, head or ears or

being hit over and over with an implement), 53.9% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted).

(Statistical Institute of Belize (2012), *Belize Multiple Indicator Cluster Survey 2011 Final Report*, UNICEF)