

Corporal punishment of children in St Kitts and Nevis: Briefing for the Universal Periodic Review, 23rd session, 2015

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

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In St Kitts and Nevis, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child and during the 1st cycle UPR of St Kitts and Nevis (which the Government did not accept or reject).

We hope the Working Group will note with concern the legality of corporal punishment of children in St Kitts and Nevis. We hope states will raise the issue during the review in 2015 and make a specific recommendation that St Kitts and Nevis prohibit all corporal punishment of children in all settings including the home and repeal the common law right to impose “reasonable chastisement”.

1 Review of St Kitts and Nevis in the 1st cycle UPR (2011) and progress since then

1.1 St Kitts and Nevis was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 10). The issue of corporal punishment of children was raised in the compilation of UN information¹ and the summary of stakeholders’ information.² During the review, the Government stated that discipline is important in society and that corporal punishment is regulated under the Education Act to ensure it does not cross the line into abuse.³ The following recommendations were made, which the Government did not accept or reject:⁴

“Continue adopting measures to put an end to corporal punishment (Chile);

“Outlaw corporal punishment in the context of juvenile justice, school education and at home (Germany)”

1.2 Prohibiting and eliminating all corporal punishment of children in all settings including the home – through law reform and other measures – is a key obligation under the Convention on the Rights of the Child and other human rights instruments, though it is one frequently evaded by Governments. Since the initial UPR of St Kitts and Nevis, the Child Justice Act 2013 and the Children (Care and

¹ 13 October 2010, A/HRC/WG.6/10/KNA/2, Compilation of UN information, paras. 19 and 21

² 30 September 2010, A/HRC/WG.6/10/KNA/3, Summary of stakeholders' information, paras. 5, 6, 7 and 8

³ 15 March 2011, A/HRC/17/12, Report of the working group, para. 13

⁴ 15 March 2011, A/HRC/17/12, Report of the working group, paras. 76(42) and 76(43)

Adoption) Act 213 have been adopted. The Child Justice Act appears to abolish judicial corporal punishment for children, though some legislation is still to be repealed; the Children (Care and Adoption) Act does not protect children from corporal punishment.

2 Legality of corporal punishment in St Kitts and Nevis

- 2.1 **Summary:** In St Kitts and Nevis, corporal punishment of children is lawful in the home, alternative care settings, day care, schools and penal institutions. Recent law reform appears to ensure that it can no longer lawfully be imposed on juveniles as a sentence for crime, but judicial corporal punishment remains on the statute book and further reform to formally repeal these provisions is required.
- 2.2 **Home (lawful):** Parents have a right to inflict “reasonable chastisement” on their children under English common law. Provisions against violence and abuse under the Probation and Child Welfare Board Act 1994, the Offences Against the Person Act 1861, the Child Justice Act 2013 and the Children (Care and Adoption) Act 2013 are not interpreted as prohibiting corporal punishment in childrearing. The Children (Care and Adoption) Act 2013 protects children from abuse and from harm from exposure to domestic violence (art. 12) but it does not prohibit all corporal punishment in childrearing.
- 2.3 **Alternative care settings (lawful):** Corporal punishment is lawful under the common law right to inflict “reasonable chastisement”. The Children (Care and Adoption) Act 2013 protects children from abuse and provides for the Minister to make regulations “regulating the management and discipline of an approved out of home placement”, but it does not prohibit all corporal punishment.
- 2.4 **Day care (lawful):** Corporal punishment is lawful in early childhood care and in day care for older children under the common law right to inflict “reasonable chastisement”.
- 2.5 **Schools (lawful):** Corporal punishment is lawful under the Education Act 2005, the Corporal Punishment Act 1967 and the common law disciplinary power of teachers. Article 49 of the Education Act 2005 states 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 Chief Education Officer”. Article 50 allows for the Minister to “suspend or abolish corporal punishment in public schools and assisted private schools” but this has not occurred.
- 2.6 **Penal institutions (lawful):** There is no prohibition of corporal punishment in penal institutions.
- 2.7 **Sentence for crime (?unlawful):** Corporal punishment appears to be unlawful as a sentence following law reform in 2013. The Child Justice Act 2013 states that children found guilty of an offence must be sentenced according to that Act – and the Act does not provide for sentencing to corporal punishment. However, the Act does not explicitly prohibit corporal punishment and it does not repeal all other laws which provide for judicial corporal punishment. The Magistrate’s Code of Procedure 1961 allows a magistrate to order the private whipping of a child (under 14) or young person (under 16) by a policeman, in the presence of certain officials and the child’s parent or guardian (art. 100). As enacted in England, the Offences Against the Person Act 1861 provides for whipping as a punishment for males under the age of sixteen (arts. 15, 28, 30, 32 and 64). The Corporal Punishment Act 1967 is also still in force. Further reform is necessary to completely remove judicial whipping of juveniles from the statute books.

3 Recommendations by human rights treaty monitoring bodies

3.1 **CRC:** In 1999, in its concluding observations on the state party's initial report, the Committee on the Rights of the Child recommended to St Kitts and Nevis that corporal punishment in the juvenile justice system be prohibited and the Corporal Punishment Act 1967 repealed.

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

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The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities.