

## **CHAPTER 106**

### **THE CORPORAL PUNISHMENT ACT**

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## CORPORAL PUNISHMENT

(23rd December, 1949.)

811949.  
911953.  
3211956.  
2011967.

1. This Act may be cited as the Corporal Punishment Act. **Short title.**

2. In this Act— **Interpretation.**

"Court" means the High Court or a Magistrate's Court;

"juvenile" means any male person who, in the absence of direct evidence, is in the opinion of the Court under the age of sixteen years.

3. (1) Save as provided in this section, no person shall be sentenced by a Court to whipping or flogging, and so far as any enactment confers power on a Court to pass a sentence of whipping or flogging it shall cease to have effect: **Abolition of corporal punishment in certain cases.**

Provided that a Court may impose a sentence of whipping on the conviction of a juvenile for any offence committed by him, and in any such case, the instrument to be used for carrying out the sentence shall be a rod of tamarind and the number of strokes which may be ordered to be inflicted shall not exceed twelve.

(2) A juvenile sentenced to be whipped may be detained in such place as the Court may determine for such time as is necessary in order that the sentence may be carried into effect.

(3) No such punishment shall be inflicted except in the presence of, and unless the person to be punished is examined by a duly qualified medical practitioner and certified by him to be capable of sustaining such punishment.

4. (1) Except in the case of the undermentioned offences against prison discipline committed by a male person **Corporal punishment in prisons.**

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serving a sentence of imprisonment and for which corporal punishment is authorised by rules made under the Prison Act, that is to say—

- (a) Mutiny;
- (b) Incitement to mutiny;
- (c) Gross personal violence to an officer of a prison, corporal punishment shall not be inflicted in any prison.

(2) Whenever corporal punishment is ordered to be inflicted for offences against prison discipline, the instrument to be used in carrying out the punishment shall be such as the Governor-General may approve and the number of strokes which may be ordered to be inflicted shall not exceed twenty-four:

Provided that in any case in which the cat-o'-nine tails shall be approved by the Governor-General it shall be applied on the back of the person to be punished and where the rod of tamarind is approved it shall be applied to the buttocks of the person.

Corporal  
punishment on  
conviction of  
certain offences.

**5.** Notwithstanding anything contained in sections 3 and 4, from and after the 24th day of February, 1967, a Court may, subject to the following provisions of this Act, pass a sentence of corporal punishment by whipping or flogging in addition to any other punishment authorised by any law in force in Antigua and Barbuda upon any person convicted of any of the following offences:—

- (i) wounding or causing grievous bodily harm to any person where a cutlass, knife, razor, sword, dagger, bayonet, firearm or any explosive, corrosive, dangerous, deadly or destructive means or instrument is used;
- (ii) being armed with any offensive weapon or instrument, or being together with one other person or more, robs or assaults with intent to rob, any person;
- (iii) robbing any person and at the time of or immediately before or immediately after robbing using any personal violence to any person;

- (iv) assaulting any person with intent to rob that person.

**6.** A sentence of flogging shall be carried into execution in the Prison under the direction of the Superintendent of Prisons in the presence of a medical practitioner in accordance with prison rules.

**Execution of sentence.**

**7.** The number of strokes which may be ordered or inflicted in executing a sentence of whipping or flogging in respect of any one offence shall not exceed twenty-four:

**Maximum number of strokes.**

Provided that where by any law a less number of strokes is fixed as the maximum, the number shall in such case not exceed such less number.

**8.** No corporal punishment shall be inflicted unless the person to be punished shall first have been certified, after medical examination by a duly qualified medical practitioner, to be capable of sustaining such punishment.

**Certificate of medical practitioner.**

**9.** If during the execution of a whipping or flogging a medical practitioner certifies that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping or flogging shall not be proceeded with.

**Stopping flogging or whipping.**

**10.** (1) The sentence of whipping shall be to be whipped once.

**Sentence of whipping.**

(2) Such whipping shall be with a light rod or cane or bunch of tamarind or other twigs, and the sentence shall specify the number of strokes.

(3) A tamarind rod shall be used in the case of persons under eighteen years of age.

(4) Where the tamarind rod is used it shall be applied to the buttocks of the person only.

**11.** A person under eighteen years of age shall not be sentenced to flogging but in lieu thereof, may be sentenced to be whipped once.

**Person under eighteen to be whipped not flogged.**

Evidence of age from appearance or otherwise.

**12.** For the purpose of awarding the punishment of whipping, the court may decide that a person is under the age of eighteen years from the appearance of such person or upon any other evidence satisfactory to the court.

Sentence of flogging.

**13.** (1) The sentence of flogging shall be to be flogged once.

(2) Such flogging shall be with a cat-o'-nine tails or other instrument of a pattern approved by the Governor-General and the sentence shall specify the number of strokes.

(3) In any case in which a cat-o'-nine tails is being used, it shall be used on the back of the person to be punished.

Period between flogging.

**14.** No person shall after being flogged, be again flogged, until the expiration of twenty-one days from the former flogging.

Female not to be whipped or flogged.

**15.** No sentence of whipping or flogging shall be passed upon a female of any age.

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