



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

PAPUA NEW GUINEA
BRIEFING FOR THE HUMAN RIGHTS COUNCIL
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From Peter Newell, Coordinator, Global Initiative

info@endcorporalpunishment.org

Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General's Study on Violence against Children, as a highly significant issue, both for asserting children's status as rights holders and for the prevention of all forms of violence.

The Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and 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. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies, and regional human rights mechanisms, have condemned all corporal punishment. In October 2006, the report of the UN Secretary General's Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment as a matter of priority.

Summary

This briefing describes the legality of corporal punishment of children in Papua New Guinea despite the recommendations of the Committee on the Rights of the Child. We hope the Review will highlight the importance of prohibiting all corporal punishment of children in all settings, including the home, and urge the Government to enact legislation to achieve this as a matter of priority.

1 Legality of corporal punishment in Papua New Guinea

1.1 Corporal punishment is lawful in the **home**. Article 278 of the Criminal Code (1974) states: “It is lawful for a parent or a person in the place of a parent, or for a schoolmaster, or master, to use, by way of correction, towards a child, pupil or apprentice under his care such force as is reasonable under the circumstances.” Article 42 of the Constitution, concerning liberty of the person, states: “Subject to any other law, nothing in this section applies in respect of any reasonable act of the parent or guardian of a child, or a person into whose care a child has been committed, in the course of the education, discipline or upbringing of the child.”

1.2 Corporal punishment is lawful in **schools** under article 278 of the Criminal Code (see above). The Education Act (1983) states that making rules for disciplining students is the responsibility of Boards of Governors and Governing Councils (articles 68 and 74), but does not prohibit corporal punishment.

1.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime but it is not explicitly prohibited as a disciplinary measure in penal institutions and the Constitutional protection of the rights of persons deprived of their liberty (article 42) is qualified in the case of children (see above, para. 1.1).

1.4 In relation to **alternative care settings**, article 88 of the Lukautim Pikinini (Child) Act states that children in care have the right “to be free from corporal punishment” (article 88(1)(e)). The Act defines a child in care as “a child who is in the care of the Director or any person authorized by the Director”. It would appear that the prohibition does not apply to private care arrangements (e.g. informal fostering arrangements) and forms of care run by non-government bodies.

2 Recommendations by human rights treaty monitoring bodies

2.1 In its concluding observations on the state party’s initial report in 2004, the **Committee on the Rights of the Child** expressed concern at corporal punishment of children and recommended explicit prohibition in the family and other institutions (CRC/C/15/Add.229, paras. 37 and 38).