

**BRIEFING FROM THE GLOBAL INITIATIVE
TO END ALL CORPORAL PUNISHMENT OF CHILDREN**

**BRIEFING ON SAMOA FOR THE COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN
PRESESSIONAL WORKING GROUP – October 2012**

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The human rights obligation to prohibit corporal punishment of girls and boys

The legality and practice of corporal punishment of girls breaches their fundamental rights to respect for their human dignity and physical integrity, to equality under the law and to protection from all forms of violence – rights guaranteed in the Convention on the Elimination of All Forms of Discrimination Against Women and other international human rights instruments. There are strong links between corporal punishment of children – girls and boys – and all other forms of violence, including gender-based violence: as the Committee on the Rights of the Child emphasised in its General Comment No. 8 (2006),¹ addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”. This briefing describes the legality of corporal punishment of children in Samoa and urges the Committee on the Elimination of Discrimination Against Women to include the issue in its examination of the state party’s implementation of the Convention.

Corporal punishment of children in Samoa

In Samoa, corporal punishment is prohibited in schools and as a sentence for crime but it is lawful in the home and in penal institutions and alternative care settings. The fourth-fifth report to the Committee on the Rights of the Child (CEDAW/C/WSM/4-5) describes measures to address violence against women but makes no reference to corporal punishment, violence which can lawfully be inflicted on girls in the home and other settings.

Section 12 of the Infants Ordinance (1961) provides for the protection of children under 14 years from ill-treatment and neglect, but section 14 states: “Nothing in this Part of this Ordinance shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child to administer reasonable punishment to such child.” In 2009, the Samoa Law Reform Commission drew attention to the incompatibility of section 14 with the Convention on the Rights of the Child in an issues/discussion paper, asking whether corporal punishment should be prohibited in all settings in order to achieve compliance with the CRC.² The Crimes Ordinance is under review and a draft Domestic Violence/Family Safety Bill is under discussion. We have no relevant details of the review and the Bill but they provide immediate opportunities to prohibit all corporal punishment of girls and boys.

Corporal punishment is prohibited in schools in article 23 of the Education Act (2009).

In the penal system, corporal punishment is unlawful as a sentence for crime under the Criminal Procedure Act (1972), the Young Offenders Act (2007) and the Constitution (1960) but it is not explicitly prohibited as a disciplinary measure in penal institutions.

Corporal punishment is lawful in alternative care settings under section 14 of the Infants Ordinance (see above).

¹ General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” is available at www2.ohchr.org/english/bodies/crc/comments.htm.

² Samoa Law Reform Commission (2009), *Care and Protection Legislation to Protect Children : Issue Paper IP 03/09*

Recommendations by human rights treaty monitoring bodies

Following examination of the state party's initial report in 2006, the Committee on the Rights of the Child recommended law reform to prohibit corporal punishment in all settings, including in the family and in all forms of care (CRC/C/WSM/CO/1, para. 36).

Samoa was examined in the first cycle of the Universal Periodic Review in 2011. The Government accepted the recommendations to prohibit corporal punishment of children, including in the home.³

We hope the Committee on the Elimination of Discrimination Against Women will raise the issue of corporal punishment of girls in its List of Issues for Samoa, in particular asking what legislative and other measures have been taken by the state party to prohibit and eliminate corporal punishment, to ensure girls enjoy their rights as human beings to respect for their human dignity and physical integrity and to equal protection under the law, including in homes and schools.

In light of General Recommendation No. 19 on Violence against women adopted by the Committee on the Elimination of Discrimination Against Women in 1992, of the links between corporal punishment of children and all other forms of violence including gender-based violence, and of the Committee on the Rights of the Child's General Comment No. 8 (2006), we hope the Committee will subsequently recommend to the state party that explicit prohibition of all corporal punishment of children be enacted in relation to all settings, including the home, as a matter of urgency.

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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³ 11 July 2011, A/HRC/18/14, *Report of the Working Group on the Universal Periodic Review: Samoa*, paras. 74(20), 74(21) and 74(22)