



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

## **FIJI**

### **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 7<sup>th</sup> session, 2010**

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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, setting a goal of 2009.*

### **Summary**

**This briefing describes the legality of corporal punishment of children in Fiji, despite the recommendations of the Committee on the Rights of the Child. We hope the Review will highlight the importance of prohibition of corporal punishment of children, and strongly recommend that the government introduce legislation as a matter of urgency to prohibit all corporal punishment of children in the home, schools and alternative care settings.**

## **1 Legality of corporal punishment in Fiji**

1.1 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”. Children have limited protection from violence and abuse under other provisions in the Juveniles Act, the Penal Code, the Family Law Act (2003, in force 2005), the Constitution (amended 1997) and the Fundamental Rights and Freedoms Decree (2000), but these are not interpreted as prohibiting all corporal punishment in childrearing. In 2006, the then Prime Minister and other high level offices endorsed a statement calling for an end to all corporal punishment, but as at August 2009 there has been no legal reform in this respect.

1.2 In large scale comparative research into the views and experiences of children across Southeast Asia and the Pacific, most punishments reported by children in Fiji comprised direct assaults, including being beaten, hit, slapped or lashed, smacked, whacked, given a hiding, spanked, punched, “donged” (on the head) and pinched. Nine out of ten boys aged 10-13 years and almost eight out of ten aged 14-17 years reported the use of physical punishments; 71% of girls in both age groups reported this.<sup>1</sup> A study by the Fiji Women’s Crisis Centre found that 80% of respondents had witnessed someone being beaten in the home. Over half (57%) of those described by respondents as victims of violence in the home were daughters and sons; 19.5% of those most frequently beaten were children; 81.2% of male respondents and 75.8% of female respondents reported being hit by their parents.<sup>2</sup>

1.3 Corporal punishment is prohibited in **schools** under a High Court ruling which stated that corporal punishment was unconstitutional.<sup>3</sup> The Education Act is silent on the issue, but article 57 of the Juveniles Act provides legal justification for the use of corporal punishment. As at August 2009, the prohibition had not been confirmed in legislation.

1.4 In the **penal system**, corporal punishment is unlawful as a sentence for crime under the 2002 High Court ruling but the Penal Code is yet to be amended to reflect this. Corporal punishment of persons under the age of 17 is prohibited in the Juveniles Act (article 32), and it is prohibited as a disciplinary measure in penal institutions.

1.5 Corporal punishment is lawful in **alternative care settings** under article 57 of the Juveniles Act.

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

2.1 Following examination of the state party’s initial report in 1998, the **Committee on the Rights of the Child** recommended prohibition of corporal punishment of children together with awareness raising and the promotion of discipline consistent with the child’s dignity in schools, families and institutional care (CRC/C/15/Add.89, paras. 26 and 36).

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<sup>1</sup> Save the Children (2006), *The Physical and Emotional Punishment of Children in Fiji: A research report*, Suva, Save the Children Fiji. See also Beazley, H., S. Bessell, et al. (2006), *What Children Say: Results of comparative research on the physical and emotional punishment of children in Southeast Asia and Pacific, 2005*, Stockholm, Save the Children Sweden

<sup>2</sup> FWCC (2001), *The incidence, prevalence and nature of domestic violence and sexual assault in Fiji: a research project of the Fiji Women's Crisis Centre*, Suva, Fiji Women's Crisis Centre. Cited in Save the Children (2006), *The Physical and Emotional Punishment of Children in Fiji: A research report*, Suva, Save the Children Fiji

<sup>3</sup> Lautoka High Court, March 2002, Appeal Case *Naushad Ali v State*