



End Violence
Against Children



End Corporal
Punishment

Corporal punishment of children in Guyana

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Child population 279,000 (UNICEF, 2015)

Summary of necessary legal reform to achieve full prohibition

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

Section 9(a) of the Criminal Law (Offences) Act 1894 and section 7 of the Summary Jurisdiction (Offences) Act 1894 confirm the right of guardians and teachers “to administer reasonable and proper punishment”. These provisions should be repealed, and prohibition enacted of all corporal punishment in all settings, including the family home and all settings where adults have authority over children.

Alternative care settings – Corporal punishment by caregivers is prohibited in childcare provision for children under 12 except for parents/guardians, persons with parental responsibility, persons with de facto custody and babysitters. Legislation should be enacted to prohibit corporal punishment of children by these persons and to protect children over the age of 12.

Day care – Corporal punishment is prohibited in some day care for children under 12, except for babysitters. Prohibition should be enacted in relation to all providers of day care for young children and for children over 12.

Schools – Prohibition of corporal punishment should be enacted in relation to all schools, public and private.

Penal institutions – Corporal punishment is unlawful in penal institutions for juveniles but clarification is required that children under 18 cannot be sent to adult facilities.

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. Section 9(a) of the Criminal Law (Offences) Act 1894 confirms “the right of the guardian or teacher of a child to administer reasonable and proper punishment to the child”. A similar provision is made in section 7 of the Summary Jurisdiction (Offences) Act 1894. Provisions against violence and abuse in the Domestic Violence Act 1996, the Constitution 1980, the Protection of Children Act 2009 and the Persons with Disability Act 2010 do not prohibit all corporal punishment in childrearing.

In reporting to the Committee on the Rights of the Child in January 2013, the Government stated that debate on the abolition of corporal punishment in Guyana is ongoing: corporal punishment “remains culturally acceptable in many settings such as the home, schools and alternative care settings”.¹ In January 2016, the President of Guyana David Granger reportedly spoke out against corporal punishment of children, including in the home, stating that the notion of “spare the rod and spoil the child” is “ancient and backward” and that “we need to remove all forms of corporal punishment from the school and in the home”.²

During Guyana’s Universal Periodic Review in January 2020, the Government confirmed that corporal punishment was not prohibited in private homes under Section 9 of the Criminal Law (Offences) Act 1894 and Section 7 of the Summary Jurisdiction (Offences) Act 1894, and that its abolition remained “an issue on which views of various sections of society remain staunchly and equally divided”.³

Alternative care settings

Corporal punishment is prohibited in childcare provision for children under 12 in section 15 of the Childcare and Development Services Act 2011: “Notwithstanding anything contained in any written law, a caregiver or sponsor shall ensure that no child being cared for by the caregiver or sponsor or any person authorised or employed by them is subjected to (a) any form of corporal punishment, (b) any abuse of any nature whatsoever.” A “childcare service” is defined as “pre-school care or a service providing care, development and education assistance including early stimulation, such as, play group, home care, day care or night care services or a combination of both or a safe home, to one or more children under twelve years by a caregiver or sponsor, in the absence of any parent or guardian (i) for a fee or reward; or (ii) if any parent or guardian uses the services or residential care facility provided by any sponsor, that service or facility” (s. 2). The Act defines a “caregiver” as a person offering childcare services “to one or more children under the age of twelve, for a fee or reward” and “for a period, or the total of the periods, exceeding two hours during a day or a night” (s. 4(1)); parents/guardians, persons with parental responsibility, persons with de facto custody and babysitters are not regarded as caregivers for the purposes of the Act (s. 4(2)). For these persons, and in alternative care settings for children aged 12 and over, corporal punishment is lawful under the right “to administer reasonable and proper punishment” in section 9(a) of the Criminal Law (Offences) Act 1894 and section 7 of the Summary Jurisdiction (Offences) Act 1894.

Day care

Corporal punishment is prohibited in some day care for children under 12 by section 15 of the Child Care and Development Services Act 2011 (see under “Alternative care settings”); the prohibition does not apply to babysitters (s. 4), and there is no prohibition in relation to day care for older children. In the absence of prohibition, corporal punishment is lawful under the right “to administer reasonable and proper punishment” in section 9(a) of the Criminal Law (Offences) Act 1894 and section 7 of the Summary Jurisdiction (Offences) Act 1894.

¹ January 2013, CRC/C/GUY/Q/2-4/Add.2, Reply to list of issues, para. 95

² Quoted in Kaieteur News Online, 24 January 2016, www.kaieteurnews.com/2016/01/24/no-place-for-corporal-punishment-in-guyana-president-granger/, accessed 10 February 2016

³ 10 January 2020, A/HRC/WG.6/35/GUY/1, National report to the UPR, paras. 31 and 114

Schools

Corporal punishment is lawful in schools under section 9(a) of the Criminal Law (Offences) Act 1894 and section 7 of the Summary Jurisdiction (Offences) Act 1894. The Education Act 1877 makes no reference to corporal punishment. Ministerial Guidelines (2002) state that corporal punishment must be administered only by the head teacher, deputy head teacher or designated senior teacher and only for certain offences (including fighting and use of indecent language); boys should be punished on their hands or buttocks, girls on their hands; the punishments should be inflicted with a cane or strap no longer than 24 inches and not in the presence of other learners, and all punishments should be recorded in the Misdemeanours Book.

In 2012, the Ministry of Education completed a National Consultation on the draft Education Bill 2008, including the issue of prohibiting corporal punishment in schools. But the Education Bill as tabled in the National Assembly in June 2014 does not prohibit corporal punishment in schools. Schedule III of the Bill – Manual of Guidelines for the Maintenance of Order and Discipline in Schools – does not include corporal punishment among the disciplinary measures addressed, and section 49 of the Bill states that “the principal and staff of a public school shall ensure that order and discipline prevail in accordance with the Manual”. However, the Manual does not explicitly prohibit corporal punishment, and section 123 of the Bill provides for the Minister to make regulations in relation to corporal punishment for public and private schools: “(1) The Minister may, on the advice of the Advisory Committee and subject to negative resolution of the National Assembly, make regulations for the proper carrying out of the objectives under this Act. (2) Without limiting the generality of subsection (1), the Minister may, on the advice of the Advisory Committee make regulations – (a) in respect of public educational institutions – ... (ii) concerning the discipline of students, including the instrument, if any, that may be used for corporal punishment.... (b) in respect of the management of private educational institutions and in particular in respect of – ... (v) the discipline of students and instruments that may be used for corporal punishment....” The Bill passed its first reading in Parliament on 19 June 2014, but as at June 2019 had not progressed further.⁴

The Government reported to the Universal Periodic Review in 2015 that during consultation on the issue by the Parliamentary Special Select Committee (PSSC) “it became evident ... that the abolition of corporal punishment in schools remains an issue on which sections of society are staunchly and equally divided; there has been no general consensus in civil society or in the PSSC on the way forward thus far”.⁵ This was reiterated in 2018.⁶ Further consultations were to be held.⁷ In January 2016, then Minister of Education Dr Rupert Roopnaraine was reported as stating that the abolition of corporal punishment in schools was “high on his agenda”.⁸

During the Universal Periodic Review in 2020, the Government misleadingly stated that a policy had been introduced by the Ministry of Education to prohibit corporal punishment in schools, referring to the 2002 Ministerial Guidelines which explicitly allow corporal punishment of students.⁹

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions. Section 41 of the Juvenile Justice Act 2018 prohibits the imprisonment of children or juveniles. Section 92 includes prohibition of corporal punishment in facilities for the custody, education and rehabilitation of juvenile offenders – including open residential facilities, secure residential facilities, temporary holding facilities and half-way houses: “(1) Any juvenile who breaches the rules of a facility may be disciplined on the instruction of the Principal of the facility in a way that is both reasonable and within the prescribed limits ... (3) The following forms of discipline are prohibited – (a) corporal punishment or any other form of physical violence; (b) deprivation of food or drink; (c) treatment that is cruel, inhuman or degrading;

⁴ <http://parliament.gov.gy/chamber-business/bill-status/education-bill-2014/>, accessed 6 April 2018

⁵ 19 January 2015, A/HRC/WG.6/21/GUY/1, National report to the UPR, paras. 48 and 49

⁶ 10 July 2018, CEDAW/C/GUY/9, Ninth periodic report, para. 83

⁷ 2 July 2015, A/HRC/29/16/Add.1, Report of the working group: Addendum

⁸ Kaieteur News Online, 24 January 2016, www.kaieteurnewsonline.com/2016/01/24/no-place-for-corporal-punishment-in-guyana-president-granger/, accessed 10 February 2016

⁹ 10 January 2020, A/HRC/WG.6/35/GUY/1, National report to the UPR, paras. 32 and 115

(d) treatment that could reasonably be expected to be detrimental to the physical, psychological or emotional wellbeing of the juvenile; or (e) deprivation of access to educational instruction.”

Section 61 regulates juveniles’ transfer to adult facilities, stating that, on application of the Director of Juvenile Justice made before the juvenile turns 18, the court may order that the juvenile serve “the remainder of the sentence in a correctional facility for adults” if that remainder is twelve months or more and it is considered to be “in the best interests of the juvenile or in the public interest”. Laws applicable to adult prisoners and offenders – including section 37 of the Prison Act 1957 which allows flogging – would then apply. Clarification is required to confirm that juveniles cannot be transferred before they turn 18.

Sentence for crime

Corporal punishment is unlawful as a sentence for a crime. The Juvenile Justice Act 2018, which repeals the Juvenile Offenders Act 1931 and the Training Schools Act 1907, states in its section 15 that “notwithstanding any other law but subject to the Constitution”, juveniles “shall be dealt with as provided for in this Act”. Juveniles are children between fourteen and eighteen years; the age of criminal responsibility is fourteen. Part VI of the Act (“Sentencing”) makes no provision for judicial corporal punishment, although it does not explicitly prohibit it. Article 141 of the Constitution 1980 states that no person should be subjected to torture or inhuman or degrading punishment. The Whipping and Flogging Act 1922 is still to be formally repealed.

Universal Periodic Review of Guyana’s human rights record

Guyana was examined in the first cycle of the Universal Periodic Review process in 2010 (session 8). The following recommendations were made:¹⁰

“Implement legislative measures to prohibit all forms of corporal punishment against minors (Spain);

“Adopt a law prohibiting corporal punishment against children in all spheres (Uruguay);

“Expressly prohibit in law corporal punishment in the family, schools and other institutions (Chile);

“Prohibit corporal punishment, especially in schools, in accordance with article 19 of the Convention on the Rights of the Child (Slovenia);

“Eliminate all forms of corporal punishment with a view to abolishing them (Brazil);

“Forbid corporal punishment of children (Brazil);

“Take all necessary measures to guarantee that the mandatory limits for pre-trial detention are respected in practice, and seek international assistance to address the issue of corporal punishment as well as the one of street children (Germany)”

The Government did not clearly accept or reject the recommendations on corporal punishment. It drew attention to reforms underway in the penal system (amendments to the Training Schools Act and the Juvenile Offenders Act, see above) but defended the use of corporal punishment in other settings.¹¹

The second cycle review took place in 2015 (session 21). In its national report, the Government drew attention to the prohibition of corporal punishment in the Training School (Amendment) Act 2010, the Juvenile Offenders (Amendment) Act 2010 and the Child Care and Development Services Act 2011, though did not disclose that these laws did not comprehensively prohibit corporal punishment in the

¹⁰ 21 June 2010, A/HRC/15/14, Report of the working group, paras. 70(36), 70(37), 70(38), 70(39), 70(40), 70(41) and 70(42)

¹¹ 21 June 2010, A/HRC/WG.6/8/L.13, Report of the working group, paras. 70(36)-(42); 13 September 2010, A/HRC/15/14/Add.1, Report of the working group: Addendum, paras. 9, 53 and 54; 1 October 2010, A/HRC/15/L.10, Report of the Human Rights Council on its fifteenth session, para. 576

relevant settings.¹² The Government also noted that the Ministry of Education had carried out public consultations on the abolition of corporal punishment at school, but did not refer to the Education Bill, which does not prohibit corporal punishment.¹³ During the review the following recommendations were made:¹⁴

“Intensify efforts to reduce the use of corporal punishment against minors in state-run institutions through awareness-raising campaigns and training in non-violent forms of discipline (Canada);

“Repeal corporal punishment of children (Kuwait);

“Eliminate corporal punishment of children both in public and private life (Netherlands);

“Prohibit corporal punishment, especially in schools, in accordance with article 19 on the Convention on the Rights of the Child, as previously recommended (Slovenia);

“Develop a comprehensive national strategy and adopt a national coordinating framework to ban all corporal punishment against children (Germany);

“Take all the necessary measures including law reform initiatives to eliminate violence against children in all its forms, including corporal punishment (Namibia)”

The Government accepted the first of these recommendations, but did not clearly accept or reject the recommendations to prohibit corporal punishment, stating that further consultations on the issue will be held.¹⁵

Third cycle examination took place in 2020 (session 35). In its national report, the Government confirmed that corporal punishment was not prohibited in private homes under Section 9 of the Criminal Law (Offences) Act 1894 and Section 7 of the Summary Jurisdiction (Offences) Act 1894, and that its abolition remained “an issue on which views of various sections of society remain staunchly and equally divided”.¹⁶ The following recommendations were extended:¹⁷

“Strengthen measures that specifically prohibit corporal punishment of boys and girls (Dominican Republic)”

“Prohibit corporal punishment of children both in private and public life in accordance with article 19 of the Convention on the Rights of the Child (Germany)”

The Government will examine the recommendations and respond by the 44th session of the Human Rights Council in June 2020.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(18 June 2013, CRC/C/GUY/CO/2-4, Concluding observations on second to fourth report, paras. 6, 7, 32 and 33)

“While welcoming the State party’s efforts to implement the Committee’s concluding observations of February 2004 on the State party’s initial report (CRC/C/15/Add.224), the Committee notes with regret that some of the recommendations contained therein have not been fully addressed.

“The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the first periodic report under the Convention that have not been implemented or sufficiently implemented, particularly those related to ... corporal punishment....

¹² 19 January 2015, A/HRC/WG.6/21/GUY/1, National report to the UPR, paras. 46 and 47, 48 and 49

¹³ *ibid.*, para. 9

¹⁴ 13 April 2015, A/HRC/29/16, Report of the working group, paras. 130(48), 132(51), 132(52), 132(53), 132(54) and 132(55)

¹⁵ 2 July 2015, A/HRC/29/16/Add.1, Report of the working group: Addendum

¹⁶ 10 January 2020, A/HRC/WG.6/35/GUY/1, National report to the UPR, paras. 31 and 114

¹⁷ 31 January 2020, A/HRC/WG.6/35/L.13 Unedited version, Draft report of the Working Group, paras. 100(179) and 100(181)

“The Committee welcomes the State party’s Childcare and Development Services Act 2011 which prohibits corporal punishment in institutional residences. However, the Committee regrets that notwithstanding its previous recommendation (CRC/C/15/Add.224, para. 32) to expressly prohibit corporal punishment by law in the family and schools, corporal punishment remains lawful and prevalent in these contexts.

“The Committee recommends that the State party take all appropriate measures to explicitly prohibit corporal punishment in all settings, particularly in the domestic and school contexts. Furthermore, it recommends that the State party strengthen and expand awareness-raising and education programmes and campaigns, in order to promote positive and alternative forms of discipline and respect for children’s rights, with the involvement of children, while raising awareness about the adverse consequences of corporal punishment on children.”

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.”

Committee Against Torture

(7 December 2006, CAT/C/GUY/CO/1, Concluding observations on initial report, para. 13)

“The disciplinary measures used in the treatment of prisoners are a matter of concern for the Committee, in particular section 37 of the Prison Act, 1998, which allows whipping, flogging and reduction of diet (arts. 2 and 11).

While taking note of the statement of the representative of the State party that these disciplinary measures have not been used, the State party should review all legal provisions which authorize these practices with a view to abolishing them as a matter of priority. The State party is reminded that treatment of prisoners should guarantee full respect for the dignity and human rights of all prisoners in conformity with the Standard Minimum Rules for the Treatment of Prisoners.”

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).”

Committee on the Elimination of Discrimination Against Women

(30 July 2019, CEDAW/C/GUY/CO/9, Concluding observations on ninth report, paras. 35 and 36)

“(…) The Committee expresses concern, however, about the following: ...

- e) The failure to explicitly prohibit corporal punishment in all settings;

“Recalling its general recommendation No. 36 (2017) on the right of girls and women to education, the Committee recommends that the State party raise awareness about the importance of girls’ education

at all levels as a basis for their empowerment, especially in hinterland areas. The Committee also recommends that the State party: ...

e) Explicitly prohibit corporal punishment in all settings (ibid., para. 29 (d)).”

Committee on the Elimination of All Forms of Discrimination Against Women

(7 August 2012, CEDAW/C/GUY/CO/7-8, Concluding observations on seventh/eighth report, paras. 28 and 29)

“ ... The Committee is also concerned that corporal punishment is accepted both in school and home settings, even though it constitutes a form of violence against children, including the girl child.

“The Committee urges the State party to enhance its compliance with article 10 of the Convention and to raise awareness of the importance of education as a human rights and as the basis for the empowerment of women. To this end, it urges the State party: ...

d) to explicitly prohibit corporal punishment in all settings, including through the adoption of relevant legislation and the development of awareness-raising campaigns aimed at families, the school system and other educational settings....”

Prevalence/attitudinal research in the last ten years

Research conducted in 2014 as part of UNICEF’s Multiple Indicator Cluster Surveys (MICS) programme, found on average 70% 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 58% of children experienced psychological aggression, 51% physical punishment and 6% severe physical punishment (hit or slapped on the face, head or ears, or hit repeatedly). Physical punishment of children was least common for children aged 10-14 (42%) than those aged 1-2 (51%) or 3-9 (58%); it was least common in Region 1 (33%) and most common in Regions 7 and 8 (63%). Overall, only 20% of children experienced only non-violent forms of discipline.

(Bureau of Statistics, Ministry of Public Health & UNICEF (2015), Guyana Multiple Indicator Cluster Survey 2014, Final Report, Georgetown, Guyana: Bureau of Statistics, Ministry of Public Health & UNICEF)

According to UNICEF statistics collected between 2005 and 2012, 86% of children aged 2-14 experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in the month prior to the survey (87% of boys and 85% of girls).

(UNICEF (2014), The State of the World’s Children 2014 in Numbers: Every Child Counts, NY: UNICEF)

Research carried out in 2008 by a group of individuals and organisations identified the views, needs and fears of children, parents and teachers, based on focus groups, questionnaires, interviews, and reviews of relevant research and political and non-political materials. It found, among other things, that while there was high support for school corporal punishment among parents (92%) and only 8% felt it should be abolished, almost one in four (23%) felt children would be better behaved in class if corporal punishment was not used; 2% felt there would be no change in behaviour. Parents said they would support prohibition if schools and teachers were properly resourced and trained in positive disciplinary methods. Few parents indicated that their opinions would be changed by media campaigns or celebrity endorsements.

(Smith, C. & Mbozi, J. (2008), Removing Corporal Punishment from Schools: Integrating Partner Efforts, Georgetown: Business Unlimited Consulting Services, www.hands.org.gy/files/Corporal%20Punishment%20Report%20-%202008.pdf)

In June 2007, Minister of Education Shaik Baksh announced that the Ministry had conducted a survey on the use of corporal punishment in schools which found that 53% of schools use corporal punishment as a means of maintaining discipline and 47% do not. Phase two of this survey would focus on finding out what are the factors that lead to these schools not using corporal punishment, the performance of the students, the level of violence in the schools and other factors.

(Reported in Stabroek News, 8 June 2007)

[End Corporal Punishment](#) is a critical initiative of the [Global Partnership to End Violence Against Children](#). Previously known as The Global Initiative to End All Corporal Punishment of Children, we act as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We track global progress, support and hold governments to account, partner with organisations at all levels, and engage with human rights treaty body systems.