

# **Corporal punishment of children in the Federated States of Micronesia: Briefing for the Universal Periodic Review, 23<sup>rd</sup> session, 2015**

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

**The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.**

**In the Federated States of Micronesia, corporal punishment of children is lawful, despite the state’s accession to the Convention on the Rights of the Child in 1993 and the Government’s acceptance of recommendations made during the UPR in 2010 to end all forms of violence against children and to ensure its laws comply with the Convention on the Rights of the Child.**

**We hope the Working Group will note with concern the legality of corporal punishment of children in Micronesia. We hope states will raise the issue during the review in 2015 and make a specific recommendation that Micronesia prohibit all corporal punishment of children in all settings, including the home.**

## **1 Review of Micronesia in the 1<sup>st</sup> cycle UPR (2010) and progress since then**

- 1.1 Micronesia was reviewed in the first cycle of the Universal Periodic Review in 2010 (session 9). The issue of corporal punishment of children was raised in the summary of stakeholders’ information.<sup>1</sup> During the review, no recommendations were made specifically on corporal punishment but the Government accepted a number of recommendations concerned with ensuring legal protection of human rights, meeting obligations under the Convention on the Rights of the Child and protecting children from violence.<sup>2</sup>
- 1.2 Prohibiting and eliminating all corporal punishment of children in all settings including the home – through law reform and other measures – is a key obligation under the Convention on the Rights of the Child and other human rights instruments, though it is one frequently evaded by Governments. The Federated States of Micronesia acceded to the Convention on the Rights of the Child in 1993. However, corporal punishment of children remains lawful in Micronesia in the home, alternative care settings, day care, penal institutions and possibly schools.

<sup>1</sup> 15 July 2010, A/HRC/WG.6/9/FSM/3, Summary of stakeholders’ information, para. 12

<sup>2</sup> 4 January 2011, A/HRC/16/16, Report of the working group, paras. 61(21), 61(31) and 61(55)

1.3 The Criminal Code is under review, and child protection legislation has been reviewed in collaboration with UNICEF.<sup>3</sup> **Both the revision of the Criminal Code and the enactment of child laws provide key opportunities for enacting prohibition of corporal punishment.**

## **2 Legality of corporal punishment in Micronesia**

2.1 **Summary:** In Micronesia, corporal punishment of children is unlawful as a sentence for crime and possibly in schools, but it is lawful in the home, alternative care settings, day care and penal institutions. There are immediate opportunities for prohibiting corporal punishment in the context of the review of the Criminal Code and of child protection legislation.

2.2 **Home (lawful):** Children are protected from violence and abuse under the federal Code of the Federated States of Micronesia 1982 and various state laws but there is no prohibition of corporal punishment. The State Juveniles Act in Yap states that parents “shall have control over the conduct and education of their minor children” and shall provide “for the discipline, support, and education of their children” (s1204). Similar provisions in the State Code of Kosrae 1997 specify that parents have a “duty of parental control of the minor” (s16.1102) and “the duty to control the minor and ... the power to exercise parental control and authority over the minor” (s6.4807). The FSM Code Title 41 protects children from child abuse, where “abuse” is defined as “any case in which a child exhibits evidence of skin bruising, bleeding, sexual molestation, burns, fracture of any bone, subdural hematoma, soft-tissue swelling, and such condition or death is not justifiably explained, or the history given concerning such condition or death is at variance with the degree of type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence” (s502). This protects children from severe corporal punishment which causes physical injury, but it does not offer protection from all physical punishment. A review of child protection legislation has been carried out in collaboration with UNICEF which confirms that corporal punishment is not prohibited in the home.<sup>4</sup> In 2014, the FSM Criminal Code was under review: to our knowledge there have been no proposals to prohibit corporal punishment in this context.

2.3 **Alternative care settings (lawful):** There is no prohibition of corporal punishment in alternative care settings and the emphasis in law on parents’ and legal guardians’ authority and duty to control children indicates corporal punishment is lawful.

2.4 **Day care (lawful):** There is no explicit prohibition of corporal punishment in early childhood care or in day care for older children. Some day care centres reportedly have child protection policies, which include a ban on corporal punishment, but there is no prohibition in law and corporal punishment continues to be used.<sup>5</sup>

2.5 **Schools (?unlawful):** Corporal punishment is reportedly prohibited in schools, but we have been unable to ascertain if this is by policy or law. There is no reference to corporal punishment or school discipline in the State Codes of Yap, Pohnpei or Kosrae or the draft State Code of Chuuk. According to UNICEF’s 2014 baseline research, corporal punishment is unlawful in schools under the Criminal Code, but we have been unable to identify explicit prohibition in the Code.<sup>6</sup> The research also reports that some schools have child protection policies which include a ban on corporal punishment, but it continues to be used.

2.6 **Penal institutions (lawful):** There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

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<sup>3</sup> UNICEF (2014), *Protect Me with Love and Care: Child Protection Baseline Report for the Federated States of Micronesia*, Government of the Federated States of Micronesia/UNICEF/Australian Aid

<sup>4</sup> *ibid.*

<sup>5</sup> *ibid.*

<sup>6</sup> *ibid.*, p. 47

2.7 *Sentence for crime (unlawful)*: Corporal punishment is unlawful as a sentence for crime. The Constitution of the Federated States of Micronesia states that “cruel and unusual punishments” should not be inflicted (art. IV, s8), and this is reflected in similar provisions in the Constitutions of Pohnpei (art. 4.9), Yap (art. 2.7), Kosrae (art. 2.1) and Chuuk (art. 3.6). There are no provisions in other state laws for judicial corporal punishment of children convicted of a crime. Recognition of custom and tradition is provided for but we have no information on whether this would allow for corporal punishment.

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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*The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities.*