



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

## **SAMOA**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 11<sup>th</sup> session, 2011**

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*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](http://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 Samoa 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 Samoa**

1.1 Corporal punishment is lawful in the **home**. Article 12 of the Infants Ordinance (1961) provides for the protection of children under 14 years from ill-treatment and neglect, but article 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.” Provisions against violence and inhuman and degrading treatment in the Crimes Ordinance (1961) and the Constitution (1960) are not interpreted as prohibiting corporal punishment in childrearing.

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

1.3 In the **penal system**, corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in the Criminal Procedure Act (1972) or the Young Offenders Act (2007). Article 7 of the Constitution (1960) provides for freedom from torture or inhuman or degrading treatment or punishment. There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions. The Young Offenders Act allows for young people aged 10-16 to be sent to residential institutions and prison but does not address disciplinary measures in these institutions. There is no provision in the Prisons Act (1967) for corporal punishment as a punishment for disciplinary offences in prisons.

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

## **2 Recommendations by human rights treaty monitoring bodies**

2.1 Following examination of the state party’s initial report in 2006, the **Committee on the Rights of the Child** recommended prohibition of corporal punishment of children in all settings, including the home and alternative care settings (CRC/C/WSM/CO/1, paras. 35 and 36).