



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

**BRIEFING ON FIJI FOR THE
COMMITTEE ON THE RIGHTS OF THE CHILD,
PRESESSIONAL WORKING GROUP – February 2014**

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This briefing describes the legality of corporal punishment of children in Fiji. In light of the Committee’s General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, its previous recommendations to Fiji on the issue, the relevant recommendations made during the UPR in 2010 (accepted by the Government) and the importance of eradicating this form of violence given by the UN Secretary General’s Study on Violence against Children, we hope the Committee will:

- **in its List of Issues for Fiji, raise the issue of corporal punishment of children, in particular asking what steps are being taken to ensure that all corporal punishment, without exception, is explicitly prohibited in the home and other settings?**
- **in its concluding observations on Fiji’s second-fourth report, recommend that legislation is enacted to explicitly prohibit all corporal punishment in all settings, including the home and in all schools, as a matter of priority, and that prohibition is enforced through appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

1 Fiji's report to the Committee on the Rights of the Child

1.1 The second-fourth state party report to the Committee on the Rights of the Child draws attention to training and awareness raising on corporal punishment in schools and to research revealing the high prevalence of corporal punishment in the home.¹ It notes the “potential” protection from violence provided by a number of laws but confirms that these do not apply to childrearing.² It reports that plans are under way to increase awareness of “alternative forms of corporal punishment [*sic*] for parents and teachers”.³ However, it makes no reference to any plans to enact legislation to explicitly prohibit all corporal punishment in all settings, including the home.

2 The legality and practice of corporal punishment of children in Fiji

2.1 *Summary*: Corporal punishment in Fiji is unlawful in schools and the penal system but it is lawful in the home, alternative care settings and day care.

2.2 *Home (lawful)*: Corporal punishment is lawful in the home. Article 57 of the Juveniles Act 1974 punishes cruelty to children but also confirms “the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer reasonable punishment to him”. Legal provisions against violence and abuse such as those in the Juveniles Act 1974, the Crimes Decree 2009, the Domestic Violence Decree 2009 and the Child Welfare Decree 2010 are not interpreted as prohibiting corporal punishment in childrearing. According to statistics from UNICEF on violence in the family, 72% of 2-14 year olds experienced violent “discipline” (physical punishment and/or psychological aggression) in 2005-2006.⁴ A new Constitution is expected to be adopted by 2014: we are not aware of any proposals to prohibit corporal punishment.

2.3 *Alternative care settings (lawful)*: Corporal punishment is lawful in alternative care settings under the right “to administer reasonable punishment” in article 57 of the Juveniles Act 1974 (see para. 2.2).

2.4 *Day care (lawful)*: Corporal punishment is lawful in early childhood care and in day care for older children under the right “to administer reasonable punishment” in article 57 of the Juveniles Act 1974 (see para. 2.2).

2.5 *Schools (unlawful but further reform necessary)*: Corporal punishment is prohibited in schools under a High Court ruling in 2002 which stated that corporal punishment was unconstitutional.⁵ The Education Act 1978 is silent on the issue, but article 57 of the Juveniles Act 1974 provides legal justification for the use of corporal punishment under the right of teachers “to administer reasonable punishment”. There are Guidelines Banning Corporal Punishment (Guidelines of the Permanent Secretary, Education Gazette Vol. III, 2003) but the High Court ruling prohibition is yet to be confirmed in legislation.

2.6 *Penal institutions (unlawful)*: The Prisons and Corrections Act 2006 explicitly prohibits corporal punishment (article 38): “No prisoner may be subjected, by way of punishment, to: (a) corporal punishment in any form....” The Act repealed the Prisons Act and the Prisons Regulations which provided for corporal punishment. There is no provision for

¹ [n.d.], CRC/C/FJI/2-4 Advance Unedited Version, Second to fourth state party report, page 42

² *ibid.*

³ *ibid.*, page 108

⁴ UNICEF (2011), *The State of the World's Children*, NY: UNICEF

⁵ Lautoka High Court, March 2002, Appeal Case *Naushad Ali v State*

corporal punishment in articles 29-34 (concerning juvenile offenders) of the Juveniles Act 1974.

2.7 *Sentence for crime (unlawful)*: There is no provision for judicial corporal punishment in the Crimes Decree 2009 and the Sentencing and Penalties Decree 2009. It is explicitly prohibited in the Juveniles Act 1974 (article 32(2)): “Nothing in this section shall be construed as in any way restricting the power of the court to make any order or combination of orders which it is empowered to make under this or any other written law except that no juvenile shall be ordered to undergo corporal punishment.”

3 Recommendations by human rights treaty bodies and during the UPR

3.1 *CRC*: In 1998, the Committee on the Rights of the Child expressed concern at corporal punishment in the home and schools and recommended to Fiji that corporal punishment be comprehensively prohibited by law.⁶

3.2 *UPR*: Fiji was reviewed in the first cycle of the UPR in 2010 (session 7). No recommendations were made specifically on corporal punishment but the Government accepted a recommendation to “ensure the full enjoyment by all children of the rights recognised in the Convention on the Rights of the Child ...”.⁷

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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⁶ 24 June 1998, CRC/C/15/Add.89, Concluding observations on initial report, paras. 16 and 36

⁷ 23 March 2010, A/HRC/14/8, Report of the working group, paras. 71(10) and 71(15)