

Ending family violence in the Federated States of Micronesia – challenging physical punishment of girls and boys



Information for the Committee on the Elimination of Discrimination Against Women's 66th session, from the Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org), January 2017

Introduction: violence against children in their homes in Micronesia and CEDAW's examination of the initial/third state party report

Violent punishment of girls and boy is lawful in Micronesia – children are only protected from abuse as defined as *severe* corporal punishment. The Government committed to law reform in 2015 during the Universal Periodic Review process. The current drafting of Family Protection Bills provide an opportunity for achieving the necessary law reform and fulfilling that commitment.

We hope the Committee on the Elimination of Discrimination Against Women will raise the issue of violent punishment of girls and boys in its examination of Micronesia. In particular, we hope the Committee will, in its concluding observations on the initial/third state party report, recommend that Micronesia take immediate action to ensure that *no* form of violence within the domestic sphere is condoned, including by parents against their children, and that legislation be enacted prohibiting all corporal punishment of children.

The remainder of this briefing provides the following further details:

1. The current law relating to family violence and corporal punishment of children in Micronesia and immediate opportunities for reform
2. UPR recommendations on the issue made to Micronesia to date.

1 Laws on the use of force in “correcting” children in Micronesia and immediate opportunities for prohibiting violent punishment of girls and boys

1.1 Corporal punishment is lawful in the home. Children are protected from violence and abuse under the federal Code of the Federated States of Micronesia¹ and various state laws but there is no prohibition of corporal punishment. The State Juveniles Act in Yap states that parents “shall have control over the conduct and education of their minor children” and shall provide “for the discipline, support, and education of their children” (s1204). Similar provisions in the State Code of Kosrae 1997 specify that parents have a “duty of parental control of the minor” (s16.1102) and “the duty to control the minor and ... the power to exercise parental control and authority over the minor” (s6.4807). The FSM Code Title 41 protects children from child abuse, where “abuse” is defined as “any case in which a child exhibits evidence of skin bruising, bleeding, sexual molestation, burns, fracture of any bone, subdural hematoma, soft-tissue swelling, and such condition or death is not justifiably explained, or the history given concerning such condition or

¹ At <http://www.fsm-ca2014.org>

death is at variance with the degree of type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence” (s502). This protects children from severe corporal punishment which causes physical injury, but it does not offer protection from all physical punishment. A review of child protection legislation has been carried out in collaboration with UNICEF which confirms that corporal punishment is not prohibited in the home.²

1.2 In 2014, the FSM Criminal Code was under review: we do not know if proposals to prohibit corporal punishment have been made in this context. In the same year Kosrae State became the first in Micronesia to enact domestic violence legislation (Family Protection Act 2013); as at August 2015, the Pohnpei Family Violence Bill was pending before the Pohnpei State Legislature,³ and according to the Government’s report to the Human Rights Council in 2016, Family Protection Bills are being drafted in Yap, Pohnpei and Chuuk.⁴ We are seeking further information but to our knowledge prohibition of corporal punishment is not included in these reforms.

1.3 The Government reported to the UPR in 2015 that it continues to consider a comprehensive review of legislation and harmonisation of law and customary practices in all four states with international standards.⁵ It indicated its commitment to prohibiting all corporal punishment of children by clearly accepting recommendations to do so made during the UPR.⁶

1.4 We hope the Committee will remind the state party of its international obligations and recommend that legislation prohibiting the use of corporal punishment be enacted immediately.

2 Recommendations during the Universal Periodic Review

2.1 *UPR*: Micronesia received and accepted recommendations to prohibit corporal punishment of children at its second cycle review in 2015.⁷

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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² UNICEF (2014), *Protect Me with Love and Care: Child Protection Baseline Report for the Federated States of Micronesia*, Government of the Federated States of Micronesia/UNICEF/Australian Aid

³ 7 August 2015, A/HRC/WG.6/23/FSM/1, National report to the UPR, para. 740

⁴ 4 March 2016, A/HRC/31/4/Add.1, Report of working group: Addendum, para. 18

⁵ 7 August 2015, A/HRC/WG.6/23/FSM/1, National report to the UPR, para. 30

⁶ 23 December 2015, A/HRC/31/4, Report of the working group, paras. 62(22), 62(71) and 62(74); 4 March 2016, A/HRC/31/4/Add.1, Report of working group: Addendum, paras. 2, 3, 14, 15, 17 and 18

⁷ 23 December 2015, A/HRC/31/4, Report of the working group, paras. 62(22), 62(71) and 62(74); 4 March 2016, A/HRC/31/4/Add.1, Report of working group: Addendum, paras. 2, 3, 14, 15, 17 and 18