



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

## **TONGA**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 2<sup>nd</sup> session, 2008**

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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 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 also 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, setting a goal of 2009.**

**This briefing describes the gaps in prohibition in Tonga. The government has yet to be examined by the Committee on the Rights of the Child, despite having acceded to the Convention in 1995.**

**We hope the Review will highlight with concern Tonga’s record of non-compliance with treaty obligations, including prohibition of corporal punishment, and strongly recommend that Tonga introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.**

## **I: Legality of corporal punishment in Tonga**

### **The home**

Corporal punishment is lawful in the **home**. Children have limited protection from violence under the Criminal Offences Act (1988).

### **Schools and other settings**

Corporal punishment in **schools** is prohibited under the Education Act (2002).

Corporal punishment is lawful in the **penal system**. It is permitted as a sentence for crime, for males only, under the Criminal Offences Act (articles 24 and 31). Offenders under the age of 16 years may be given up to 20 strokes “inflicted on the breech with a light rod or cane composed of tamarind or other twigs”. Young people aged 16-17 years are treated as adults and may be given up to 26 strokes, administered “on the breech with a cat of a pattern approved by the Cabinet”. Articles 130 and 142 allow juvenile offenders to be whipped in place of or in addition to imprisonment for certain offences against the person. There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

There is no explicit prohibition of corporal punishment in **alternative care settings**.

## **II: Recommendations by human rights treaty monitoring bodies**

Tonga acceded to the Convention on the Rights of the Child in 1995, but has yet to be examined by the Committee.